EXPLANATORY MEMORANDUM TO

THE TRADE PREFERENCE SCHEME (EU EXIT) (AMENDMENT) REGULATIONS 2021

2021 No. 435

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before the House of Commons by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 The Trade Preference Scheme (EU Exit) (Amendment) Regulations 2021 ("these Regulations") make technical amendments to the Trade Preference Scheme (EU Exit) Regulations 2020 (S.I. 2020/1438). The amendments correct typographical or similar errors and do not change or introduce new policy.

2.2 The Regulations being amended formed part of the package of legislation made under the Taxation (Cross-border Trade) Act 2018 ("the Act") in December 2020 to ensure that the United Kingdom would have a customs regime in place at the end of the Implementation Period following the withdrawal of the United Kingdom from the European Union. These amendments are necessary to ensure the United Kingdom's Customs, VAT and Excise regimes function as intended.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 These Regulations correct the errors in the Trade Preference Scheme (EU Exit) Regulations 2020 (S.I 2020/1438), as amended by correction slips dated 7 January 2021 and 22 February 2021, including as reported in the Select Committee on Statutory Instruments 34th Report of Session 2019-21.

3.2 These Regulations are being issued free of charge to anyone who purchased the regulations which they amend as the amendments are attributable to errors in the Regulations being amended.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial 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 Minister Hands has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

"In my view the provisions of the Trade Preference Scheme (EU Exit) (Amendment) Regulations 2021 are compatible with the Convention rights".

6. Legislative Context

6.1 These Regulations make minor technical amendments to the Trade Preference Scheme (EU Exit) Regulations 2020.

6.2 The Trade Preference Scheme (EU Exit) Regulations 2020 were made using the powers in section 10 of the Act, which confers powers on the Secretary of State to make regulations to create a trade preference scheme for developing countries. Such a scheme can only apply to the "eligible developing countries" listed in Schedule 3 of the Act.

6.3 Under the Trade Preference Scheme, an importer may claim a lower rate of import duty than the applicable rate in a standard case under the Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430) as amended, subject to various requirements. A key requirement is that the goods must be regarded as originating from an eligible developing country to which the appropriate framework of the scheme applies. Rules determining this are set out in the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020 (S.I. 2020 No. 1436). This provides an essential linkage between the two sets of Regulations.

6.4 The Trade Preference Scheme (EU Exit) Regulations 2020 are part of a package of statutory instruments that establish the customs tariff of the United Kingdom, and those variations from the rate of import duty in a standard case, that apply to imported goods following the end of the Implementation Period.

7. Policy background

What is being done and why?

7.1 The Trade Preference Scheme (EU Exit) Regulations 2020, brought into effect the United Kingdom's independent trade preference scheme on 1 January 2021.

7.2 These Regulations correct typographical or similar errors in the Trade Preference Scheme (EU Exit) Regulations 2020. These Regulations do not change the underlying policy of those regulations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union because it, and other legislation made under the Act, will ensure that the United Kingdom's customs regime operates as required after the end of the Implementation Period.

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 in relation to this instrument has been undertaken. Consultation is not required because this instrument makes technical corrections to existing provisions.

11. Guidance

11.1 Since the end of the Implementation Period, the Trade Preference Scheme has applied to eligible goods imported into the United Kingdom from beneficiary countries. Further guidance is available at https://www.gov.uk/government/publications/trading-with-developing-nations.

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 effect of the instrument is to maintain, as far as possible, the position prevailing currently.

12.4 The instrument being amended is one of a group of instruments covered by an overarching Tax Information and Impact Note. The TIIN primarily focuses on the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020 and is available at: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

13. Regulating small business

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

13.2 This legislation maintains the existing position as far as possible, imposing no significant additional burdens on small businesses. Therefore, no specific action is proposed to minimise the impact on small businesses, and no review clause is required.

14. Monitoring & review

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

14.2 A statutory review clause is not included in these Regulations because the instrument relates to a tax or duty, and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Leanna Wollacott at the Department for International Trade and Foreign, Commonwealth, and Development Office, telephone: 07464 527490 or email: leanna.wollacott@fcdo.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Walters, Deputy Director for Trade for Development, at the Department for International Trade and Foreign, Commonwealth, and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister of State for Trade Policy Greg Hands MP at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.