



House of Commons
Select Committee on
Statutory Instruments

**Third Report of
Session 2021–22**

Drawing special attention to:

*Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (EU Exit)
(Amendment) Regulations 2021 (S.I. 2021/382)*

*Ordered by the House of Commons
to be printed 26 May 2021*

Select Committee on Statutory Instruments

Current membership

[Jessica Morden MP](#) (*Labour, Newport East*) (*Chair*)

[Dr James Davies MP](#) (*Conservative, Vale of Clwyd*)

[Paul Holmes MP](#) (*Conservative, Eastleigh*)

[John Lamont MP](#) (*Conservative, Berwickshire, Roxburgh and Selkirk*)

[Sir Robert Syms MP](#) (*Conservative, Poole*)

[Richard Thomson MP](#) (*Scottish National Party, Gordon*)

[Liz Twist MP](#) (*Labour, Blaydon*)

Powers

The full constitution and powers of the Committee are set out in House of Commons Standing Order No. 151, available on the Internet via <https://www.parliament.uk/business/publications/commons/standing-orders-public11/>.

The Select Committee on Statutory Instruments (SCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. It carries out the same duties as the Joint Committee on Statutory Instruments in respect of those instruments laid before and subject to proceedings in the House of Commons only.

The role of the SCSI, whose membership is drawn from the House of Commons, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of the House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;
- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix or on any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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The reports of the Committee are published in print by Order of the House. All publications of the Committee are available on the Internet from www.parliament.uk/scsi.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Apostolos Kostoulas (Committee Operations Officer) and Luanne Middleton (Clerk). Advisory Counsel: Sarita Arthur-Crow, Klara Banaszak, Daniel Greenberg, and Vanessa MacNair.

Contacts

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Instruments reported

At the Committee’s meeting on 26 May 2021 it scrutinised a number of instruments. It was agreed that the special attention of the House of Commons should be drawn to one of those considered in accordance with Standing Orders. The instrument and the grounds for reporting it are given below. The relevant departmental memorandum is published as an appendix to this report.

1 S.I. 2021/382: Reported for requiring elucidation

Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (EU Exit) (Amendment) Regulations 2021

1.1 **The Committee draws the special attention of this House to these Regulations on the ground that they require elucidation in two respects.**

1.2 These Regulations, which are subject to the negative resolution procedure, amend the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 (S.I. 2020/1457) to give effect to new trade agreements between the United Kingdom and Albania, Cameroon, and Jordan. They also make amendments relating to agreements between the United Kingdom and several other trade partners (namely, the CARIFORUM States, Central America, Japan and Turkey).

1.3 The Explanatory Notes and Explanatory Memorandum provide a link where the preferential tariffs and origin reference documents relating to each new trade agreement are available electronically. The Committee asked the Treasury to explain where the agreements themselves (which are necessary for a full understanding of the new trading relationship which this instrument implements) can be accessed. In a memorandum printed in the Appendix, the Treasury helpfully provides a general link where all new UK trade agreements can be found and specific links to the new trade agreements to which this instrument relates. **The Committee accordingly reports these Regulations for requiring elucidation, provided in the Department’s memorandum.**

1.4 The web page cited in the Explanatory Notes and the Explanatory Memorandum comprises, in so far as it relates to customs tariffs, a list of statutory instruments that give effect to preferential trade arrangements and “reference documents” for specific instruments. As noted above, the amendments made by this instrument relate to both new agreements with Albania, Jordan and Cameroon and existing agreements with other trade partners. But the page of reference documents for this instrument only includes documents relating to Albania and Jordan. The Committee asked the Department to explain the omission of documents relating to other relevant agreements, and how a reader will know where to find documents that are relevant to this instrument but not included among its reference documents (without looking at every statutory instrument separately). In its memorandum, the Department explains its reasoning for including as reference documents to this instrument only those which had not been previously published elsewhere; it helpfully provides the location of the other relevant reference documents. It also undertakes to continue to explore ways to improve the website and legislation to ensure greater accessibility. The Committee has consistently emphasised the need for legislation to be clear and accessible to readers. This includes ensuring that

all the documents needed to understand the legislation are easy to find. In the present context, where new systems are being established and new rules and tariffs put in place, that accessibility is particularly important. The Committee therefore very much welcomes the Committee's undertaking, and **accordingly reports these Regulations for requiring elucidation, provided in the Department's memorandum.**

Instruments not reported

The Committee has considered the instruments set out in the Annex to this Report, none of which was required to be reported.

Annex

Instruments subject to annulment

S.I. 2021/483	Taxation Cross-border Trade (Northern Ireland) (EU Exit) (Amendment) Regulations 2021
S.I. 2021/520	Customs Tariff (Establishment) (EU Exit) (Amendment) Regulations 2021

Appendix

S.I. 2021/382

Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (EU Exit) (Amendment) Regulations 2021

1. In its letter to HM Treasury of 12th May 2021, the Committee requested a memorandum on the following points:

In relation to regulation 3, explain—

(1) where the trade agreements themselves (cf. the preferential tariffs and the origin reference documents) can be accessed online; and

(2) why the page of reference documents relating to this instrument on gov.uk includes only those relating to Albania and Jordan, and not those relating to Cameroon, CARIFORUM, Central America, Japan and Turkey (which are also relevant to this instrument) and how a reader will know where to find the latter without looking at every instrument that amends S.I. 2020/1457.

2. In respect of point 1, HM Treasury contacted relevant officials within the Department for International Trade who have indicated that all trade agreements—with the exception of the Trade and Cooperation Agreement with the European Union—can be found at the following webpage: <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>. Specifically, the new agreements that were brought into force by S.I. 2021/382 can be found at the following links:

- Partnership Trade and Cooperation Agreement with the Republic of Albania signed on 5th February 2021: <https://www.gov.uk/government/publications/ukalbania-partnership-trade-and-cooperation-agreement-cs-albania-no12021>
- Agreement Establishing an Association with the Hashemite Kingdom of Jordan, signed on 5th November 2019: <https://www.gov.uk/government/publications/ukjordan-agreement-establishing-an-association-cs-jordan-no12019>
- Accession of the Republic of Suriname to the Economic Partnership Agreement with the CARIFORUM states, signed on 4th March 2021 <https://www.gov.uk/government/publications/ms-no182019-economic-partnership-agreement-between-the-cariforum-states-of-the-one-part-and-the-united-kingdom-of-great-britain-and-northern-ire>

3. In respect of point 2, the page of reference documents relating to this instrument on www.gov.uk contains reference documents only relating to the agreements with Albania and Jordan, as these are new reference documents for new agreements, without any previous versions having been published online. The Accession of the Republic of Suriname to CARIFORUM was added to the existing reference document.

4. Earlier versions of the reference documents relating to Cameroon, CARIFORUM, Central America, Japan and Turkey have previously been published elsewhere (see Annex

below) on the www.gov.uk landing page,¹ and therefore the department considered it appropriate to update the existing versions of the reference documents in their original locations to avoid confusion for the reader about which reference document—and which version—is currently legally in force.²

5. However, the department recognises the committee’s concerns about how a reader will know where to find a reference document, without looking at every instrument that amends S.I. 2020/1457. Therefore, on the next occasion that S.I. 2020/1457 is amended, the department will publish the latest versions of the reference documents on the appropriate webpage and remove the older versions of these reference documents from existing pages.

6. The department would also highlight the UK Global Online Tariff³ as a useful resource for readers to check whether a preferential tariff originating from a particular country applies to a particular good.

7. Nevertheless, officials will continue to explore means to further improve the usability of the www.gov.uk landing page and legislation, in compliance with relevant accessibility regulations and technical limitations, so that readers can more easily locate reference documents than is currently the case.

HM Treasury

18 May 2021

1 <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>

2 For instance, the original reference documents associated with the Cameroon agreement were first published online when S.I. 2020/1657 was laid, and have been updated twice on the same page:

3 <https://www.trade-tariff.service.gov.uk/sections>

Annex to departmental memorandum—Reference documents associated with S.I. 2021/382

Reference Document	Web location	Original reference document contained in
The Cameroon Preferential Tariff, version 1.1, dated 22nd March 2021*	https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-and-tariff-quotas-amendment-eu-exit-regulations-2020-part-1	S.I. 2020/1657
The Cameroon Origin Reference Document, version 1.1, dated 22nd March 2021*		
The CARIFORUM Preferential Tariff, version 1.1, dated 22nd March 2021	https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-and-tariff-quotas-amendment-eu-exit-regulations-2020-part-1	S.I. 2020/1657
The CARIFORUM Origin Reference Document, version 1.1, dated 22nd March 2021		
The Central America Preferential Tariff, version 2.1, dated 22nd March 2021	https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-eu-exit-regulations-2020-part-1	S.I. 2020/1657
The Japan Preferential Tariff, version 2.1, dated 22nd March 2021	https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-eu-exit-regulations-2020-part-2	S.I. 2020/1457
The Turkey Preferential Tariff, version 1.1, dated 22nd March 2021	https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-preferential-trade-arrangements-and-tariff-quotas-amendment-eu-exit-regulations-2020-part-3	S.I. 2020/1657
The Turkey Origin Reference Document, version 1.1, dated 22nd March 2021		

*Both documents since updated by S.I. 2021/527 to version 1.2, dated 27th April 2021.

Formal Minutes

Wednesday 26 May 2021

Virtual Meeting

Members present:

Jessica Morden (*in the Chair*)

Dr James Davies Richard Thomson
John Lamont

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.4 agreed to.

Annex agreed to.

A Paper was appended to the Report as an Appendix.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned to a day and time to be fixed by the Chair.]