

EXPLANATORY STATEMENT

Export Control Act 1982

Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020

Legislative Authority

Section 23A of the *Export Control Act 1982* (the Export Control Act) enables the Secretary of the Department of Agriculture, Water and the Environment (the department) to make orders providing for, or in relation to, the establishment and administration of a system or systems of tariff rate quotas for the export of goods.

Purpose

The purpose of the *Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020* (Amendment Order) is to amend the *Export Control (Tariff Rate Quotas) Order 2019* to reflect that the United Kingdom (UK) has withdrawn from the European Union (EU) with transitional arrangements in place. This Amendment Order ensures that the department can continue to issue tariff rate quota certificates to Australian exporters for eligible products being shipped to the UK during the withdrawal transition period.

Background

The Australian Government currently manages export Tariff Rate Quotas (TRQ) for access to the EU for high quality beef, buffalo meat, cheddar cheese, and cheese for processing. Under these TRQs, Australian exporters are able to export these products to the EU under more favourable tariff rates, which benefits Australian industry.

The UK formally withdrew from the EU on 31 January 2020. As part of the withdrawal deal finalised between the UK and EU on 29 January 2020 it was agreed that a UK withdrawal transition period (transition period) would apply until 31 December 2020. During the transition period, the UK is still considered to be a member of the EU.

Impact and Effect

As a result of the UK's withdrawal from the EU, Australia's TRQs relating to the EU will ultimately be apportioned between the remaining EU members and the UK after the transition period finishes. During the transition period, the existing TRQs to the EU may still be utilised by exporters for exports to the UK.

The Amendment Order ensures that Australian exporters understand that, for the purposes of tariff rate quotas managed in the *Export Control (Tariff Rate Quotas) Order 2019* during the transition period, the UK is considered part of the EU. The Amendment Order thus ensures the department is able to continue to issue quota certificates for EU TRQs for exports of high quality beef, buffalo meat, cheddar cheese and cheese for processing to the UK during the transition period.

Consultation

Consultation with stakeholders was not undertaken on the Amendment Order as the changes make only minor adjustments to definitions to clarify that the UK is considered part of the EU during the transition period. The Amendment Order does not change any aspect of TRQ management.

There are no changes in relation to all other elements of the TRQ management. The Office of Best Practice Regulation (OBPR) confirmed that a Regulation Impact Statement is not required (OBPR ID: 25108).

Details/ Operation

Details of the Amendment Order are set out in [Attachment A](#).

Other

The Amendment Order is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

The Amendment Order is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020*

Section 1 – Name

This section provides that the name of the instrument is the *Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020* (Amendment Order).

Section 2 – Commencement

This section provides for the Amendment Order to commence on the day after the instrument is registered.

Section 3 – Authority

This section provides that the Amendment Order is made under section 23A of the *Export Control Act 1982*. Section 23A of the Export Control Act relevantly provides that the Secretary may make orders providing for, or in relation to, the establishment and administration of a system, or systems, of tariff rate quotas for the export of goods.

Section 4 – Schedules

This section provides that each instrument specified in the Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Export Control (Tariff Rate Quotas) Order 2019

Item 1 – Section 6

Item 1 inserts a definition for “European Union” in section 6 of the *Tariff Rate Quotas Order 2019*. The item provides that during the UK withdrawal transition period, the European Union includes the United Kingdom.

Item 1 also inserts a definition for “UK withdrawal transition period”. This item provides that the UK withdrawal transition period means the period (if any) when transitional arrangements agreed between the United Kingdom and the European Union relating to trade are in force following the withdrawal of the United Kingdom from the European Union.

With regard to trade, the UK withdrawal transition period enables the UK to be considered a member of the EU for the duration of the transition period, notwithstanding that the UK has withdrawn from the EU. From the perspective of the EU tariff rate quotas (TRQs) for dairy goods, high quality beef, grain fed beef, and buffalo meat, this means the EU TRQs can continue to be used for exports to the UK for its duration.

Item 2 – At the end of subsection 129(3)

Item 2 adds a note at the end of subsection 129(3) which refers the reader to new section 130 (inserted by item 3 below) for the continued application of the *Export Control (High Quality Beef Export to the European Union Tariff Rate Quotas) Order 2016*.

Item 3 – At the end of Chapter 7

Item 3 adds Part 2 which contains transitional provisions relating to the Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020. Part 2 contains section 130 which provides for the continued application of the *Export Control (High Quality Beef Export to the European Union Tariff Rate Quotas) Order 2016* in relation to the quota year ending on 30 June 2020.

Section 130 provides that the *Export Control (High Quality Beef Export to the European Union Tariff Rate Quotas) Order 2016* (the continuing Order) continues to apply under subsection 129(3) of this instrument in relation to the quota year ending on 30 June 2020 as if the definition of EU in subsection 5(1) of the continuing Order included at the end “and, during the UK withdrawal transition period, includes the United Kingdom” and the definition of UK withdrawal transition period were inserted into subsection 5(1) of the continuing Order.

This enables the UK to be considered a member of the EU for the remainder of the quota year ending 30 June 2020 such that the EU high quality beef TRQ system under the continuing Order can continue to be used for exports to the UK in that period.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Export Control (Tariff Rate Quotas) Amendment (Trade with United Kingdom) Order 2020* (Amendment Order) is to amend the *Export Control (Tariff Rate Quotas) Order 2019* to reflect that the United Kingdom has withdrawn from the European Union with transitional arrangements in place. This Amendment Order ensures that the department can continue to issue tariff rate quota certificates to Australian exporters for eligible products being shipped to the UK during the withdrawal transition period.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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