EXPLANATORY MEMORANDUM TO

THE CUSTOMS TARIFF (PREFERENTIAL TRADE ARRANGEMENTS) (COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP) (AMENDMENT) REGULATIONS 2024

2024 No. 424

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

2.1 This instrument amends the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457) ("the Preferential Trade Arrangements Regulations"). The Preferential Trade Arrangements Regulations were laid before the House of Commons on 16 December 2020 as part of a package of secondary legislation made under the Taxation (Cross-border Trade) Act 2018 ("TCTA") which ensured that the United Kingdom ("UK") had an independent customs regime in place following the UK's exit from the European Union.

2.2 The purpose of this instrument is to give effect to preferential import duty rates and Tariff Rate Quotas ("TRQs"), including the related Rules of Origin ("RoO") requirements for determining qualifying goods imported from countries that are party to the Comprehensive and Progressive Agreement on Trans-Pacific Partnership ("CPTPP Agreement")[1] and for whom the Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, signed at Auckland and Bandar Seri Begawan on 16 July 2023 ("UK Accession Protocol"), has entered into force (hereafter "CPTPP Countries").

2.3 The preferential import duty rates, TRQs and related RoO requirements brought into effect by this instrument are necessary to ensure that the UK will be able to fulfil the obligations it has committed to under the terms of the UK Accession Protocol, from the date that UK Accession Protocol enters into force. The UK needs to have completed its necessary domestic legislative procedures within one year of signing the UK Accession Protocol, unless this period is extended.

[1] The countries which are parties to the CPTPP and for whom the CPTPP has entered into force as of 1 February 2024 are: Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The UK Accession Protocol was laid before Parliament on 19 February 2024 for scrutiny as per the Constitutional Reform and Governance Act 2010 ("the CRaG Act 2010").

4. Extent and Territorial Application

4.1 The extent of this instrument is the whole of the UK.

4.2 The territorial application of this instrument is the whole of the UK.

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 The TCTA confers powers on HM Treasury to make provision in regulations for the purposes of establishing duties applicable to imports entering the UK and on the Secretary of State for making regulations providing for a licensing or allocation system for goods subject to a quota. In exercising these functions under Part 1 of the TCTA, HM Treasury and the Secretary of State for the Department for Business and Trade have had regard to relevant international arrangements to which the government is a party.

Preferential tariffs

6.2 Section 9 of the TCTA gives HM Treasury powers to implement preferential trade arrangements with the government of a trading partner country which may only be exercised on the recommendation of the Secretary of State, which in this instance is, the Secretary of State for the Department for Business and Trade.

6.3 Pursuant to the UK Accession Protocol, the UK has agreed to apply a lower import duty rate to qualifying goods imported from CPTPP Countries than would otherwise be offered to the same goods under the UK's Most-Favoured-Nation ("MFN") rates. This latter rate (also known as the "UK Global Tariff" or standard rate of import duty) is the rate which was established by The Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430). The preferential tariff rate is only available to goods that enter the UK after meeting all relevant terms set out in the CPTPP Agreement, including meeting specific RoO requirements.

Tariff rate quotas (TRQs)

6.4 Section 11 of the TCTA gives HM Treasury powers to determine the amount of import duty applicable to goods which are subject to a TRQ. In exercising these powers HM Treasury must have regard to the recommendations made to them by the Secretary of State in accordance with section 11(7) of the TCTA. Section 11(6) of the TCTA gives the Secretary of State powers to make provision for TRQs in respect of specified goods to be subject to a licencing or allocation system. 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 UK Global Tariff. Pursuant to the UK Accession Protocol,

the UK has agreed to eight separate TRQs for categories of originating goods from CPTPP Countries.

Rules of Origin (RoO)

6.5 Section 17 of the TCTA gives powers to HM Treasury to implement preferential RoO, which may only be exercised on the recommendation of the Secretary of State. Pursuant to the UK Accession Protocol, the UK has agreed to the RoO in the CPTPP Agreement which determine when goods imported from CPTPP Countries qualify as originating and are entitled to the preferential tariff rate.

6.6 This instrument therefore implements the preferential import duty rates and TRQs, the management of quotas where applicable, and the relevant RoO requirements, to which the UK has agreed by becoming a party to the CPTPP Agreement in accordance with the UK Accession Protocol. Without this instrument, His Majesty's Government would not be able to give full effect to these international obligations.

7. Policy background

What is being done and why?

7.1 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.

7.2 Import duties (or tariffs) are the taxes that an importer needs to pay when bringing goods into the UK. The UK Global Tariff 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.

7.3 The Preferential Trade Arrangements Regulations set out the legislative mechanism through which the UK implements the preferential tariffs and related RoO requirements that it has agreed with trading partners, for example through the negotiation and conclusion of a free trade agreement. The Preferential Trade Arrangements Regulations have been in force since 31 December 2020 and will continue to be updated as further preferential tariff arrangements are agreed with trading partners.

7.4 The table in Schedule 1 of the Preferential Trade Arrangements Regulations (which relates to agreements to which those Regulations apply) is amended by this instrument to account for the UK's accession to the CPTPP Agreement, in accordance with the UK Accession Protocol. This instrument will create a new preferential tariff for originating goods imported into the UK from CPTPP Countries, as opposed to amending an existing preferential tariff arrangement. The preferential tariff rates to be applied to originating goods were agreed as part of the UK Accession Protocol, signed on 16 July 2023. The CPTPP Agreement, to which the UK is acceding in accordance with the UK Accession Protocol, contains the RoO which determine whether a good is originating or not.

7.5 A new Origin Reference Document, detailing the RoO, 'The CPTPP Origin Reference Document', and a new Preferential Tariff Reference Document, detailing the preferential import duty rates and eight TRQs, which will be applied by the UK to

CPTPP Countries, 'The CPTPP Preferential Tariff', will be published separately alongside this instrument.

7.6 The CPTPP Agreement and the UK Accession Protocol to CPTPP are available at: https://www.gov.uk/government/collections/the-uks-accession-to-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp.

7.7 The related Reference Documents, as described in Schedule 1 of the Preferential Trade Arrangements Regulations are available at: https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-eu-exit-regulations-2020.

7.8 These new preferential tariffs, TRQ and RoO requirements, as detailed in the Reference Documents, will apply from the date of entry into force of the UK Accession Protocol.[2]

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 and does not directly relate to the withdrawal of the UK from the European Union but does amend legislation that was itself related because withdrawal required the UK to replace the EU's customs regime with a UK-specific customs regime.

9. Consolidation

9.1 These regulations do not provide for any consolidation of existing legislation, and none is necessary in the circumstances.

10. Consultation outcome

10.1 No consultation on this instrument has taken place.

10.2 This instrument provides for preferential tariffs and RoO requirements for imports of originating goods from CPTPP Countries. These preferential tariffs and RoO requirements were agreed as part of the UK's negotiations to become a party to the CPTPP Agreement, as reflected in the UK Accession Protocol. The UK Accession Protocol has undergone parliamentary scrutiny in accordance with Part 2 of the CRaG Act 2010.

10.3 The UK's negotiating strategy for accession to the CPTPP Agreement was informed by a comprehensive consultation process. The then Department for International Trade (DIT) spoke to businesses and interest groups in every part of the UK. On 20 July 2018, DIT launched a public consultation seeking views on the potential accession to the CPTPP Agreement from individuals, businesses, business associations, NGOs and public sector bodies. The consultation response, containing a summary of 149,968 responses, was published on 18 July 2019.

10.4 DIT published the UK's approach to negotiating the UK's accession to the CPTPP Agreement on 22 June 2021, parts of which responded to the consultation alongside initial economic scoping assessments for the potential agreement.

10.5 Information on this consultation is available electronically at: https://www.gov.uk/government/publications/uk-approach-to-joining-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp.

[2] The date of entry into force of the UK Accession Protocol will be published in the London Gazette.

11. Guidance

11.1 Since the UK's exit from the EU, the UK Global Tariff has applied to all goods imported into the UK unless an exception applies, such as a tariff relief or tariff suspension, the goods are 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.

12. Impact

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

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

12.3 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: The UK's Integrated Tariff Schedule - GOV.UK (www.gov.uk).

12.4 This instrument will create an additional preferential tariff schedule for originating goods imported from CPTPP Countries, which means lower tariffs on some imports into the UK which are not already removed through the UK's bilateral agreements with those same countries. In 2022, total UK goods imports from the countries party to the CPTPP Agreement were £41.9 billion.

12.5 An assessment of the potential impacts of tariff liberalisation was undertaken as part of the full impact assessment for the UK Accession Protocol. This impact assessment was published and deposited in the House Libraries on the day after signature prior to Parliamentary scrutiny of the treaty and has been independently scrutinised. This impact assessment is available electronically at: https://www.gov.uk/government/publications/cptpp-impact-assessment.

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that import tariffs cannot be varied with the size of importing businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is in line with the government's general approach to tariff legislation, which is kept under review to ensure that it meets the policy objectives set out above in section 7 of this Explanatory Memorandum and ensures burdens on business are carefully monitored.

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

15. Contact

15.1 Dylan Cunningham at HM Treasury, dylan.cunningham@hmtreasury.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Andreas Lendle at the Department for Business and Trade, andreas.lendle@businessandtrade.gov.uk, can be contacted with any queries regarding the Preferential Tariff provisions in this instrument.

15.3 Caroline Nicholls at the Department for Business and Trade, caroline.nicholls@businessandtrade.gov.uk, can be contacted with any queries regarding the Rules of Origin provisions in this 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 Nigel Huddleston MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.