



HOUSE OF LORDS

European Union Committee

30th Report of Session 2017–19

Scrutiny of international agreements

Treaties considered on 20 February 2019

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The European Union Committee

The European Union Committee is appointed each session “to scrutinise documents deposited in the House by a Minister, and other matters relating to the European Union”.

In practice this means that the Select Committee, along with its Sub-Committees, scrutinises the UK Government’s policies and actions in respect of the EU; considers and seeks to influence the development of policies and draft laws proposed by the EU institutions; and more generally represents the House of Lords in its dealings with the EU institutions and other Member States.

On 14 January 2019 the Procedure Committee decided that the European Union Committee should, until the end of the 2017–19 session of Parliament, be responsible for scrutinising Brexit-related treaties or international agreements.

The six Sub-Committees are as follows:

Energy and Environment Sub-Committee
External Affairs Sub-Committee
Financial Affairs Sub-Committee
Home Affairs Sub-Committee
Internal Market Sub-Committee
Justice Sub-Committee

Membership

The Members of the European Union Select Committee are:

<u>Baroness Armstrong of Hill Top</u>	<u>Earl of Kinnoull</u>	<u>Lord Ricketts</u>
<u>Lord Boswell of Aynho</u> (Chairman)	<u>Lord Liddle</u>	<u>Lord Soley</u>
<u>Baroness Brown of Cambridge</u>	<u>Earl of Lindsay</u>	<u>Baroness Suttie</u>
<u>Lord Cromwell</u>	<u>Baroness Neville-Rolfe</u>	<u>Lord Teverson</u>
<u>Baroness Falkner of Margravine</u>	<u>Baroness Noakes</u>	<u>Baroness Verma</u>
<u>Lord Jay of Ewelme</u>	<u>Lord Polak</u>	<u>Lord Whitty</u>
<u>Baroness Kennedy of the Shaws</u>		

Further information

Publications, press notices, details of membership, forthcoming meetings and other information is available at <http://www.parliament.uk/hleu>.

General information about the House of Lords and its Committees is available at <http://www.parliament.uk/business/lords>.

Committee staff

The current staff of the Committee are Christopher Johnson (Principal Clerk), Stuart Stoner (Clerk), Roberto Robles (Policy Analyst), Tim Mitchell (Legal Adviser), Alex Horne (Legal Adviser), Samuel Lomas (Committee Assistant) and Alasdair Johnston (Committee Assistant).

Contact details

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You can follow the Committee on Twitter: [@LordsEUCom](https://twitter.com/LordsEUCom).

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SUMMARY

This is the European Union Committee's third report on Brexit-related treaties, or international agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (the CRAG Act).

This report addresses three agreements, which we considered at our meeting on 20 February:

- Agreement on Trade in Organic Products between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile [CP 33]
- Agreement on Mutual Recognition in relation to Conformity Assessment between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand [CP 27]
- Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Australia [CP 28]

We have reported all three agreements for information.

Treaties considered on 20 February

AGREEMENTS REPORTED FOR INFORMATION

Agreement on Mutual Recognition in relation to Conformity Assessment between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand (CP 27, 2019)¹

1. The UK-New Zealand Mutual Recognition Agreement in relation to Conformity Assessment was laid on 1 February 2019, and the scrutiny period is scheduled to end on 11 March. It was considered by the EU Internal Market Sub-Committee at its meeting on 14 February. A brief explanation of conformity assessments is given in Box 1.

Box 1: Conformity assessments

Certain products and manufacturing practices are subject to a 'conformity assessment' to verify their compliance with relevant product standards and rules. In some cases, the assessment must be carried out by conformity assessment bodies (CABs), accredited at national level.

The EU has concluded Mutual Recognition Agreements (MRAs) with several third countries. These agreements usually provide that one party will accept conformity assessment results (e.g. testing or certification) issued by the other party's designated CABs to show compliance with the first party's requirements. In other words, they authorise CABs of the other party to test products against the first party's rules. They generally do not provide for mutual acceptance of standards and regulations or of the equivalence of such standards or regulations. The agreements also typically lay down conditions for the designation of CABs and for the recognition of conformity assessment. MRAs thus facilitate trade by allowing exporters to obtain certifications required by the importing country in their home country.

2. The Agreement is intended to ensure continuity of the existing European Community (EC)-New Zealand MRA, in which the UK currently participates by virtue of its membership of the EU. The Government's Explanatory Memorandum (EM) states that the Agreement will enable UK manufacturers to continue having their products tested against New Zealand regulations by accredited UK CABs, and vice versa, and that UK and New Zealand CABs recognised under the EC-New Zealand MRA will not have to be re-designated. According to the EM, the Agreement also ensures that attestations of conformity issued by UK and New Zealand CABs under the EC-New Zealand MRA will remain valid. The effect of Article 8 of the Agreement, however, appears to be wider, in requiring that prior and still valid EU27 attestations should also remain valid for their lifespan, including in the UK.

¹ Agreement on Mutual Recognition in relation to Conformity Assessment between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand: <https://www.gov.uk/government/publications/cs-new-zealand-no22019-uknew-zealand-agreement-on-mutual-recognition-in-relation-to-conformity-assessment> [accessed 13 February 2019]

3. The Agreement incorporates the precursor European Community (EC) Agreement² ‘*mutatis mutandis*’—in other words, rather than spelling out each technical amendment, it states that all references to an EU body, office, institution or location in precursor agreement will be read as references to the UK equivalent, and that references to EU legislation will be read as references to relevant UK law.
4. Like the EC-New Zealand MRA, the Agreement will cover the following sectors: (i) medicinal products (inspection of good manufacturing Practices and batch certification); (ii) medical devices; (iii) telecommunications terminal equipment; (iv) low voltage equipment; (v) electromagnetic compatibility; (vi) machinery; and (vii) pressure equipment. Unlike in the UK-Australia MRA, automotive products are not included.
5. We note that once the Agreement takes effect, each Party will have to notify the other of expected changes to the relevant regulation at least 60 days before their entry into force. We also note that, consistent with the EC-New Zealand MRA, the Agreement will be administered by a joint committee responsible for its functioning. The Agreement allows for provisional application prior to domestic ratification.
6. **We report the UK-New Zealand Agreement on Mutual Recognition in relation to Conformity Assessment to the House for information.**

Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Australia (CP 28, 2019)³

7. The UK-Australia Mutual Recognition Agreement in relation to Conformity Assessment, Certificates and Markings was laid on 1 February 2019, and the scrutiny period is scheduled to end on 11 March. It was considered by the EU Internal Market Sub-Committee at its meeting on 14 February.
8. The UK-Australia MRA is intended to ensure continuity of the existing European Community (EC)-Australia MRA,⁴ in which the UK currently participates by virtue of its membership of the EU. The Agreement will enable UK manufacturers to continue having their products tested against Australian regulations by accredited UK CABs, and vice versa, and that UK and Australian CABs recognised under the EC-Australia MRA will not have to be re-designated. The Agreement also ensures that attestations of conformity issued by UK and Australian CABs under the EC-Australia MRA will remain valid.
9. Like the UK-New Zealand MRA, the UK-Australia Agreement applies the terms of the existing EC-Australia MRA ‘*mutatis mutandis*’ (see

2 Agreement on mutual recognition in relation to conformity assessment between the European Community and New Zealand, [OJ L 229](#) (17 August 1998), p 62, as amended [accessed 14 February 2019]

3 Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Australia: <https://www.gov.uk/government/publications/cs-australia-no22019-ukastralia-agreement-on-mutual-recognition-in-relation-to-conformity-assessment-certificates-and-markings> [accessed 13 February 2019]

4 Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia, [OJ L 229](#) (17 August 1998), p 3 [accessed 14 February 2019]

paragraph 3). It thus covers the same sectors as the EC–Australia agreement: (i) medicinal products—inspection of Good Manufacturing Practices and batch certification; (ii) medical devices; (iii) telecommunications terminal equipment; (iv) low voltage equipment; (v) electromagnetic compatibility; (vi) machinery; (vii) pressure equipment; and (viii) automotive products (not including whole vehicles).

10. We note that once the Agreement takes effect, each party will have to notify the other of expected changes to relevant regulations at least 60 days before their entry into force. We also note that, consistent with the EC–Australia MRA, the Agreement will be administered by a joint committee responsible for its functioning.
11. Unlike the UK–New Zealand MRA, the Agreement does not allow for provisional application prior to domestic ratification. Furthermore, Article 2(3) of the Agreement states that “the incorporated sectoral annexes ... have less than treaty status”. It is unclear whether any future amendments to these annexes would be subject parliamentary scrutiny under the Constitutional Reform and Governance Act 2010.⁵
12. **We report the UK–Australia Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings to the House for information.**

Agreement on Trade in Organic Products between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile (CP 33, 2019)⁶

13. The Agreement was laid on 6 February 2019, and the scrutiny period is scheduled to end on 14 March. It was considered by the EU Energy and Environment Sub-Committee at its meeting on 13 February.
14. This Agreement replicates the 2017 Agreement between the European Union and the Republic of Chile on trade in organic products.⁷ It is based on mutual recognition of the equivalence of the two parties’ rules on organic production as well as related systems of control. It should be noted that this goes further than normal mutual recognition agreements, which merely provide for accepting attestations of conformity issued by foreign bodies for domestic rules. The Agreement also sets rules on labelling and on requirements for monitoring and reporting on whether organic standards are being upheld. Other than the establishment of a UK–Chile Joint Committee to “ensure that this Agreement operates properly”,⁸ the only substantive modifications to the EU–Chile Agreement have been to remove references to EU logos and websites and replace them with UK ones.

5 Compare our recommendation in European Union Committee, *Scrutiny of international agreements: treaties considered on 12 February 2019* (29th Report, Session 2017–19, HL Paper 287), para 4. Article 12(4)(a) and (f) of the underlying EC–Australia MRA Agreement permits the Joint Committee to amend the sectoral annexes and to adopt new sectoral annexes.

6 Agreement on Trade in Organic Products between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile: <https://www.gov.uk/government/publications/cs-chile-no12019-ukchile-agreement-on-trade-in-organic-products> [accessed 13 February 2019]

7 Agreement between the European Union and the Republic of Chile on trade in organic products, [OJ L 331](#) (14 December 2017), p 4 [accessed 14 February 2019]

8 Agreement on Trade in Organic Products between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, Article 7: <https://www.gov.uk/government/publications/cs-chile-no12019-ukchile-agreement-on-trade-in-organic-products> [accessed 20 February 2019]

15. Providing domestic procedures are completed by both Parties in time, this Agreement will allow the trade in organic products between the UK and Chile to continue after Brexit on the same basis as now. Article 9 of the Agreement also provides for provisional application in circumstances where “such domestic procedures as are required” are completed. The precise requirements of this provision are not clear from the Agreement or the accompanying EM.
16. The fact that the EU-Chile Agreement and the UK-Chile Agreement have separate Joint Committees which can agree changes to the list of products recognised as organic⁹ means that, over time, the EU-Chile Agreement and the UK-Chile Agreement may diverge. As the Agreement is based on Chile’s recognition of the current EU organic production rules applied in the UK, there is the possibility that if these rules diverge the government of Chile could request changes to the list of UK products recognised as organic.
17. **We report the UK-Chile Agreement on Trade in Organic Products for information.**

⁹ Agreement on Trade in Organic Products between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile, Article 8: <https://www.gov.uk/government/publications/cs-chile-no12019-ukchile-agreement-on-trade-in-organic-products> [accessed 20 February 2019]

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members of European Union Select Committee

Baroness Armstrong of Hill Top
 Lord Boswell of Aynho (Chairman)
 Baroness Brown of Cambridge
 Lord Cromwell
 Baroness Falkner of Margravine
 Lord Jay of Ewelme
 Baroness Kennedy of The Shaws
 The Earl of Kinnoull
 Lord Liddle
 The Earl of Lindsay
 Baroness Neville-Rolfe
 Baroness Noakes
 Lord Polak
 Lord Ricketts
 Lord Soley
 Baroness Suttie
 Lord Teverson
 Baroness Verma
 Lord Whitty

Declarations of interest

Baroness Armstrong of Hill Top
Joint owner of a property in Spain

Lord Boswell of Aynho (Chairman)
In receipt of salary as Principal Deputy Chairman of Committees, House of Lords
Shareholdings as set out in the Register of Lords' Interests
Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho Grounds, Banbury, with separate rentals from cottage and grazing
Land at Great Leighs, Essex (one-eighth holding, with balance held by family interests), from which rental income is received
House in Banbury owned jointly with wife, from which rental income is received
Lower Aynho Grounds Farm, Northants/Oxon; this property is owned personally by the Member and not the Partnership

Baroness Brown of Cambridge
Vice Chair of the Committee on Climate Change
Chair of the Adaptation Sub-Committee of the Committee on Climate Change
Chair of the Henry Royce Institute for Advanced Materials
Chair of STEM Learning Ltd
Non-Executive Director of the Offshore Renewable Energy Catapult
Chair of The Carbon Trust
Council member of Innovate UK

Lord Cromwell

Employment, partnership, business interests and shareholdings as set out in the Register of Lords' interests

Patron of Wildlife Vets International;

Baroness Falkner of Margravine

Member, British Steering Committee: Koenigswinter, The British-German Conference

Member, Advisory Board, Demos

Lord Jay of Ewelme

Trustee (Non-Executive Director), Thomson Reuters Founders Share Company

Vice Chairman, European Policy Forum Advisory Council

Member, Senior European Experts Group

Chairman, Positive Planet (UK)

Trustee, Magdalen College, Oxford Development Trust

Baroness Kennedy of The Shaws

President, Justice, UK arm of International Commission of Jurists

Chancellor, Sheffield Hallam University

The Earl of Kinnoull

Farming interests as principal and as charitable trustee, in receipt of agricultural subsidy

Chairman, Culture Perth and Kinross, in receipt of governmental subsidy

Chairman, United Kingdom Squirrel Accord, in receipt of governmental monies

Director, Horsecross Arts, in receipt of governmental subsidy

Shareholdings as set out in the register

Organic farming interests as set out in the register

Lord Liddle

Member, Cumbria Country Council

Pro-Chancellor (Chair of Board), Lancaster University

Co-Chair, Policy Network

The Earl of Lindsay

Chairman, United Kingdom Accreditation Service (UKAS)

Chairman, BPI Pension Trustees Limited

Farmer, in receipt of CAP support

Baroness Neville-Rolfe

Former Commercial Secretary, HM Treasury

Former Minister of State for Energy and Intellectual Property

Chair, Assured Food Standards Ltd

Non-Executive Director, Capita Plc

Non-Executive Director, Secure Trust Bank

Governor, London Business School

Shareholdings as set out in the register

Trustee (Non-Executive Director), Thomson Reuters Founders Share Company

Baroness Noakes

Director, Royal Bank of Scotland Group plc

Interests in a wide range of listed companies as disclosed in the Register of Interests

Lord Polak

Employment and business as set out in the Register of Lords' interests

Lord Ricketts

Non-Executive Director, Group Engie, France
Strategic Adviser, Lockheed Martin UK
Charitable activities as set out in the Register of Interests

Lord Soley

Member: International Institute for Strategic Studies, Royal College of Defence Studies, Chatham House

Baroness Suttie

Associate with Global Partners Governance Limited
Trustee, Institute for Public Policy Research (IPPR)

Lord Teverson

Board Member, Marine Management Organisation
Trustee, Regen SW
In receipt of a pension from the European Parliament

Baroness Verma

No relevant interests declared

Lord Whitty

Vice President, Chartered Trading Standards Institute
Chair, Road Safety Foundation
Vice President, Local Government Association
President, Environmental Protection UK
Member, GMB
Vice President, British Airline Pilots Association

Dr Holger Hestermeyer, Shell Reader in International Dispute Resolution at King's College London, is acting as Specialist Adviser supporting the Committee's scrutiny of international agreements, and has declared no relevant interests.

Sub-Committee Members

EU Energy and Environment Sub-Committee

Lord Teverson (Chair)
 Lord Cameron of Dillington
 Viscount Hanworth
 Lord Krebs
 The Duke of Montrose
 Lord Rooker
 Lord Selkirk of Douglas
 Baroness Sheehan
 The Earl of Stair
 Viscount Ullswater
 Baroness Wilcox
 Lord Young of Norwood Green

For relevant interests see: https://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/scrutiny-2017-19/DoI_Scrutiny_2017-19.pdf

EU External Affairs Sub-Committee

Baroness Verma (Chair)
Baroness Armstrong of Hill Top
Baroness Brown of Cambridge
Baroness Chalker of Wallasey
Lord Dubs
Lord Horam
The Earl of Oxford and Asquith
Lord Risby
Lord Stirrup
Baroness Suttie
Baroness Symons of Vernham Dean
Lord Triesman

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-external-affairs-subcommittee/members-interests-2019.pdf>

EU Financial Affairs Sub-Committee

Baroness Falkner of Margravine (Chair)
Lord Bruce of Bennachie
Lord Butler of Brockwell
Lord Cavendish of Furness
Lord Desai
Lord Giddens
Baroness Liddell of Coatdyke
The Earl of Lindsay
Baroness Neville-Rolfe
Lord Thomas of Cwmgiedd
Viscount Trenchard
Lord Vaux of Harrowden

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-financial-affairs-subcommittee/declarations-of-interests-session-2017-19/Interests-2017-19.pdf>

EU Home Affairs Sub-Committee

Lord Jay of Ewelme (Chair)
Lord Best
Lord Haselhurst
Baroness Janke
Lord Kirkhope of Harrogate
Baroness Massey of Darwen
Lord O'Neill of Clackmannan
Baroness Pinnock
Lord Ribeiro
Lord Ricketts
Lord Soley
Lord Watts

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-home-affairs-subcommittee/scrutiny-work/Scrutiny-interests.pdf>

EU Internal Market Sub-Committee

Lord Whitty (Chair)
 Lord Aberdare
 Baroness Donaghy
 Lord German
 Lord Lansley
 Lord Liddle
 Baroness McGregor-Smith
 Baroness Noakes
 Baroness Randerson
 Lord Rees of Ludlow
 Lord Robathan
 Lord Russell of Liverpool
 Lord Wigley

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-internal-market-subcommittee/Declarations-of-Interests-for-Scrutiny-work-2017-19.pdf>

EU Justice Sub-Committee

Baroness Kennedy of The Shaws (Chair)
 Lord Anderson of Swansea
 Lord Cashman
 Lord Cromwell
 Lord Dholakia
 Lord Judd
 The Earl of Kinnoull
 Baroness Ludford
 Baroness Neuberger
 Lord Polak
 Baroness Shackleton of Belgravia
 Lord Wasserman

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-justice-subcommittee/Scrutiny-Interests/declarations-of-interest-for-scrutiny-work-2017-19.pdf>

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>