



HOUSE OF LORDS

European Union Committee

1st Report of Session 2019

Scrutiny of international agreements

Treaties considered on 21 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.

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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).

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SUMMARY

This is the European Union Committee's seventeenth 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 one agreement, considered at our meeting on the 21 October, which we have drawn to the special attention of the House:

- Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Korea (with Exchange of Notes) [CP 167]

Scrutiny of international agreements: treaties considered on 21 October 2019

CHAPTER 1: AGREEMENT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Korea (with Exchange of Notes) (CP 167, 2019)¹

1. The Free Trade Agreement between the UK and the Republic of Korea ('Korea') was laid on 9 September 2019, and the scrutiny period is scheduled to end on 31 October 2019. It was considered by the EU Internal Market Sub-Committee on 17 October 2019.

Background

2. As an EU Member State, the UK is party to the EU-Korea free trade agreement, which was applied provisionally in July 2011 and entered into force in December 2015.² The Free Trade Agreement between the UK and Korea ('the Agreement') seeks to maintain the effects of the EU-Korea agreement in a bilateral context, from the point at which the EU-Korea agreement ceases to apply to the UK. Thus the Agreement will apply either with effect from the date of a 'no-deal' withdrawal from the EU (which could be as early as 1 November 2019), or, if there is a UK-EU deal, with effect from the end of any transition period. The Agreement covers trade in goods, as well as commitments in other areas such as services, intellectual property and government procurement.

1 Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Korea (with Exchange of Notes), CP 167, 2019: <https://www.gov.uk/government/collections/uk-south-korea-trade-agreement> [accessed 18 October 2019]

2 Council Decision of 16 September 2010 on the signing, on behalf of the European Union, and provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part [OJL 127](#) (16 September 2010)

3. An overview of UK-Korea trade is given in Box 1.

Box 1: UK-Korea trade

Korea is the UK's 22nd largest trading partner, accounting for 1.1% of total UK trade. The majority of UK-Korea trade is made up of goods (£10.5 billion), with trade in services accounting for the remaining £4.1 billion.

The top UK goods exports to Korea are: mineral fuels or oils, products of their distillation; machinery and mechanical appliances; and vehicles other than railway or tramway stock.

Top UK goods imports from Korea are: vehicles other than railway or tramway stock; machinery and mechanical appliances; and electrical machinery and equipment.

Other business services (including legal services, accounting and management consulting) are the largest service export to and import from Korea. Travel is the next largest UK service export and financial services the second largest service import from Korea.

Trade between the UK and Korea has increased by an average of 12% per year since the EU-Korea agreement was applied in 2011. Cars are one of the fastest growing UK exports to Korea.

Source: Department for International Trade Continuing the United Kingdom's Trade Relationship with the Republic of Korea (1 September 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830134/UK-South_Korea_trade_agreement.pdf [accessed 16 October 2019] and Department for International Trade UK and Korea sign joint statement for trade continuity (10 June 2019): <https://www.gov.uk/government/news/uk-and-korea-sign-joint-statement-for-trade-continuity> [accessed 17 October 2019]

This report

4. Our ability to scrutinise the Agreement in depth was enhanced considerably by written evidence from Linklaters LLP, the National Farmers' Union of England and Wales (NFU), Dr Gabriel Siles-Brügge, Associate Professor in Public Policy, University of Warwick, and the UK Trade Policy Observatory (UKTPO). This is the first formal written evidence that we have received in respect of any of the agreements that we have scrutinised. In addition, we engaged in helpful discussions with Department for International Trade (DIT) officials. These exchanges enabled us to consider the major provisions of the Agreement and identify areas where it differs from precursor arrangements under the EU-Korea agreement. We would also like to thank our specialist adviser, Dr Holger Hestermeyer, Shell Reader in International Dispute Resolution at King's College London.³

Institutional and general provisions

Entry into force

5. Article 15.10 provides that the Agreement will enter in force when the EU-Korea agreement no longer applies to the UK, provided each Party has completed its domestic ratification procedures. The Agreement may be applied provisionally in its entirety. Korea's legal system, however, will not permit provisional application of the Agreement if the Korean National Assembly procedures are incomplete. In this scenario, Article 2.15bis enables

³ Dr Hestermeyer puts on record his gratitude to the British Academy, whose Mid-Career Fellowship has enabled him to work on UK trade policy.

the Parties “retroactively” to grant preferential tariff treatment to cover the period between the EU-Korea agreement ceasing to apply to the UK and the entry into force of the Agreement.

6. The parliamentary report accompanying the Agreement also notes that the Parties are “in discussion” on a temporary non-binding transition mechanism, which would apply to goods, services and other matters covered by the Agreement “insofar as possible”. The report initially stated that the text of any bridging mechanism would be shared with parliamentary committees “in advance of signature”. This statement was subsequently retracted: a correction slip issued on 17 October 2019 stated that “the text setting out that mechanism will be shared with the relevant Parliamentary committees shortly after signature”.
7. Officials told us that, as a bridging mechanism would not be binding under international law, it would not be subject to parliamentary scrutiny pursuant to the provisions of the Constitutional Reform and Governance (CRAG) Act 2010.
8. **We noted in our report *Scrutiny of international agreements: lessons learned* that the use of non-legally binding arrangements, which are not subject to the CRAG Act, could create a scrutiny gap.⁴ Our concern has been reinforced by the Government’s withdrawal of what was, in the original text of the parliamentary report, a welcome assurance that parliamentary committees would have early sight of the text of any UK-Korea bridging mechanism. Such uncertainty underlines the urgent need for committees of both Houses charged with treaty scrutiny to address this gap.**

Review

9. Article 15.5bis establishes that the Parties will enter into negotiations “to build on the existing terms of [the] Agreement and seek further liberalisation” no later than two years after the Agreement enters into force. The Parties shall endeavour to conclude negotiations within four years of the Agreement’s entry into force.

Territorial application

10. Article 15.15 states that as well as the UK and Korea, the Agreement applies to the territories “for whose international relations [the UK] is responsible”. The parliamentary report explains that this means the Agreement applies to the Crown Dependencies (Guernsey, Jersey and the Isle of Man). It also applies to Gibraltar, but the report notes that “broadly” this does not include provisions relating to goods or customs. The Sovereign Base Areas of Akrotiri and Dhekelia in the Republic of Cyprus are excluded from the Agreement through a footnote to Article 15.15(1)(a).

Governance

11. Chapter 14 of the Agreement sets out procedures to be followed if there is any dispute concerning interpretation and application. In the first instance, Parties will endeavour to resolve a dispute by entering into good faith consultations with the aim of reaching a mutually agreed solution. If the

4 European Union Committee, *Scrutiny of international agreements: lessons learned* (42nd Report, Session 2017–19, HL Paper 387)

Parties fail to resolve the dispute through consultations, the complaining Party may request the establishment of an arbitration panel (Article 14.4), which will follow set procedures laid out in the Chapter and related annexes.

12. Article 14.18 establishes that arbitrators will be drawn from a list of 15 individuals with a specialised knowledge or experience of law and international trade. Each Party will propose five independent arbitrators for the list, and the Parties will also select five individuals who are not nationals of either and will also act as chair of any arbitration panel.
13. The parliamentary report explains that the Agreement retains most of the institutional provisions and bodies of the EU-Korea agreement, albeit with some modifications “to ensure they are operable in a bilateral context”. A Trade Committee will be made up of representatives of each Party and co-chaired by the Korea Minister of Trade and the UK Secretary of State for International Trade. The Trade Committee shall meet once a year and will, among other things, “ensure ... the Agreement operates properly” and “supervise and facilitate [the Agreement’s] implementation and application” (Article 15.1).

Amendments

14. Article 15.5(1) provides that the Parties may agree to amend the Agreement in writing. According to the parliamentary report, such amendments will be subject to the parliamentary scrutiny procedures under the CRAG Act. Notwithstanding this provision, Article 15.5(2) enables the Trade Committee to amend the Agreement’s Annexes, Appendices, Protocols and Notes. The parliamentary report confirms that, while binding on the Parties, such amendments will not be subject to parliamentary scrutiny under the CRAG Act.
15. Dr Siles-Brügge noted that these parts of the Agreement “contain important provisions, including rules of origin, regulatory cooperation for certain key goods sectors ... and schedules of liberalisation commitments for services”. Noting the existence of a review clause in the Agreement, he held that the amendment provisions raised questions about the lack of scrutiny of “trade policy decisions with potentially important domestic policy consequences”. Dr Siles-Brügge concluded: “In order to ensure the political legitimacy of UK trade policy, there is a strong argument that substantive changes to trade agreements should be scrutinised by Parliament.”⁵
16. The Explanatory Memorandum (EM) accompanying the Agreement notes that any amendment that would require changes to UK law would enable Parliament to “scrutinise and debate such changes to UK law in the normal manner”. Nonetheless, as we have noted in previous reports, this creates the risk of a scrutiny gap in circumstances where amendments would not require changes to domestic law. Accordingly, **we reiterate our previous recommendation that to support appropriate scrutiny in future, the Government should report regularly to Parliament on changes to international agreements.**⁶

5 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

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

Consultation

17. The EM states that DIT “engages extensively with a variety of stakeholders”, including through “regular ‘town hall’ style meetings to update business organisations”. It reports regular engagement with the devolved administrations and states that the text of agreements, once stable, is shared with the Crown Dependencies and Gibraltar. The EM does not include any feedback from those with whom the Government has engaged.

*Goods**Tariffs*

18. UKTPO told us that the UK had “rolled-over the EU’s existing tariff schedule without any major changes”. It noted, however, that specific tariffs (which levy a fixed charge per unit of a good) in the Agreement remained expressed in euros, and that it might be more user friendly and reduce exchange rate risk in the longer term if the rates were expressed in sterling.⁷

Tariff Rate Quotas

19. Tariff rate quotas (TRQs) allow certain quantities of particular products to be imported at a zero or reduced tariff rate; imports of products over the quota will be subject to a higher tariff rate. The EU-Korea Agreement contains 11 TRQs, all of which are ‘outward’, in other words they only apply to exports from the EU to Korea.
20. The Agreement rolls over the TRQs most used in UK exports to Korea—malt and malting barley, and animal feed. These TRQs have been re-scaled based on historic usage data to reflect the fact that the UK is a smaller exporter than the EU28. The parliamentary report notes that the remaining nine TRQs have been discontinued on the basis that UK historic usage was “low or zero”. UKTPO explained that this means that “any UK exports to Korea of these products would face tariffs” although “for a number of products, Korean tariffs will be phased out over a number of years even in the absence of a TRQ”.⁸
21. UKTPO agreed that UK exports under the discontinued TRQs were mostly small, but highlighted that individual exporters making use of the TRQs at present will “still feel the changes” as the Agreement makes trade in these products “more difficult”. It pointed out that UK exports under the discontinued TRQs amount to more than £1 million annually (the largest group being cheddar cheese).⁹
22. NFU agreed, and described the discontinuation of some TRQs as “concerning” and “unhelpful”. They felt that it was “hard to avoid concluding that UK producers are losing out”. The situation would be exacerbated in a ‘no deal’ scenario, as “lack of competitiveness on the EU market [under ‘no deal’] would place increased importance on non-EU markets such as South Korea”.¹⁰

7 Written evidence from UKTPO ([BRT0004](#))

8 *Ibid.*

9 *Ibid.*

10 Written evidence from NFU ([BRT0001](#))

23. We have noted previously a discrepancy in the Government’s approach to no or low usage TRQs in roll-over trade agreements.¹¹ For example, in the agreements with Switzerland and Israel, low or unused TRQs were re-established in order to maintain future market access opportunities. On the other hand, in response to our report on the UK-Iceland-Norway trade agreement,¹² the Government told us that the decision not to transition unused TRQs was “consistent with the Government’s key objective to uphold continuity of trade”.¹³

Agricultural safeguard measures

24. Agricultural safeguard measures enable tariffs to be imposed if imports of specified products exceed certain trigger levels. NFU told us that these were included in the EU-Korea agreement “so that Korea [was] not suddenly flooded with [agricultural] imports from the EU”.¹⁴ The EU-Korea trigger levels and tariffs will be gradually phased out over a number of years.
25. Article 3.6 of the Agreement permits agricultural safeguard measures, and trigger levels are listed in Annex 3. The parliamentary report explains that they have been re-sized to reflect the smaller size of the UK compared to the EU28, and concludes that the Government does “not expect this change to have an impact”.
26. NFU, however, felt that it was “hard to judge how much of an impact these changes will have”. It cited the example of sugar, where under the Agreement exports of only 4 tonnes will trigger a safeguard duty of 50%, compared to the EU-Korea Agreement, “under which 252 tonnes would trigger [the same duty]”. NFU called for further information on the calculation methodology used by the Government and a more comprehensive explanation of the ‘no impact’ conclusion.¹⁵

Rules of origin

27. The parliamentary report explains that in free trade agreements, rules of origin “are used to determine the economic nationality of a good”: in order to qualify for preferential tariff rates, goods must ‘originate’ in one of the Parties. Dr Siles-Brügge explained that the purpose of these rules was to “prevent indirect imports from third parties benefiting from bilaterally negotiated tariff preferences”.¹⁶ We have discussed rules of origin in previous treaty reports.¹⁷
28. Under a free trade agreement, each Party may agree to allow materials originating from another country to qualify as originating in the other Party (a concept known in technical terms as ‘cumulation’). The EU-Korea agreement allows bilateral cumulation of origin, meaning that EU inputs

11 European Union Committee, *Scrutiny of international agreements: treaties considered on 14 May 2019* (40th Report, Session 2017–19, HL Paper 362)

12 *Ibid.*

13 Letter from George Hollingbery MP, Minister of State for Trade Policy, to Lord Boswell of Aynho, Chair of the House of Lords European Union Committee (12 June 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brex-it-related-treaties/george-hollingberry-letter-june2019.pdf> [accessed 10 October 2019]

14 Written evidence from NFU ([BRT0001](#))

15 *Ibid.*

16 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

17 See for example European Union Committee, *Scrutiny of international agreements: treaties considered on 12 March 2019* (33rd Report, Session 2017–19, HL Paper 315).

into Korean products count as originating in Korea in exports to the EU. Similarly, Korean inputs into EU products count as originating in the EU if those products are subsequently exported to Korea.

29. The Protocol concerning the definition of ‘originating products’ and methods of administrative cooperation transitions this arrangement so that UK inputs (e.g. engines) into Korean products (e.g. cars) count towards origin requirements for Korean exports to the UK and *vice versa*. Added to this—and like other roll-over agreements—the Agreement allows for continued cumulation of EU materials and processing. UKTPO explained that this means that “components originating in the EU will continue to count as originating material in both Korea and the UK when they export to one another”.¹⁸ NFU welcomed this aspect of the Agreement on account of the (time-limited) certainty for UK exporters of products containing EU inputs.¹⁹
30. The provision for cumulation of EU materials and processing will last for three years after entry into force of the Agreement, and a review of the provision will commence no later than two years after entry into force.
31. UKTPO highlighted that, while this would maintain the *status quo* for bilateral trade between the UK and Korea, it will mark a change for both Parties’ trade with the EU. Indeed, “Korean components ... incorporated into UK products would not qualify as UK originating when exported to the EU”, and “UK material would not qualify as originating in Korean exports to the EU”.²⁰ Dr Siles-Brügge suggested that this might have implications for transnational supply chains.²¹
32. Arrangements for ‘diagonal cumulation’ between the UK, Korea and the EU would enable components from any party to count as originating in trade between any of them. This would, however, require an agreement with the EU. UKTPO felt that this “ought not be impossible to achieve in the future”, but noted that “the EU can be quite demanding in agreeing to diagonal cumulation”.

Origin quotas

33. Origin quotas allow more flexible rules of origin to be applied for specified quantities of certain goods. The EU-Korea agreement contains origin quotas for 12 product groups of Korean exports to the EU. Two of the EU-Korea origin quotas have been transitioned into the Agreement—preparations of surimi,²² and woven fabrics of man-made filament yarn. As with the TRQs, the origin quotas have been re-sized to reflect historical trade flows, and the remaining 10 categories have been discontinued on the basis of low or no usage.
34. UKTPO told us that the discontinued origin quotas include the second and third largest product groups (benefiting from origin quotas) by import value—yarn of synthetic staple fibres, not put up for retail sale; and biscuits. UKTPO noted that the combined value of these imports was worth around £330,000 annually (not including goods that were first imported to other

18 Written evidence from UKTPO ([BRT0004](#))

19 Written evidence from NFU ([BRT0001](#))

20 Written evidence from UKTPO ([BRT0004](#))

21 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

22 A paste made from minced fish.

parts of the EU), although import data does not indicate the extent to which exporters have made use of origin quotas.²³

Technical Barriers to Trade

35. Chapter 4 of the Agreement and several annexes address Technical Barriers to Trade (TBT)—such as regulations, standards and conformity assessments. In addition, the parliamentary report explains that both Parties agreed a side minute to clarify that “the UK intends, for a limited time ... to continue to accept goods that meet EU regulatory requirements on the UK market”. The report explains that provisions relating to trade in electronics, motor vehicles and parts, pharmaceutical products and medical devices, as well as sanitary and phytosanitary regulations largely replicate the effects of the EU-Korea agreement, with minor changes to make them operable in a bilateral context.
36. Annexes 10–A and 10–B to the Agreement retain the protections provided in the EU-Korea agreement for both Parties’ geographical indications (GIs), including those for Irish Whiskey/Whisky.

Public procurement

37. The Agreement transitions the public procurement commitments set out in the EU-Korea agreement. These commitments are based on WTO Government Procurement Agreement (GPA) schedules.²⁴
38. We noted in our report *Scrutiny of international agreements: treaties considered on 12 March 2019* that, after Brexit, the UK will accede to the GPA in its own right.²⁵ The UK’s independent accession to the GPA will be based on schedules that are substantially the same to the coverage given by the UK under the EU’s schedules, with some minor changes to reflect UK domestic arrangements. Amendments have been made to Annex 9 of the Agreement to account for those changes.

Services

39. The EU-Korea agreement provides significant liberalisation of access to the Parties’ services markets, well beyond their commitments under the WTO General Agreement on Trade in Services (GATS). It covers a number of sectors, including: telecommunications; environmental services; transport; construction; finance, postal and express delivery; and professional services such as legal, accounting, engineering and architectural services. We discussed these provisions in more detail in our 2017 report *Brexit: trade in non-financial services*.²⁶
40. A significant proportion (28%) of UK-Korea trade is made up of services. DIT officials told us that services commitments have been replicated as far as possible, including those discussed in our 2017 report. The parliamentary report notes minor, largely technical, changes to provisions related to postal and courier services, internal waterways management and professional services recognition. The Agreement transitions provisions enabling co-

23 Written evidence from UKTPO ([BRT0004](#))

24 The GPA is a plurilateral WTO agreement. The fundamental aim of the GPA is to mutually open government procurement markets among its parties.

25 See paragraph 35 of European Union Committee, *Scrutiny of international agreements: treaties considered on 12 March 2019* (33rd Report, Session 2017–19, HL Paper 315).

26 See European Union Committee, *Brexit: trade in non-financial services* (18th Report, Session 2016–17, HL Paper 135), Box 2.

produced audio-visual works to benefit from EU schemes for the promotion of local/regional content, with an amendment to replace “EU schemes” with “UK schemes”.

41. UKTPO noted that while the UK’s schedule of commitments “remains largely unchanged ... some Korean services suppliers may still be impacted”. This is because under the EU-Korea agreement, Korean suppliers established in any EU Member State may supply the UK, whereas under the Agreement they must be established in the UK (for example, in relation to aircraft leasing; and banking and other financial services).²⁷
42. The law firm Linklaters LLP explained that it has a representative office in Seoul operating “in reliance” on the EU-Korea agreement. It considered that the Agreement “will provide for the same level of market access for UK-headquartered firms ... as the [EU-Korea agreement] does for EU-headquartered firms ... (Articles 7.5 and 7.11 in combination with 7.7 and 7.13 respectively and Annex 7A)”.²⁸
43. Concerning individual lawyers operating in Korea as partners or employees, the firm noted that the right to “transfer key personnel to Korea ... will no longer cover EU nationals employed by Linklaters LLP”. Linklaters felt that this would not be problematic in practice.
44. Dr Siles-Brügge noted that the Agreement transitions most favoured nation (MFN) provisions from EU-Korea agreement applying to cross-border trade in services (Article 7.8) and establishment (Article 7.14). He told us that these provisions “stipulate that any additional market access concessions offered to third party cross-border service suppliers and investors must be extended to the other [Party]”, subject to exclusions.²⁹
45. Dr Siles-Brügge observed that this meant that any additional market access offered by the UK to third parties in a future trade agreement, including the EU, may have to be offered to Korea.³⁰

Looking forward

46. Noting the commitment under Article 15.5bis for the Parties to commence a review no later than two years after entry into force of the Agreement, UKTPO considered Korea to be “serious about negotiating a new agreement”.³¹
47. Dr Siles-Brügge drew attention to reports that Korea was “one of the countries [that had held out] on rolling over its FTA”, and suggested that important provisions for the UK, such as the time-limited cumulation provisions (see above) could enable Korea to secure better terms.³² UKTPO added that it was “plausible that the commitment of renegotiation was part of what brought [Korea] to the table”.³³
48. UKTPO highlighted that under a renegotiation, the UK would have the opportunity to “better tailor the Agreement to its specific priorities and

27 Written evidence from UKTPO ([BRT0004](#))

28 Written evidence from Linklaters LLP ([BRT0002](#))

29 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

30 *Ibid.*

31 Written evidence from UKTPO ([BRT0004](#))

32 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

33 Written evidence from UKTPO ([BRT0004](#))

interests”. Drawing on its briefing paper,³⁴ which compared the EU-Korea agreement and the Korea-US agreement, UKTPO highlighted opportunities for the UK to secure greater liberalisation in areas such as audio-visual services and rights of establishment, and more tailored provisions on regulatory cooperation in professional services, financial services, electronic commerce.³⁵

49. At the same time, UKTPO argued that MFN clauses (see above) contained in the EU-Korea agreement “may make Korea less inclined to give the UK any better treatment” than it has already granted the EU, because it “would risk having to provide the same access to the whole of the EU ‘for free’”. Given this, and the fact that the UK is a much smaller market than the EU or US, UKTPO considered that achieving better access to Korea was “unlikely to be easy”.³⁶
50. Dr Siles-Brügge questioned how “near simultaneous” review clauses with significant trading partners (Korea, Switzerland and Chile)³⁷ would be managed at the same time the Government was “seeking to open with new partners”. He further anticipated that “any new concessions that the UK offers in the context of [renegotiations] will also have effects for negotiations with third parties”.
51. Dr Siles-Brügge concluded: “Far from starting from scratch, UK trade policy is already being shaped by Government efforts to replicate EU trade agreements. These effects need to be studied and articulated in a Government overarching trade strategy.”³⁸

Conclusions

52. The Agreement would, in the main, preserve preferential trading arrangements in goods and services between the UK and Korea from the point at which the EU-Korea agreement ceases to apply to the UK. Nonetheless, some aspects of the Agreement depart from precursor arrangements, and will entail changes for UK stakeholders.
53. The Parties are seeking to agree a temporary non-binding transition mechanism as a contingency measure. Such an arrangement would not be subject to parliamentary scrutiny under the Constitutional Reform and Governance Act 2010.
54. Further, the Trade Committee established under the Agreement will be able to amend important provisions, including rules of origin, regulatory cooperation and commitments for services without parliamentary scrutiny. Such amendments may amount to significant trade policy decisions, and would also not be subject to parliamentary scrutiny.

34 UK Trade Policy Observatory, Can the UK do better than just rolling over the Trade Agreement with Korea? (1 June 2019): <http://blogs.sussex.ac.uk/uktpo/files/2019/06/Briefing-paper-31.pdf> (accessed 10 October 2019)

35 Written evidence from UKTPO ([BRT0004](#))

36 *Ibid.*

37 European Union Committee, *Scrutiny of international agreements: treaties considered on 26 February 2019* (31st Report, Session 2017–19, HL Paper 300) and European Union Committee, *Scrutiny of international agreements: treaties considered on 12 March 2019* (33rd Report, Session 2017–19, HL Paper 315)

38 Written evidence from Dr Gabriel Siles-Brügge ([BRT0003](#))

55. We draw attention to the discontinuation of some Tariff Rate Quotas (TRQs) due to low or no usage. UK exporters, currently benefiting from preferential tariff arrangements under these TRQs, and exporters who would seek to use them in the future, will no longer be able to do so. This has implications for producers in the UK agricultural sector in particular.
56. We have highlighted previously the differences in approach towards transitioning no or low usage TRQs in Brexit-related trade agreements. We reiterate our call for the Government to provide a fuller explanation for this discrepancy. Where precursor TRQs are not re-established, the Government should provide full details in explanatory material on the impact on UK businesses making use of the TRQs and on future market development.
57. Further information would also be helpful in relation to how agricultural safeguard measures in the Agreement have been re-sized, and how the Government has assessed the implications of these changes for UK exporters.
58. We welcome the certainty provided by the continued cumulation of EU materials for a time-limited period. The Agreement cannot, however, enable cumulation for products exported to the EU. We call on the Government to clarify how significantly this will affect UK businesses.
59. The Agreement's review clause will provide the opportunity for both Parties to seek greater access to each other's markets, and on more tailored terms. Negotiations will entail trade-offs between each Parties' interests and trade policy objectives.
60. The Agreement transitions most favoured nation (MFN) provisions relating to cross-border trade in services and rights of establishment, meaning that any additional market access concessions offered to another trading partner by one Party to the Agreement must be extended to the other Party. These provisions illustrate that agreements intended to roll-over existing arrangements also have implications for the UK's future trade policy. It would be helpful for the Government to set out in full the effects of MFN provisions in the explanatory material accompanying roll-over trade agreements, and to provide information on its approach to negotiating MFN provisions in new agreements .
61. **We draw special attention to the Free Trade Agreement between the UK and the Republic of Korea, on the grounds that:**
 - **It is politically important and gives rise to issues of public policy that the House may wish to debate prior to ratification.**

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 Donaghly (Chair)
Lord Berkeley
Lord Carter of Coles
Lord Lamont of Lerwick
Lord Lansley
Lord Lilley
Lord Muntevans
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/>