EXPLANATORY MEMORANDUM TO

THE CUSTOMS (TARIFF AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2023

2023 No. 774

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. Purpose of the instrument

Moldova

2.1 This instrument makes amendments to the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457) ("the Preferential Trade Arrangements Regulations") in order to provide for tariff-free imports into the United Kingdom ("UK") of Moldovan-origin goods. These changes will apply in relation to Moldovan-origin goods moving into Northern Ireland, as well as into Great Britain.

2.2 The purpose of the amendment to the Preferential Trade Arrangements Regulations is to achieve full liberalisation of import duties under the UK-Moldova Strategic Partnership, Trade and Cooperation Agreement ("the UK-Moldova Agreement") from 31 July 2023 to 31 July 2024. This is intended to provide economic support to Moldova to help them address the impacts of Russia's invasion of Ukraine, which has disproportionately affected them as a direct neighbour of Ukraine. The initiative also acts as a symbol of the UK's support to an important partner in the region.

2.3 The purpose of the remaining provisions is to ensure that traders/businesses importing any Moldovan-origin good into Northern Ireland will benefit from fully liberalised tariffs.

Switzerland and Liechtenstein

2.4 This instrument also amends the Preferential Trade Arrangements Regulations to give effect to a revised preferential tariff reference document associated with the UK's Preferential Trade Arrangement ("PTA") with Switzerland and Liechtenstein. The preferential tariff reference document has been revised to include the commodity codes for certain nicotine containing products.

Authorised Use

2.5 This instrument also makes a limited number of updates to the "Authorised Use: Eligible Goods and Authorised Uses" reference document (given legal effect by S.I. 2018/1249) and "Authorised Use: Eligible Goods and Rates" reference document (given legal effect by S.I. 2020/1431) to reflect recent changes in the UK's tariff schedule.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The Lords International Agreements Committee published its report on the treaty on 29 June, and the Business and Trade Select Committee is not expected to publish a report. The Government is committed to bringing the treaty into force on 31 July, as agreed with the government of Moldova, and to provide Parliament with 21 days to scrutinise the SI. This is to ensure Moldova can benefit from these arrangements as soon as possible.

3.2 These regulations amend the definition of the "Authorised Use: Eligible Goods and Authorised Uses" reference document from version 2.7 dated 5th December 2022 to version 2.10 dated 3rd July 2023. The version number of this reference document is amended non-sequentially because, since this definition was last amended by S.I. 2022/1301, public notices published on 9th February 2023 and on 31st March 2023 under section 32A(2) of the Taxation (Cross-border Trade) Act 2018 ("TCTA"), have modified the relevant statutory reference to refer to new versions of that document. The new versions were version 2.8 dated 8th February 2023 and version 2.9 dated 29th March 2023.

3.3 These regulations amend the definition of the "Authorised Use: Eligible Goods and Rates" reference document from version 1.7 dated 5th December 2022 to version 1.10, dated 3rd July 2023. The version number of this reference document is amended non-sequentially because, since this definition was last amended by S.I. 2022/1301, public notices published on 9th February 2023 and on 31st March 2023 under section 32A(2) of the TCTA, have modified the relevant statutory reference to refer to new versions of that document. The new versions were version 1.8 dated 8th February 2023 and version 1.9 dated 29th March 2023.

3.4 However, because these updates were made by way of public notice and took effect as non-textual modification, as opposed to a textual amendment, the underlying statutory words which are being amended here refer to the previous versions of those documents.

4. Extent and Territorial Application

4.1 The extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Section 9 of the TCTA gives HMT powers to implement Preferential Trade Arrangements ("PTAs") that His Majesty's Government in the UK agrees with the government of a trading partner country.

6.2 Pursuant to such PTAs, the UK agrees to apply a lower import duty rate (a "preferential tariff") than would otherwise be applied pursuant to the Most-Favoured-Nation ("MFN") obligation. This latter rate (also known as the "UK Global Tariff" or standard rate of import duty) is the rate set by the Customs Tariff (Establishment) (EU

Exit) Regulations 2020 (S.I. 2020/1430). The preferential tariff rate is only offered to goods that enter the UK after meeting all relevant terms set out in the PTA in question, including meeting specific Rules of Origin.

6.3 Sections 30B and 40B of the TCTA give HMT powers to make regulations providing that, in relation to goods of a specified description, various matters relating to the charging of duty in respect of goods entering Northern Ireland are to be determined in accordance with provision made by or under the TCTA, instead of in accordance with European Union customs legislation.

7. Policy background

What is being done and why?

Moldova

7.1 The Preferential Trade Arrangements Regulations set out the legislative provisions through which the UK implements preferential tariffs and related Rules of Origin requirements that it has agreed with trading partners.

7.2 Following a request from the Government in Moldova, an amending agreement ("the Amending Agreement") was signed on 25th May 2023 to fully liberalise UK customs duties under the UK-Moldova Agreement from 31 July 2023 to 31 July 2024.

7.3 This instrument implements the UK's tariff commitments under the amended UK-Moldova Agreement by giving effect to a new preferential tariff reference document in respect of Moldova. That document is the "Moldova Preferential Tariff, version 1.2, dated 3 July 2023". That document contains a fully liberalised schedule that will apply until 31 July 2024, and it also provides for the schedule that will apply after that period, unless an extension of the full liberalisation is agreed. The new reference document also includes minor error corrections, and brings the commodity codes up to date where necessary.

7.4 This instrument also makes provision to ensure that the fully liberalised customs duties apply to all Moldovan-originating goods imported into Northern Ireland via direct arrival or being moved from Great Britain to Northern Ireland, as well as to Moldovan-origin goods entering Great Britain itself.

7.5 There will be the opportunity for the UK and Moldova to review the full liberalisation under the amended UK-Moldova Agreement before 31 July 2024 to decide whether to extend it further.

Switzerland and Liechtenstein

7.6 A further amendment is made to the Preferential Trade Arrangements Regulations by this instrument to update references to the preferential tariff reference document associated with the UK's PTA with Switzerland and Liechtenstein to correct an error that occurred in a previous update of the reference document, related to changes in commodity codes for certain nicotine containing products.

Authorised Use

7.7 An update is made to the "Authorised Use: Eligible Goods and Authorised Uses" reference document to correct an error that occurred in the last updates of the reference document, and the "Authorised Use: Eligible Goods and Rates" reference document to reflect recent changes in the UK Global Tariff and a process to ensure the

correct classification of goods is delivered following any commodity code updates. The changes will update the list of goods which qualify for lower tariffs when imported for specific purposes. The goods impacted are bicycle parts for electric bikes and axles for certain motor vehicles.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not consolidate any previous legislation.

10. Consultation outcome

10.1 No consultation has taken place in relation to the contents of this instrument.

11. Guidance

11.1 Guidance on the customs tariff is currently available from HMRC. This guidance will continue to be published in its current format.

12. Impact

12.1 The impact on business, is broadly outlined in paragraphs 12.2-12.5.

12.2 This instrument eliminates existing tariffs on imports of all goods originating in Moldova. The instrument also updates some commodity codes and associated duty rates in relation to the PTA with Switzerland and Liechtenstein.

12.3 According to His Majesty's Revenue and Customs (''HMRC'') data, between 2020 and 2022 the average value of UK annual goods imports from Moldova in lines not fully liberalised amounted to less than £0.1 million (around 0.1% of UK total goods imports from Moldova). The Moldovan products that will benefit from this tariff liberalisation are tomatoes, garlic, table grapes, apples, plums, grape juice, and cherries. Moldova has been disproportionately impacted by the Ukraine crisis. Russia accounted for 13% of Moldova's total trade in 2021, whilst Ukraine accounted for 7%.

12.4 The exact impacts on HMRC revenue, consumers and businesses will depend on a range of factors including the volume of Moldovan exports (in light of the ongoing conflict with Russia), other recipients of Moldovan imports choosing to reduce tariffs on Moldovan goods, and existing demand for goods within the UK market.

12.5 A safeguard mechanism has been agreed within Articles 3 to 7 of the Amending Agreement that would allow a temporary safeguard mechanism to be applied to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry. The safeguard mechanism allows the importing party (United Kingdom) to increase the rate of customs duty on the good to a level that does not exceed the rate of customs duty set out in the original set of tariff schedules under the UK-Moldova Agreement.

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

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

12.8 An Impact Assessment has not been prepared for this instrument because the changes implemented by this instrument will form part of the UK's Integrated Tariff Schedule, the impacts of which were considered as part of the UK's introduction of an independent tariff policy following the UK's exit from the EU. The impacts of this were considered in January 2021, and further detail can be found on the Government's website: https://www.gov.uk/government/publications/the-uks-integrated-tariff-schedule/the-uks-integrated-tariff-schedule.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 Small businesses importing goods from Moldova currently must pay any applicable duties on certain goods. Full liberalisation enabled under this instrument will allow small businesses in the UK importing goods from Moldova to benefit from a removal of a tariff that would otherwise have been applicable. This instrument therefore does not present any additional regulatory burden for small businesses but does offer potential relief from duties otherwise previously payable by giving effect to additional preferential tariffs in the UK-Moldova Agreement.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to review the wider context of the customs tariff legislation.

14.2 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 exceptions set out in section 28(3)(c) of the Small Business, Enterprise, and Employment Act 2015.

15. Contact

15.1 Lizzie Durham at HM Treasury, email: lizzie.durham@hmtreasury.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Andreas Lendle at the Department for Business and Trade, email: andreas.lendle@trade.gov.uk, can be contacted with any queries regarding the preferential tariff arrangements provisions in the instrument.

15.3 Matthew Bassett at HM Revenue and Customs, email: matthew.bassett@hmrc.gov.uk, can be contacted with any queries regarding the authorised use provisions in the instrument.

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

15.5 Victoria Atkins, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.