EXPLANATORY MEMORANDUM TO

THE CUSTOMS (TARIFF AND MISCELLANEOUS AMENDMENTS) (NO. 4) REGULATIONS 2024

2024 No. 1292

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and the Department for Business and Trade and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Declaration

2.1 James Murray MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Catherine Stewart, Deputy Director for Trade Policy, at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

2.3 Douglas Alexander MP, Minister of State for Trade Policy and Economic Security, confirms that this Explanatory Memorandum meets the required standard.

2.4 Benedict Collins, Deputy Director for Tariffs, Imports, Professions and Strategy ("TIPS") at the Department for Business and Trade, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Eva Agerbaek at HM Treasury, eva.agerbaek@hmtreasury.gov.uk, can be contacted with any queries regarding the instrument.

3.2 Ria Carter at the Department for Business and Trade, ria.carter@businessandtrade.gov.uk, can be contacted with any queries regarding the UK Global Tariff ("UKGT") and tariff suspensions changes.

3.3 Caroline Nicholls at the Department for Business and Trade, caroline.nicholls@businessandtrade.gov.uk can be contacted with any queries regarding Rules of Origin changes.

3.4 Andreas Lendle at the Department for Business and Trade, andreas.lendle@businessandtrade.gov.uk, can be contacted with any queries regarding the preferential tariff reference document changes.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to subordinate legislation previously made under the Taxation (Cross-border Trade) Act 2018 ("TCTA"), which provided for the United Kingdom's Customs, Value Added Tax ("VAT") and Excise regimes to be in

place after the end of the Transition Period following the withdrawal of the United Kingdom ("UK") from the European Union ("EU")

4.2 This instrument updates a number of reference documents relating to preferential tariffs and rules of origin that apply under preferential trade arrangements ("PTAs") between the UK and other countries. This instrument also includes changes to reference documents relating to tariff suspensions and the UK's customs tariff, which detail the classification and duty rates of goods that are included in the UK's tariff schedule.

4.3 The reference documents updated in this instrument have been given legal effect by the following Regulations:

a) The Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430) (the "Establishment Regulations").

b) The Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457) (the "Preferential Trade Arrangements Regulations").

c) The Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020 (S.I. 2020/1435) (the "Suspensions Regulations").

d) The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249).

e) The Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1431).

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the UK.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the UK.

5. Policy Context

What is being done and why?

5.1 This instrument contains policy and technical updates to tariff legislation.

5.2 This instrument contains amendments to the below reference documents:

a) "The Tariff of the United Kingdom" reference document to reflect a range of technical and descriptive commodity code amendments, and some additional nomenclature changes. This SI will also amend the structure of five chemical commodity codes with a tariff rate of 6% in Chapter 29 to align with commodity code changes made by the EU. The five codes (2926 90 70 17, 2926 90 70 23, 2926 90 70 26, 2926 90 70 64, 2926 90 70 74) will be removed and absorbed into another pre-existing code (2926 90 70 90) to which a 0% UKGT rate applies. The five chemical commodity codes were subject to business suspensions in the EU, which were rolled-over when the UK left the EU (corresponding changes are made by this instrument to the Tariff Suspension Document to reflect the consolidation of those codes – see para 5.2 f) below). These updates to the commodity code structure and descriptions in the UKGT will ensure the UK's international trade policy can be delivered and avoid unnecessary complications for businesses. This instrument will also

update a range of commodity codes in the legal notes, to reflect changes by the EU to its legal notes, which are to be deleted and replaced on 1 January 2025.

b) The preferential tariff reference documents for a range of PTAs which the UK has agreed with other countries and trading blocs. These updates will ensure that the UK's preferential tariffs are applied correctly and as intended.

   i. "The Canada Preferential Tariff", "The Chile Preferential Tariff", and "The Iceland-Norway Preferential Tariff" reference documents have been updated to clarify the link between Free Trade Agreement ("FTA") and World Trade Organisation ("WTO") quotas. Previously omitted carcass weight equivalent co-efficient tables have been added to "The Canada Preferential Tariff" and "The Chile Preferential Tariff" reference documents, relating to the import of animal carcasses of varying commodity codes. The quota volume previously provided by quota 05.1944 (various pork products) in "The Chile Preferential Tariff" is added to the quota under code 05.9121 (various pork products) and the quota under code 05.1944 is removed from use.

   ii. Further, "The Eastern and Southern Africa States Preferential Tariff" reference document has been updated to reflect an increase in the quota rate for tuna, see paragraph 5.2 d) below for further information.

   iii. Finally, "The Canada Preferential Tariff", "The Chile Preferential Tariff", "The Iceland-Norway Preferential Tariff", "The Israel Preferential Tariff", "The Japan Preferential Tariff", "The Mexico Preferential Tariff", "The North Macedonia Preferential Tariff", "The Serbia Preferential Tariff", "The Singapore Preferential Tariff", "The Southern African Customs Unions and Mozambique Preferential Tariff", and "The Viet Nam Preferential Tariff" reference documents have been updated to reflect commodity code updates in alignment with the EU, minor error corrections, and minor descriptive and structural changes for clarity.

c) "The European Union Origin Reference Document" to align with the World Customs Organisation's ("WCO") Harmonized System 2022. These changes will provide clarity to traders, ensuring the UKGT is applied as intended.

d) The "Eastern and Southern Africa States Origin Reference Document" to increase the origin quota on preserved tuna from 6,300 tonnes to 10,000 tonnes, as agreed with the Eastern and Southern Africa States ("ESA") on 14 October 2024. The Economic Partnership Agreement ("EPA") with ESA sets out that the UK must "respond positively" to requests to increase quota volumes, provided the request poses no serious injury to UK business. Given the UK does not produce tuna, there is no impact on domestic production. This instrument will ensure that the UK remains in line with its international obligations.

e) The "Authorised Use: Eligible Goods and Rates" and "Authorised Use: Eligible Goods and Authorised Uses" reference documents. This instrument will add "unmanned aircraft" under commodity code 8806 to "Table 2: Goods used by, or on behalf of, the UK Armed Forces". This table lists a range of goods, which the UK Armed Forces can import at a 0% tariff rate. The update will reflect technological advances in unmanned aircrafts since 2003, when the table was last updated. The decision to update the table aims to identify and

include technological advancements relevant for the defence sector. This instrument will also add commodity codes to align with changes to the UKGT. These changes will ensure the UK's international trade policy can be delivered and avoid any unnecessary complications for businesses.

f) The "Tariff Suspension Document" from version 2.5 to version 2.6 to extend the expiry dates of 79 tariff suspensions from 31 December 2024 to 30 June 2026. This includes 78 tariff suspensions, which were granted as a result of the 2021 public application window, and an exceptional tariff suspension on sunflower-seed oil, which was implemented in response to supply chain disruption. This instrument will also introduce a series of technical and commodity code updates and clarifies a footnote regarding the application of suspensions and the exclusions that apply.

What was the previous policy, how is this different?

5.3 Sections 5.1-5.2 above sets out the previous policy and the changes being made.

6. Legislative and Legal Context

How has the law changed?

UK Global Tariff

6.1 Section 8 of the TCTA gives HM Treasury the power to make regulations ensuring that the UK has functioning Customs, VAT and Excise regimes and setting out the associated rules of, and exceptions to, the UK's applied Most Favoured Nation ("MFN") tariffs, which have applied since 1 January 2021.

6.2 In considering the rate of import duty that ought to apply to goods in a standard case as defined under section 8(8) of the TCTA, HM Treasury has had regard to the matters set out in section 8(5) of the TCTA and the recommendation about the rate made to them by the Secretary of State under section 8(6).

Preferential Tariffs and rules of origin

6.3 Section 9 of the TCTA gives HM Treasury powers to implement PTAs that His Majesty's Government in the UK agrees with the Government of a trading partner country. HM Treasury can only exercise these powers on the recommendation of the Secretary of State further to section 9(3) of the TCTA. That recommendation has been given by the Secretary of State for Business and Trade.

6.4 Pursuant to the UK's respective agreements and arrangements with those countries and territories covered by this instrument, the UK has agreed to apply a preferential tariff to those tariffs otherwise offered under the MFN rate. The preferential tariff rate is only available to goods that enter the UK after meeting all relevant terms set out in the PTAs in question, including meeting specific rules of origin requirements.

6.5 Section 11 of the TCTA gives HM Treasury powers to establish tariff rate quotas ("TRQs") where a PTA with a trading partner country makes provision for goods to be subject to a quota. A TRQ allows a fixed volume of goods to be imported at zero duty or at a lower rate of duty than would be applied under the standard rate of import duty.

6.6 In considering what provision to include in regulations made under section 11 of the TCTA, HM Treasury has had regard to recommendations made to them by the Secretary of State for Business and Trade in accordance with section 11(7) of the TCTA.

6.7 Section 17 of the TCTA gives HM Treasury powers to make provision for the purposes of determining the place of origin of chargeable goods, including in relation to goods subject to a preferential tariff rate. The power is exercised on the recommendation made to HM Treasury by the Secretary of State for Business and Trade further to section 17(8) of the TCTA.

6.8 This instrument utilises these powers under the TCTA in order to amend the Preferential Trade Arrangements Regulations. This amendment ensures that the UK continues to correctly implement PTAs, to reflect recent developments in those arrangements.

Tariff Suspensions

6.9 Section 12 of the TCTA gives HM Treasury the power to make regulations that, for a specified period, make provision for the rate of import duty applicable to specified goods to be lower than the applicable rate in the customs tariff in its standard form. In considering what provision to include in regulations made under section 12(1) of the TCTA, HM Treasury has had regard to recommendations made to them by the Secretary of State for Business and Trade in accordance with section 12(5) of the TCTA.

Authorised Use

6.10 Section 19 of the TCTA gives HM Treasury the power to make regulations that make provision for full or partial relief from a liability to import duty, including in the case of goods that are declared for an authorised use procedure or temporary admission procedure.

Why was this approach taken to change the law?

6.11 The TCTA gives primary powers for the UK to create its own customs regime, including a system of import duty rates, allowing import duty to be applied to chargeable goods entering the UK.

6.12 Import duties (or tariffs) are the taxes that an importer needs to pay when bringing goods into the UK. The UKGT sets out these non-preferential import duty rates, with product-specific commodity codes determining the rate to be applied to each good. This provides the legal basis for conveying information that traders need to ensure the correct classification of goods being imported into the UK and is subject to variation over time.

6.13 Where there are technical or descriptive changes to commodity codes relevant to the UKGT, Tariff Suspensions, and Authorised Use customs procedure, the corresponding reference document(s) must be updated to ensure the UK's Tariff Schedule is up-to-date and operating as intended.

6.14 The Preferential Trade Arrangements Regulations set out the legislative mechanism through which the UK implements the preferential tariff and related rules of origin requirements that it has agreed with trading partners. Schedule 1 to the Preferential Trade Arrangements Regulations sets out the agreements to which those Regulations apply, and the related reference documents that contain the corresponding preferential duty rates and rules of origin. To give effect to a new version of the relevant reference document, the reference in Schedule 1 of the Preferential Trade Arrangements Regulations is amended. This instrument effects that amendment to Schedule 1 in respect of PTAs with Canada, Chile, the ESA, the EU, Iceland-Norway, Israel, Japan, Mexico, North Macedonia, Serbia, Singapore, the Southern African Customs Union and Mozambique, and Viet Nam.

6.15 Regulation 3(3)(h) of the Customs (Tariff and Miscellaneous Amendments) (No. 3) Regulations 2024, which previously amended Schedule 1 of the Preferential Trade Arrangements Regulations to give effect to version 1.8 of the Viet Nam Preferential Tariff reference document, comes into force on the same day as this instrument, which gives effect to version 1.9. To ensure sequencing clarity, this instrument amends regulation 3(3)(h) of the Customs (Tariff and Miscellaneous Amendments) (No. 3) Regulations 2024 immediately prior to that provision of that instrument coming into force, in respect of the Viet Nam Preferential Tariff reference document. This ensures that the update to Schedule 1 reflects the latest version of the Viet Nam Preferential Tariff reference document without any technical gap in effect between version 1.8 and version 1.9.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public engagement exercise was undertaken between 8 May and 3 July 2024 regarding the extension of 78 tariff suspensions which were granted as a result of a public application window in 2021. Stakeholders were invited to submit views on the automatic extension of these measures to 30 June 2026 via online response forms.

7.2 The exercise received 19 responses in total. A summary of the government's response to the exercise can be found on: https://www.gov.uk/guidance/duty-suspensions-and-tariff-quotas.

7.3 No other exercise was undertaken in relation to the other elements of this instrument.

8. Applicable Guidance

8.1 Since the end of the Transition Period, the UKGT has applied to all goods imported into the UK unless an exception applies, such as a tariff relief or tariff suspension, goods imported from countries that have tariff-free access granted unilaterally, or as part of a preferential trading arrangement. Further guidance is available at https://www.gov.uk/guidance/finding-commodity-codes-for-imports-or-exports.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it largely maintains the position of existing legislation which was covered by an overarching Tax Information and Impact Note: https://www.gov.uk/government/publications/the-uks-integrated-tariff-schedule/the-uks-integrated-tariff-schedule

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is in line with the general approach to tariff legislation, which is kept under review to ensure that it meets the policy

objectives set out above in section 5 of this Explanatory Memorandum and ensure burdens on business are carefully monitored.

10.2 The instrument does not include a statutory review clause as the content relates to a tax or duty and therefore meets the requirements of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument replaces version 2.14 of the Authorised Use: Eligible Goods and Authorised Uses reference document with version 2.16. The version number of this reference document is amended non-sequentially because, since this reference document was last amended by the Customs (Tariff and Miscellaneous Amendments) (No. 2) Regulations 2024 (S.I. 2024/563), a public notice (published on 30th September 2024 under section 32A of the TCTA) has modified the relevant statutory reference document to version 2.15, dated 30th September 2024.

11.2 This instrument replaces version 1.14 of the Authorised Use: Eligible Good and Rates reference document with version 1.16. The version number of this reference document is amended non-sequentially because, since this reference document was last amended by the Customs (Tariff and Miscellaneous Amendments) (No. 2) Regulations 2024 (S.I. 2024/563), a public notice (published on 30th September 2024 under section 32A of the TCTA) has modified the relevant statutory reference document to version 1.15, dated 30th September 2024.

11.3 This instrument replaces version 2.1 of the Iceland-Norway Preferential Tariff reference document with version 2.3. The version number of this reference document is amended non-sequentially because, since this reference document was last amended by the Customs Tariff (Preferential Trade Arrangements and Miscellaneous Amendments) Regulations 2023 (S.I. 2023/433), a public notice (published on 2 February 2024 under section 32A of the TCTA) has modified the relevant statutory reference document to version 2.2, dated 31st January 2024.

11.4 This instrument replaces version 2.4 of the Israel Preferential Tariff reference document with version 2.6. The version number of this reference document is amended non-sequentially because, since this reference document was last amended by the Customs Tariff (Miscellaneous Amendments) Regulations 2023 (S.I. 2023/1339), a public notice (published on 2 February 2024 under section 32A of the TCTA) has modified the relevant statutory reference document to version 2.5, dated 31st January 2024.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023. However, it does amend legislation that was itself related to the withdrawal of the UK from the EU because withdrawal required the UK to replace the EU's customs regime with a UK-specific customs regime.