



HOUSE OF LORDS

European Union Committee

47th Report of Session 2017–19

Scrutiny of international agreements

Treaties considered on 7 October 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:

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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 Brown of Cambridge</u>	<u>Lord Jay of Ewelme</u>	<u>Baroness Primarolo</u>
<u>Lord Cavendish of Furness</u>	<u>Lord Kerr of Kinlochard</u>	<u>Lord Ricketts</u>
<u>Baroness Couttie</u>	<u>Earl of Kinnoull (Chair)</u>	<u>Lord Sharkey</u>
<u>Baroness Donaghy</u>	<u>Lord Lamont of Lerwick</u>	<u>Lord Teverson</u>
<u>Lord Faulkner of Worcester</u>	<u>Lord Morris of Aberavon</u>	<u>Baroness Verma</u>
<u>Baroness Hamwee</u>	<u>Baroness Neville-Rolfe</u>	<u>Lord Wood of Anfield</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), Tim Mitchell (Legal Adviser), Alex Horne (Legal Adviser) and Samuel Lomas (Committee Assistant).

Contact details

Contact details for individual Sub-Committees are given on the website. General correspondence should be addressed to the Clerk of the European Union Committee, Committee Office, House of Lords, London, SW1A 0PW. Telephone 020 7219 5791. Email euclords@parliament.uk.

Twitter

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

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SUMMARY

This is the European Union Committee's fifteenth 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).

The report addresses two agreements, which we have reported for information:

- Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Central America (CP 128)
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (CP 174)

Scrutiny of international agreements: treaties considered on 7 October 2019

CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Central America (CP 128, 2019)¹

1. The UK-Central America Association Agreement was laid on 6 August 2019, and the scrutiny period is scheduled to end on 28 October.² It was considered by the EU External Affairs Committee at its meeting on 3 October.
2. The precursor agreement to the UK-Central America Agreement is the EU-Central America Agreement.³ The trade pillar of the EU Agreement has been provisionally applied since 2013 with Honduras, Nicaragua, Panama, Costa Rica, El Salvador and Guatemala. The UK-Central America Agreement seeks to ensure continuity of effect with the EU Agreement by incorporating it *mutatis mutandis*,⁴ with only a small number of modifications. Consequently, the UK Agreement has been published in short form.
3. For the Agreement to enter into force, it must be ratified by both the UK and the Central American countries. It can, however, enter into force bilaterally, at different times, as an agreement between the UK and each signatory Central American country. The Agreement will come into force either on the day the EU Agreement ceases to apply to the UK, or when both the UK and the relevant Central American country have received notification confirming that the other party's domestic ratification procedures have been completed. Article 10 of the Agreement also allows for provisional application. This is to ensure continuity should there be a gap if the UK ceases to be a party to EU Agreements before ratification processes can be completed.
4. The UK's combined trade with the six Central American countries accounts for approximately 0.1% of UK trade. In 2018, UK services exports were worth £0.1 billion and UK goods exports accounted for £0.2 billion. Main UK goods exports include vehicles and goods falling under the 'beverages, spirits and vinegar' category of the Harmonised System—the international nomenclature for the classification of products. Main UK goods imports

1 Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Central America, CP 128, 2019: <https://www.gov.uk/government/publications/agreement-establishing-an-association-between-the-uk-and-central-america-ms-no322019> [accessed 3 October 2019]

2 This assumes that both Houses sit each week from Monday to Thursday inclusive, with effect from Monday 30 September, but that Parliament is prorogued on 9 and 10 October.

3 Council Decision of 25 June 2012 on the signing, on behalf of the European Union, of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters, [OJL 346](#) (15 December 2012) [accessed 29 August 2019]

4 The Latin term *mutatis mutandis* is used when comparing two or more things to say that, although changes will be necessary in order to take account of different situations, the basic point remains the same. For more detail, see our report [Scrutiny of international agreements: treaties considered on 26 February 2019](#) (31st Report, Session 2017–19, HL Paper 300).

from the Central American countries include fruits and nuts, and goods in the ‘coffee, tea and spices’ category.

5. The Agreement—like other trade agreements previously considered by the Committee—introduces an extended cumulation of origin. This allows both parties to recognise content from the EU as originating in the UK or a Central American country in exports to one another. The Government notes that, without these provisions, products from the UK or a Central American country incorporating EU materials would no longer meet the origin requirements for preferential treatment by the other party.⁵ EU processing can, under certain conditions, also be recognised in UK exports to Central American countries (though not vice versa).⁶
6. The EU Agreement contains Origin Quotas. These allow a specified volume of listed product lines (for instance, certain garments and textiles) to be exported under more lenient rule of origin criteria, by lowering the percentage of originating content. Origin Quotas have been retained in the UK Agreement, although they have been resized to reflect the UK’s smaller market size compared to the EU28.
7. While tariff levels in the UK Agreement will remain the same as in the precursor EU Agreement, tariff rate quotas (TRQs) have been resized to reflect trade flows between the UK and the Central American countries. The UK Government based the resized TRQs on customs, trade flow and usage data. To maintain market access, both sides agreed to provide a minimum level of access by basing TRQs on a proxy measure where data showed historic trade as being very low or non-existent.
8. Protections afforded to the geographical indications (GIs) of all Parties under the EU Agreement have been retained. Additionally, UK-Irish cross-border GIs (such as for Irish Whisky and Irish Cream) have been included in the UK Agreement.
9. Both the Explanatory Memorandum (EM) and the Parliamentary Report accompanying the Agreement contain information about the process for making future amendments to the Agreement. Under Article 358 of the EU Agreement, as incorporated by the UK-Central America Agreement, the Parties may mutually agree to amend the text of the Agreement. According to the EM, amendments made via this Article are subject to “each Party’s internal legal procedures”. Officials at the Foreign and Commonwealth Office have confirmed that this means that an amendment under this Article would be subject to parliamentary scrutiny under the Constitutional Reform and Governance Act 2010 (CRA) where the parties agree that the amendment should be subject to ratification (or an analogous procedure). Usually, this would include amendments that involved the enactment of implementing legislation before entry into force. This, however, risks leaving a scrutiny gap in those circumstances where amendments would not require changes to domestic law. In our report, *Scrutiny of international agreements: lessons*

5 Foreign and Commonwealth Office, Continuing the United Kingdom’s trade relationship with Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama (August 2019) para 77: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823554/uk-central-america-trade-parliamentary-report.pdf [accessed 29 August 2019]

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)

learned,⁷ we recommended that, to support appropriate scrutiny in future, the Government report regularly to Parliament on changes to international agreements.

10. The Association Council may also make modifications to certain parts of the Agreement. The EM explains that amendments that are subject only to internal procedures would not engage the parliamentary scrutiny process under the CRAG Act. To avoid a scrutiny gap, we recommend that when the Government reports on changes to international agreements, it should include changes made by bodies such as the Association Council of the UK-Central America Agreement.
11. We welcome the fact that the Government has provided detailed information on the geographical extent of agreements, clarifying which elements would apply to Gibraltar and to the Crown Dependencies. The EM also indicates that the Government has engaged with the devolved administrations, Gibraltar and the Crown Dependencies. However, while it confirms that it has shared the draft text of this specific Agreement with Gibraltar and the Crown Dependencies, it does not make clear whether the text was also shared with the devolved administrations prior to signature. This is disappointing, given in a previous report, we asked the Government “to ensure that, in future, where specific agreements have been shared with the DAs, this is explicitly stated in the consultation section of each EM”.⁸
12. Following an exchange with officials, we confirmed that the Agreement was shared with the DAs when it was initialled. We reiterate our recommendation that the Government ensure that, in future, where specific agreements have been shared with the devolved administrations, this should be explicitly stated in the EM.
13. **We report the UK-Central America Association Agreement to the House for information.**

Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (CP 174, 2019)⁹

Introduction

14. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (the Marrakesh Treaty) was laid on 20 September 2019, and the scrutiny period is scheduled to end on 4 November 2019.¹⁰ Exceptionally, it was not considered by a sub-committee, but by the EU Select Committee, at its meeting on 7 October 2019.

7 European Union Committee, *Scrutiny of international agreements: lessons learned* (42nd report, Session 2017-19, HL Paper 387), para 68

8 European Union Committee, *Scrutiny of international agreements: treaties considered on 9 July 2019* (44th Report, Session 2017-19, HL Paper 402) para 13

9 Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, CP 174, 2019: <https://www.gov.uk/government/publications/marrakesh-treaty-to-facilitate-access-to-published-works-for-persons-who-are-blind-visually-impaired-or-otherwise-print-disabled-ms-no252019> [accessed 25 September 2019]

10 This assumes that both Houses sit each week from Monday to Thursday inclusive, with effect from Monday 30 September, but that Parliament is prorogued on 9 and 10 October.

The Marrakesh Treaty

15. The Marrakesh Treaty was negotiated and agreed in June 2013 by the Member States of the UN's World Intellectual Property Organization (WIPO), of which the United Kingdom is one. The Council had previously authorised the Commission to represent the EU in negotiations on the Treaty, and in 2014 authorised the signing of the Treaty on behalf of the EU.¹¹
16. Although the UK signed the Treaty on 28 June 2013, the day after it was agreed, the Court of Justice of the European Union subsequently ruled that the Treaty fell within the exclusive competence of the EU.¹² The EU ratified the Treaty in October 2018,¹³ and it came into force on 1 January 2019.
17. Thus the UK, though a signatory to the Treaty, has never ratified it, and were it to leave the EU without a Withdrawal Agreement being in place it would no longer be covered. The Government has now laid the Treaty before Parliament with a view to the UK now becoming a party to the Treaty in its own right, either in the event of a 'no deal' Brexit, or at the end of any transition period.

The objectives of the Treaty

18. The Treaty requires contracting parties to provide certain legal exceptions to copyright law, in order to improve access to copyright works for visually impaired people. For instance, it allows for the production, subject to certain conditions, of Braille versions of books without requiring the permission of the copyright owner.¹⁴ It also includes certain protections for copyright owners, to ensure that exceptions do not unreasonably harm their interests or the market for their works.
19. The Explanatory Memorandum affirms the UK's long commitment "to improving access to copyright works for visually impaired people both within the UK and internationally". The effect of ratifying the Treaty will be to ensure that UK organisations such as the Royal National Institute of Blind People can not only continue to create copies of copyright works for visually impaired people, but to send them to other countries without breaching copyright laws.

Implementation and consultation

20. The Government has ensured the retention of EU legislation in this field by means of the Intellectual Property (Copyright and Related Rights) (Amendment) (EU Exit) Regulations 2019,¹⁵ which comprehensively update the Copyright, Designs, and Patents Act 1988 to reflect current EU law in the fields of IP and copyright, including EU laws implementing Marrakesh

11 Council Decision 2014/221/EU of 14 April 2014 on the signing, on behalf of the European Union, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled [OJL 115](#) (17 April 2014), p 1

12 Opinion of the Court of Justice of 14 February 2017, 3/15, ECLI:EU:C:2017:114: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=187841&pageIndex=0&doclang=EN>. The UK Government was one of seven Member State Governments to make submissions to the Court arguing that the EU did not have exclusive competence to conclude the Treaty.

13 See Council Decision (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled [OJL 48](#) (21 February 2018), pp 1–2.

14 Article 2

15 The Intellectual Property (Copyright and Related Rights) (Amendment) (EU Exit) Regulations 2019 ([SI 2019/605](#))

Treaty. These Regulations are intended to come into force in the event of the UK leaving the EU without a deal or, in the event of a deal, at the end of any transition period.

21. The main change introduced by the 2019 Regulations is to replace references in the Marrakesh Regulation to exchange of accessible format copies between the EU and third countries with references to exchange between the UK and third countries (which will, post-Brexit, include the remaining 27 EU Member States). Exchanges between the UK and EU Member States will then continue under the aegis of the Marrakesh Treaty, once the UK has ratified that Treaty.¹⁶
22. The Government “does not anticipate any further legislative changes being necessary” when the UK ratifies the Marrakesh Treaty.
23. The EM states that the Agreement may be extended to Gibraltar (paragraph 28). There was no consultation with the Devolved Administrations because “the policy content of this agreement is considered to be a reserved matter”.

Conclusion

24. **We report the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled for information.**

¹⁶ See the [Explanatory Memorandum to the Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019](#), especially paragraph 7.21

APPENDIX 1: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND SUB-COMMITTEE STAFF

Members of the European Union Select Committee

The Earl of Kinnoull (Chair)
Baroness Brown of Cambridge
Lord Cavendish of Furness
Baroness Couttie
Baroness Donaghy
Lord Faulkner of Worcester
Baroness Hamwee
Lord Jay of Ewelme
Lord Kerr of Kinlochard
Lord Lamont of Lerwick
Lord Morris of Aberavon
Baroness Neville-Rolfe
Baroness Primarolo
Lord Ricketts
Lord Sharkey
Lord Teverson
Baroness Verma
Lord Wood of Anfield

Declarations of interest

The Earl of Kinnoull (Chair)
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

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 Cavendish of Furness
Director, Burlington Slate Limited
Shareholder, Holker Holdings Limited
Shareholder, Cartmel Steeplechases (Holker) Limited
Shareholder, Holker Estates Co Limited
Shareholder, Holker Homes Limited
Shareholder, Burlington Slate Limited
Roose and Walney Sand and Gravel Company Limited (The) (Dormant)
Holker Estates Co Limited

Holker Holdings Limited

Cartmel Steeplechases (Holker) Limited

Corrie and Co Limited

Guides over the Kent and Levens Sands Limited

Beneficiary of a Family Trust which owns land in South Cumbria, including residential and business property

Owner of a flat in London SW1 from which rental income is received

Owner of woodlands based in South Cumbria

Baroness Couttie

No relevant interests declared

Baroness Donaghy

Former President of the Trades Union Congress

Lord Faulkner of Worcester

Chairman, Great Western Railway Advisory Board

Chairman, Alderney Gambling Control Commission

Her Majesty's Government's Trade Envoy to Taiwan

Baroness Hamwee

No relevant interests declared

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

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power PLC

Member, Scottish Government's advisory Standing Council on Europe

Lord Lamont of Lerwick

Director, Jupiter European Opportunities Trust

Director, Compagnie Internationale de Participations Bancaires et Financieres (CIPAF)

Director, Chelverton UK Dividend Trust

Adviser, Halkin Investments

Adviser, Official Monetary and Financial Institutions Forum (OMFIF)

Adviser, Meinhardt Engineering Group, Singapore

Adviser, Stanhope Capital LLP

Lord Morris of Aberavon

No relevant interests declared

Baroness Neville-Rolfe

Former Commercial Secretary, HM Treasury

Former Minister of State for Energy and Intellectual Property

Chair, Assured Food Standards Ltd

Chair, UK ASEAN Business Council

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 Primarolo

*Non-executive director and chair, Thompson's Solicitors
Chair, Remuneration Board, National Assembly for Wales*

Lord Ricketts

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

Lord Sharkey

No relevant interests declared

Lord Teverson

*Trustee, Regen SW
In receipt of a pension from the European Parliament*

Baroness Verma

No relevant interests declared

Lord Wood of Anfield

Chair of the United Nations Association (UNA-UK)

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 Addington
Lord Arbuthnot of Edrom
Baroness Bryan of Partick
Baroness Byford
Lord Cameron of Dillington
Lord Kerr of Kinlochard
Baroness McIntosh of Pickering
Lord Maxton
The Duke of Montrose
The Earl of Stair
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

The Sub-Committee staff are Jennifer Mills (Clerk) and Jodie Evans (Committee Assistant).

EU External Affairs Sub-Committee

Baroness Verma (Chair)
Lord Alderdice
Baroness Brown of Cambridge
Baroness Chalker of Wallasey
Lord Davies of Stamford
Lord Faulkner of Worcester
Baroness Finn
Lord Fraser of Corriearth

Lord Oates
 The Earl of Sandwich
 Baroness Symons of Vernham Dean
 Lord Wood of Anfield

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-external-affairs-subcommittee/members-interests-2-2019.pdf>

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

EU Financial Affairs Sub-Committee

Lord Sharkey (Chair)
 Lord Bruce of Bennachie
 Lord Cavendish of Furness
 Baroness Couttie
 Lord Desai
 Lord Giddens
 Baroness Liddell of Coatdyke
 Baroness Neville-Rolfe
 Lord Thomas of Cwmgiedd
 Viscount Trenchard
 Lord Turnbull
 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>

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
 Baroness Jolly
 Lord Kirkhope of Harrogate
 Lord Lexden
 Lord McNally
 Lord O'Neill of Clackmannan
 Baroness Primarolo
 Lord Ricketts
 Baroness Scott of Bybrook
 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), Genevieve Richardson (Policy Analyst) and George Stafford (Committee Assistant).

EU Internal Market Sub-Committee

Baroness Donaghy (Chair)
Lord Berkeley
Lord Carter of Coles
Lord Lamont of Lerwick
Lord Lansley
Lord Lilley
Lord Moutevans
Baroness Prashar
Lord Robathan
Lord Russell of Liverpool
Lord Shipley
Lord Vallance of Tummel
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>

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

EU Justice Sub-Committee

Lord Morris of Aberavon (Chair)
Lord Anderson of Ipswich
Lord Anderson of Swansea
Baroness Deech
Lord Dholakia
Lord Gold
Baroness Goudie
Baroness Hamwee
Lord Polak
Lord Rowlands
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>

The Sub-Committee staff are Alex McMillan (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/>