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:

Baroness Armstrong of Hill Top
Lord Boswell of Aynho (Chair)
Baroness Brown of Cambridge
Lord Cromwell
Baroness Falkner of Margravine
Lord Jay of Ewelme
Baroness Kennedy of the Shaws

Earl of Kinnoull
Lord Liddle
Earl of Lindsay
Baroness Neville-Rolfe
Baroness Noakes
Lord Polak

Baroness Verma
Lord Teverson
Baroness Suttie
Lord Whitty

Lord Ricketts
Lord Soley

Further information


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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Twitter
You can follow the Committee on Twitter: @LordsEUCom.
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SUMMARY

This is the European Union Committee’s tenth 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 two agreements, both of which have been reported for information:

- Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part [CP 83]

- Voluntary Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Indonesia on Forest Law Enforcement, Governance and Trade in Timber Products into the United Kingdom of Great Britain and Northern Ireland [CP 87]
CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (CP 83, 2019)

1. The CARIFORUM Economic Partnership Agreement was laid on 5 April 2019, and the scrutiny period is scheduled to end on 23 May. It was considered by the EU External Affairs Sub-Committee at its meeting on 25 April.

2. The precursor agreement to the UK-CARIFORUM Economic Partnership Agreement is the EU-CARIFORUM States Economic Partnership Agreement, signed in 2009. It is development-focused and therefore asymmetrical—it opens the UK market more than the market of the CARIFORUM states. The UK-CARIFORUM Economic Partnership Agreement (EPA) seeks to ensure continuity of effect with the EU Agreement and, consequently, largely replicates it. It provides duty-free and quota-free access to the UK market for goods originating from the CARIFORUM states (with the exception of arms and ammunition) and provides for a gradual reduction of duties for UK goods deemed to be sensitive and that are imported into the CARIFORUM states.

3. Like the EU Agreement, alongside a free trade agreement the UK-CARIFORUM EPA incorporates provisions on public procurement and provisions on cooperation in a variety of sectors, including a specific protocol on cultural cooperation. The Agreement also replicates the provision in the Cotonou Agreement that allows for appropriate measures to be taken if human rights, democratic principles, the rule of law and good governance

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3 The CARIFORUM is a sub-group of the African, Caribbean and Pacific (ACP) Group of States (see also footnote 8). It provides a forum for the Caribbean states to coordinate their relations with the EU and comprises the following countries: Antigua and Barbuda, The Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago. However, while Cuba is part of the CARIFORUM, it is not a signatory to the EU-CARIFORUM EPA (or the UK Agreement).

4 The EU-CARIFORUM Agreement was established within the framework of the Cotonou Agreement, which contains a human rights clause. This clause was replicated in the UK-CARIFORUM Agreement. The Cotonou Partnership Agreement was signed in 2000 and is a legally binding agreement between the EU and 78 African, Caribbean and Pacific countries. It was designed to establish a comprehensive partnership with three pillars: development cooperation, political cooperation, and economic and trade cooperation. It is set to expire in February 2020. Subject to a transition period, the Cotonou Agreement will cease to apply to the UK on exiting the EU.
are violated. It is envisaged that suspension of the Agreement would only be a last resort.

4. There are fifteen signatories to the precursor EU Agreement, of whom ten have so far also signed the UK Agreement. The Government’s explanatory materials accompanying the treaty explain that it is expected that some of the countries that have not yet signed the UK Agreement will do so in the coming weeks. The table below illustrates which countries have, so far, signed the Agreement:

Table 1: CARIFORUM signatories to the EU and UK Economic Partnership Agreements

<table>
<thead>
<tr>
<th>Signatory to the EU-CARIFORUM EPA</th>
<th>Signatory to the UK-CARIFORUM EPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua and Barbuda</td>
<td>No</td>
</tr>
<tr>
<td>The Commonwealth of the Bahamas</td>
<td>No</td>
</tr>
<tr>
<td>Barbados</td>
<td>Yes</td>
</tr>
<tr>
<td>Belize</td>
<td>Yes</td>
</tr>
<tr>
<td>The Commonwealth of Dominica</td>
<td>Yes</td>
</tr>
<tr>
<td>The Dominican Republic</td>
<td>No</td>
</tr>
<tr>
<td>Grenada</td>
<td>Yes</td>
</tr>
<tr>
<td>The Republic of Guyana</td>
<td>Yes</td>
</tr>
<tr>
<td>The Republic of Haiti (though not yet applying it)</td>
<td>No</td>
</tr>
<tr>
<td>Jamaica</td>
<td>Yes</td>
</tr>
<tr>
<td>Saint Christopher and Nevis</td>
<td>Yes</td>
</tr>
<tr>
<td>Saint Lucia</td>
<td>Yes</td>
</tr>
<tr>
<td>Saint Vincent and the Grenadines</td>
<td>Yes</td>
</tr>
<tr>
<td>The Republic of Suriname</td>
<td>No</td>
</tr>
<tr>
<td>The Republic of Trinidad and Tobago</td>
<td>Yes</td>
</tr>
</tbody>
</table>

5. The UK's combined trade with CARIFORUM states (including those that have yet to sign the UK Agreement) accounts for about 0.2% of UK trade. In 2017, UK trade in services was worth £1.8 billion and UK goods exports accounted for £200 million. Main UK goods exports include machinery and mechanical appliances, spirits, beverages and vinegar. The main UK goods imports from the CARIFORUM states were fruits, nuts and organic chemicals.

6. The Agreement—like other trade agreements previously considered by the Committee—introduces an extended cumulation of origin. This allows both parties to recognise materials from the EU as originating in the UK or a CARIFORUM state in exports to one another. EU processing can, under certain conditions, also be recognised in UK exports to CARIFORUM states and vice versa. The Government sets out that, without these provisions,

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5 The Republic of Haiti is excluded from these statistics as it has not yet applied the EU Agreement.
6 More detail on cumulation of origin is available in Box 2 of our report Scrutiny of international agreements: treaties considered on 26 February 2019 (31st Report, Session 2017–19, HL Paper 300)
products from the UK or a CARIFORUM state using EU content would no longer meet the origin requirements for preferential treatment by the other party.\(^7\)

7. The Agreement also allows the UK and the CARIFORUM states to recognise processing and materials originating in the African, Caribbean and Pacific Group of States\(^8\) and the Overseas Countries and Territories associated with the EU as materials or processing originating in the UK or the CARIFORUM states. In certain circumstances, and at the request of the CARIFORUM states, materials originating in a neighbouring developing country listed in Annex VIII to Protocol I of the Agreement can also be granted originating status if incorporated into a product. The report accompanying the Agreement makes no reference to these wider cumulation provisions and we would welcome an explanation of the legal basis for extending cumulation in this way.

8. The institutional and governance provisions relating to the Agreement allow for significant amendments. The accompanying report suggests that any amendments to the Agreement could be made by the Joint Council, without giving rise to new agreements that would be subject to the Constitutional Reform and Governance Act 2010 (CRAG) and its parliamentary scrutiny procedures.\(^9\) The report states that in those circumstances where domestic legislation is required to implement such amendments, it will be subject to the standard parliamentary procedures, but it is not clear what scrutiny role Parliament would play in cases where amendments did not require changes to domestic law. We are concerned that this may lead to a scrutiny gap. We also reiterate the point we first made in our report Scrutiny of international agreements: treaties considered on 26 February 2019\(^10\), that the Government should state clearly the circumstances in which, where significant amendments are made, they would be subject to the scrutiny processes provided for by the CRAG Act 2010.

9. Article 231 of the Agreement also establishes a Parliamentary Committee to facilitate the exchange of views between Members of the UK Parliament and CARIFORUM states. The Government has avoided re-establishing Parliamentary Committees in previous international agreements on the basis that it did not wish to bind the UK Parliament in the same way as the EU Parliament had been without prior consultation.\(^11\) Government officials have confirmed that the change in approach in this particular Agreement was in response to a request from the CARIFORUM states.\(^12\) Article 231 also includes a Sub-Article (5), which is blank: it is unclear whether this is a typographical error or whether text has been omitted.

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\(^8\) The African, Caribbean and Pacific Group of States comprises 79 African, Caribbean and Pacific states, all of them, save Cuba, signatories to the Cotonou Agreement.


\(^11\) Ibid., para 46

\(^12\) Officials also explained that the joint institutions of the UK-CARIFORUM EPA would be subject to review at the earliest opportunity.
10. For the Agreement to enter into force, it must be ratified by both the UK and the CARIFORUM states. It can then either come into force at the end of the transition period under the Withdrawal Agreement or, if no agreement is reached, upon the UK’s exit from the EU. The Agreement also allows for provisional application. This is to ensure continuity should the UK cease to be a party to EU agreements before ratification processes can be completed.

11. The Parliamentary Report accompanying the Agreement noted that, in the event of a ‘no deal’ exit on 12 April, the Agreement would have been applied, to the extent possible between the Parties, under two non-legally binding Memoranda of Understanding (MoUs). This would have allowed the parties to bridge the gap, to some extent, until the required domestic processes could have been completed to allow for provisional application. This question is now academic, but the details of the proposed MoUs are considered at Box 1.

**Box 1: Memoranda of Understanding**

The Government had provided for two MoUs to address the ‘gap’ in trade preferences that would have resulted from the UK leaving the EU without a deal on 12 April. Had the UK left the EU without a deal on 12 April, the EU-CARIFORUM EPA would have ceased to apply to the UK and there would not have been sufficient time for either the UK or the CARIFORUM states to complete their domestic procedures to provisionally apply or ratify the UK Agreement.

While not legally binding, the MoUs would have created a political obligation to honour the commitments made under the UK-CARIFORUM EPA and for the signatories to use their “best endeavours” to bring the UK Agreement into effect within three months. The MoUs were only designed to address the risk of a ‘no deal’ Brexit on 12 April and are now irrelevant.

The proposed use of MoUs by the Government is a pragmatic solution where there is insufficient time to bring a treaty into force, but gives rise to several issues. First, it raises the question of how far MoUs could be enforceable, given that they only represent a political commitment, not a legal one. Second, should the Government wish to deploy MoUs in future, the text needs to be more specific: the MoUs that were put forward for the CARIFORUM states provide for the UK-CARIFORUM Agreement to have effect “to the extent possible” until such time as it formally comes into effect. Such vague wording gives stakeholders little indication of what parts of the agreement would have effect, and could generate considerable legal uncertainty.

12. Finally, the Government’s Explanatory Memorandum (EM) indicates that the Government is engaging with and has consulted those territories for whose international relations the UK is responsible and to which the

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14 Further information on MoUs can be found in the Government’s information note deposited in the House of Lords and House of Commons libraries: [https://depositedpapers.parliament.uk/depositedpaper/view/2281215](https://depositedpapers.parliament.uk/depositedpaper/view/2281215)

15 Government officials have confirmed that the wording “to the extent possible” was agreed to reflect the fact that the CARIFORUM states have different domestic legal frameworks and that each state would have applied the UK-CARIFORUM Agreement to the extent allowed by their individual framework.
Agreement will apply. We welcome the Minister’s confirmation in the EM that “we now share text of agreements, once stable, with the DAs [Devolved Administrations]” and that the Government will be sharing the draft text of the agreements after initialling with the Crown Dependencies and Gibraltar. However, it is not clear whether the text of this specific Agreement has been shared with them and, if so, when. We reiterate the recommendation in our report Scrutiny of international agreements: treaties considered on 12 February 2019 that the Government’s explanatory material should state clearly whether there has been consultation with the devolved administrations, industry or other stakeholders.

13. **We would be grateful for a written response from the Government to the points made in this report, and on that basis are content to report the CARIFORUM Economic Partnership Agreement to the House for information.**

Voluntary Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Indonesia on Forest Law Enforcement, Governance and Trade in Timber Products into the United Kingdom of Great Britain and Northern Ireland (CP 87, 2019)

14. The UK/Indonesia Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade in Timber Products was laid on 8 April 2019, and the scrutiny period is scheduled to end on 28 May. It was considered by the EU Energy and Environment Sub-Committee at its meeting on 24 April.

15. Voluntary Partnership Agreements (VPAs) are trade agreements aimed at ensuring timber and timber products imported into the EU comply with the laws of the exporting country (known as the partner country). A VPA sets out what systems the partner country has in place to verify the legality of timber exports. Verified products are then issued with licences, which allow them to be exported to the EU without importers having to undertake any additional due diligence.

16. The EU-Indonesia VPA came into force in May 2014. When the UK leaves the EU (either at the end of a transition period, if a withdrawal agreement is ratified, or immediately if the UK leaves without a deal), it will cease to apply to and in the UK. This UK-Indonesia VPA would enable the trade to continue under the same terms by replicating the contents of the EU Agreement.

17. Aside from replacing references to “the Union” with references to “the United Kingdom”, there are only two differences in content. First, the Agreement provides for a situation where both parties may not be able to formally ratify

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the Agreement before the UK leaves the EU by including the ability for both parties to agree to provisional application. Second, it stipulates that the Agreement will apply to the United Kingdom and the Isle of Man from the point of the Agreement entering into force, but to Jersey and Guernsey only once the UK notifies Indonesia that it should be applied to them.

18. The Government’s EM fails to explain the discrepancy between the way that the Isle of Man and the other Crown Dependencies are treated. It also fails to provide clear information about the financial impact of the Agreement. It states that money has already been committed, through the Department for International Development’s Forest Governance Markets and Climate fund, to provide continued funding to support Indonesia’s efforts to address trade in illegal timber, but does not provide an indication of the costs of implementing the Agreement (such as having to undertake monitoring and audit activity).

19. We report the UK/Indonesia Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade in Timber Products Agreement to the House for information.
APPENDIX 1: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND SUB-COMMITTEE STAFF

Members of the European Union Select Committee

Baroness Armstrong of Hill Top
Lord Boswell of Aynho (Chair)
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 (Chair)
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;
Partner (not Head of Holding) in a farming partnership in Leicestershire (including organic farming)

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
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

Lord Liddle

Member, Cumbria County 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
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 and staff

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


The Sub-Committee staff are Alex McMillan (Clerk), Jennifer Mills (Clerk) and Sally Dray (Committee Assistant).
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

The Sub-Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Julia Ewert (Policy Analyst) and Mithula Parayoganathan (Committee Assistant).

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


The Sub-Committee staff are Matthew Manning (Clerk), Erik Tate (Policy Analyst) and Hadia Garwell (Committee Assistant).

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

The Sub-Committee staff are Pippa Patterson (Clerk), Megan Jones (Policy Analyst) and George Stafford (Committee Assistant).

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


The Sub-Committee staff are Rosanna Barry (Clerk), Francesca D’Urzo (Policy Analyst) and Glenn Chapman (Committee Assistant).

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


The Sub-Committee staff are Simon Cran-McGreehin (Clerk) and Amanda McGrath (Committee Assistant).

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/