



House of Commons
Foreign Affairs Committee

2017 elections to the International Court of Justice: Government response to the Committee's Fourth Report

**Seventh Special Report of
Session 2017–19**

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The Foreign Affairs Committee

The Foreign Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Foreign and Commonwealth Office and its associated public bodies.

Current membership

[Tom Tugendhat MP](#) (*Conservative, Tonbridge and Malling*) (Chair)

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The following Members were also members of the Committee during the Parliament:

Ms Nusrat Ghani MP and Nadhim Zahawi MP

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/facom and in print by Order of the House.

Evidence relating to this report is published on the [inquiry page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Tom Goldsmith (Clerk), Zoe Oliver-Watts (Second Clerk), Hannah Bryce (Clerk), Dr Ariella Huff (Senior Committee Specialist), Ashlee Godwin, Dr Eoin Martin and Hannah Stone (Committee Specialists), Clare Genis (Senior Committee Assistant), Zara Emmett (Committee Assistant) and Estelle Currie (Media Officer). Tino Nieddu (on secondment from the National Audit Office), was also on the staff of the Committee during this inquiry.

Contacts

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Seventh Special Report

On 28 February 2018, the Foreign Affairs Committee published its Fourth Report of Session 2017–19, on the 2017 elections to the International Court of Justice. The response from the Government was received on 26 April 2018. The response is appended below.

Appendix: Government Response

This Government takes note of the Foreign Affairs Committee report on the '2017 elections to the International Court of Justice', published on 28 February 2018.

This report sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

1. **The inability of the Government to secure the election of the UK candidate to the ICJ in November 2017 was a failure of UK diplomacy in an area of traditional UK strength: international law and multilateral governance. It leaves the ICJ with no UK judge for the first time in its history. Strengthening the rules-based international system is a priority for the UK and will be an essential building block of 'Global Britain', and the lack of a UK judge on the ICJ is damaging to UK influence and the UK's future foreign policy strategy. This is particularly regrettable given that the UN will have increased significance as a vehicle for UK foreign policy in the future (paragraph 16).**

The outcome of the 2017 ICJ ('the Court') elections was very disappointing, and is a loss for both the UK and the Court. The Government's lobbying effort followed the approach applied successfully in the past. After a full review, the Government is now working to improve policy, processes and lobbying for future elections.

The strengthening of the rules-based international system is a UK priority. This is an area of critical importance, and the UK will continue to push hard in all relevant fora to strengthen this system. The UK is committed to supporting the three pillars of the United Nations, namely: maintaining international peace and security; fostering development; and promoting human rights. It does so by working with partners in the General Assembly and the Security Council, and through other UN bodies. We also support UN Secretary-General Antonio Guterres' work to reform and refresh the UN, including through using our funding and our peacekeeping experience to optimise the UN's delivery on the ground.

The Government recognises that defeat in the election means that for the first time there is no UK judge on the ICJ; however it does not accept the Committee's conclusion that the election result is damaging to the UK's overall influence at the UN. The UK remains a strong and active member of the P5 and the third largest financial contributor to the UN, with hundreds of personnel in UN peacekeeping missions across the globe. The UK continues to demonstrate global leadership, delivering UK objectives through the UN, including by addressing modern slavery, promoting gender parity, championing civil society, and playing a leading role in combatting sexual exploitation and abuse. Other Member States and the UN itself recognise the UK's expertise and influence, as witnessed by the fact that the UK remains very well represented in leadership roles across the system. More recent appointments include Sir Mark Lowcock, appointed Under Secretary General

of the Office for the Coordination of Humanitarian Affairs; Alison Smale, appointed Under Secretary General of Global Communication; and Jane Ellison, appointed Deputy Secretary General for Corporate Operations at the World Health Organisation.

2. *The FCO was surprised by the failure, and has rightly launched an internal exercise to identify the reasons and learn lessons for the future. It appeared unwilling to share the results of this review with the Committee, however. The Committee accepts that there are likely to be parts of the FCO review that are sensitive to individuals, and that detailed discussion of future electoral tactics could assist competitors and so should not be published. However, the Committee needs to be able to read the report of the review in order to assess both how the FCO has analysed this serious failure and the actions it is taking to prevent a repetition. Therefore, the FCO should make available to the Committee, in confidence, the full report of the lessons learned review. In addition, in order to fulfil its obligation of accountability to Parliament and the public, the FCO should supply to the Committee a version of its report for publication (paragraph 17).*

The Government welcomes the Committee's close interest in understanding the outcome of the ICJ election. However, as the Government has stressed on numerous occasions, it is not appropriate to share the internal FCO review with the Committee.

The Government considers that it has already fulfilled its obligation of accountability by providing a memorandum to the Committee in December 2017 and through the appearances of the Foreign Secretary on 21 March 2018 and Lord Ahmad of Wimbledon on 7 February 2018.

3. *We appreciate that the election was by secret ballot, but the FCO did not appear to have been sufficiently curious or persistent in discovering why countries in the General Assembly may not have continued to support the UK candidate after the first round (paragraph 18).*

The Government rejects this conclusion. It is worth bearing in mind that the conditions of this particular election, including the fact there were six candidates for five seats, contributed to this unexpected outcome. A huge proportion of the UN membership had committed to vote for the UK candidate before the election. The proportion of those who did so in the first two rounds was within acceptable margins.

In past elections, the Government has assumed that up to 20% of vote commitments would not be delivered. In the ICJ election, the percentage was much higher after the opening rounds of voting. Some countries that had committed to vote for the UK candidate may have considered their obligation to have been discharged after the first rounds of voting. In other cases, decisions may have been taken in New York without consultation with capitals due to the pace at which the election was conducted. Looking ahead, the Government will factor in higher discount rates on pledges of support in priority elections, and will take procedural steps to secure voting commitments that remain valid for the entire election, including through multiple rounds of voting.

The FCO has been exploring why the vote tally was significantly lower than promised from the third round onwards. However, the election was conducted by secret ballot, and we judge that to continue pushing countries for the reasons they voted as they did could be seen as undiplomatic, and un conducive to support in future elections. We need to learn the lessons of this election and move on to focus on future elections.

In addition, the UK's decision to run for the leadership of the World Health Organisation in the same year as the ICJ election may have had an impact on the ICJ result in respect of vote pledges. While the Government has in the past successfully run two priority elections in the same year, in future there may be times when it is more appropriate to focus on one priority election per year.

4. *In future, the FCO should inform the Committee in writing each time it intends to campaign for a UK person to be elected to a UN position, setting out in broad terms how it will be campaigning, how it will apply lessons drawn from previous experience, and how the post fits into its wider strategy (paragraph 19).*

The Government welcomes the Committee's wish to be better informed of UN election campaigns. The Government also welcomes the link drawn between election campaigns and broader strategy, and is committed to strengthening this link in future campaigns. However there are a large number of UN elections every year, at all levels, within many different UN bodies. These often involve confidential voting arrangements with wider implications for bilateral relations. The Government will do its best to keep the committee informed about the nature of our campaigning, in confidence, subject to the broader requirements of UK diplomatic and bilateral interests in the bodies and countries concerned.

A future UK candidate to be a judge on the ICJ will need to be introduced widely around the UN well before the next election (paragraph 20).

The Government agrees with the Committee. As set out in Article 4 of the ICJ Statute, the exclusive right of nomination of candidates for election to the Court lies with the UK's National Group at the Permanent Court of Arbitration in The Hague.

The National Group, which is independent of Government and made up of international legal experts, is yet to take a decision on when the UK will next contest an election to the Court. When it does, this Government will put its entire weight behind the election campaign, taking into account the lessons learned from previous elections and the offers of support from the Committee and Parliament.

5. *While the Government must be responsible for leading any campaign to elect UK candidates to international organisations, the Government should also mobilise parliamentary support, which could reach wider audiences and would bring additional experience of election campaigning to bear in support of UK interests. Many Members of Parliament are involved in the work of international parliamentary assemblies, and there are also parliamentary trade envoys to more than 50 countries appointed by the Prime Minister from across the political spectrum. These sources of expertise and experience appear underused by the FCO at present. The Committee, as well as other relevant parliamentary groups, should therefore be briefed by the Government about future UN election campaigns (paragraph 21).*

As set out above, in principle, the Government is supportive of the suggestion to engage, in confidence, with relevant Parliamentary committees to discuss the extent to which Parliamentary engagement would be helpful.

6. *It is possible that this failure was not a one-off but might instead be an indication that the influence of the UK within the UN is at risk. Possible reasons suggested for this*

were: increased influence of Asian countries; a change in the standing of, and attitudes to, the UK itself; and changes in the relative influence of the Security Council and the General Assembly. The Committee will be examining in more detail in the near future the standing and influence of the UK in the United Nations, as part of its work on 'Global Britain' (paragraph 22).

The Government and its Ministers have explained the factors behind this particular defeat. The Government rejects the notion that the UK's influence within the UN is at risk.

The UK has been successful in recent campaigns. 2016 saw the UK elected to the UN Human Rights Council, the International Seabed Authority, the Universal Postal Union. Other notable successes include Sir Michael Wood's election to the International Law Commission and Guy Ryder's election as Director-General of the International Labour Organisation.

As already set out, the UK is a founding member of the UN, and a strong and active member of the P5, leading work in New York across a wide range of priority areas. This engagement allows the UK to deliver on its wider objectives through the UN. For example, on gender and conflict, the UK drives UN delivery on Women, Peace and Security (WPS), supporting efforts to tackle Sexual Exploitation & Abuse (SEA) and championing the UN Secretary-General's efforts to promote gender parity in the UN. On human rights, the UK mobilises members of the UN Human Rights Council to adopt robust resolutions on Burma, Libya, South Sudan, DPRK, Iran and Somalia. The UK has also used its influence at the UN to address issues including modern slavery, Da'esh accountability, aviation security and terrorist use of the internet. The UK continues to have senior British representatives serving in prestigious UN leadership roles.

Looking ahead, the UK will continue to play a central and influential role in the multilateral system.