



HOUSE OF LORDS

European Union Committee

2nd Report of Session 2019–21

Scrutiny of international agreements

Treaties considered on 21 January 2020

Ordered to be printed 21 January 2020 and published 22 January 2020

Published by the Authority of the House of Lords

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 related 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 to 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.

The six Sub-Committees are as follows:

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

Membership

The Members of the European Union Select Committee are:

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

Further information

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

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

Committee Staff

The current staff of the Committee are Christopher Johnson (Principal Clerk), Stuart Stoner (Clerk), George Webber (Second 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).

CONTENTS

	<i>Page</i>
Summary	2
Chapter 1: Agreements reported for information	3
Agreement establishing an Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique, of the one part and the United Kingdom of Great Britain and Northern Ireland, of the other part (CP 193, 2019)	3
Parties to the Agreement and what it covers	3
Entry into force	4
Memorandum of Understanding	4
The UK's trade relationship with the SACUM countries	4
Rules of origin and cumulation	5
Tariff rate quotas	5
Geographical indicators	5
Wine	6
Trade remedies	6
Transitional arrangements	6
Future amendments to the Agreement	6
Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia (CP 196, 2019)	7
Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Lebanon (CP183, 2019)	10
Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia (CP 188, 2019)	12
Appendix 1: List of Members, declarations of interest and Sub-Committee staff	15

SUMMARY

This is the European Union Committee's eighteenth 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 four agreements, which we have reported for information:

- Agreement establishing an Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique, of the one part and the United Kingdom of Great Britain and Northern Ireland, of the other part (CP 193)
- Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia (CP 196)
- Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Lebanon (CP183)
- Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia (CP 188)

Scrutiny of international agreements: treaties considered on 21 January 2020

CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

Agreement establishing an Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique, of the one part and the United Kingdom of Great Britain and Northern Ireland, of the other part (CP 193, 2019)¹

1. The UK-Southern African Customs Union Member States and Mozambique Economic Partnership Agreement (‘the UK-SACUM Agreement’) was laid on 5 November 2019, and the scrutiny period is scheduled to end on 5 February 2020. It was considered by the EU External Affairs Committee at its meeting on 16 January 2020.

Parties to the Agreement and what it covers

2. Botswana, Eswatini, Lesotho, Namibia and South Africa form the Southern African Customs Union. Collectively, alongside Mozambique, they are the Parties to the Agreement (other than the UK) and are referred to throughout this report as ‘the SACUM countries’.
3. The precursor agreement to the UK-SACUM Agreement is the Economic Partnership Agreement between the EU and the Southern African Development Community EPA States (‘the EU Agreement’), signed in June 2016.² The UK-SACUM Agreement seeks to ensure continuity of effect with the EU Agreement and, consequently, largely replicates it.
4. The Agreement is development-focused and therefore asymmetrical—it opens the UK market more than the market of the SACUM countries. With the exception of South Africa, it provides duty-free and quota-free access to the UK market for goods originating from the SACUM countries and provides for a gradual reduction of duties for UK goods deemed to be sensitive and that are imported into those SACUM countries.
5. Like the underlying EU Agreement, the UK-SACUM Agreement also includes provisions on development cooperation, intellectual property, geographical indications, trade in services and trade remedies.
6. It replicates the language of the Cotonou Agreement³ on respect for human rights and the possible suspension of the Agreement as a last resort in the

1 Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, CP 193, 2019: <https://www.gov.uk/government/publications/uksacu-and-mozambique-economic-partnership-agreement-ms-no342019> [accessed 17 December 2019]

2 Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part, [OJ L 250/3](#) (16 September 2016)

3 Short for the Partnership Agreement between the EU and the African, Caribbean and Pacific (ACP) Group of States, signed in Cotonou on 23 June 2000. It is a comprehensive agreement between developing countries and the EU and has set the framework for EU relations with 79 developing countries.

case of violations of human rights, democratic principles or the rule of law by any of the parties.

Entry into force

7. For the Agreement to enter into force, it must be ratified by both the UK and all the SACUM countries. Unlike other agreements previously considered, it cannot enter into force bilaterally, at different times, between the UK and each signatory SACUM country. The Agreement will only come into force once the precursor EU Agreement ceases to apply to the UK and after all parties have confirmed that their domestic ratification procedures have been completed. Under Article 112(2)(b) of the Agreement, the entry-into-force date can be either 30 days following the deposit of the last notification, or such other date as agreed by the Parties.
8. To ensure continuity, should the UK cease to be a Party to the EU Agreement before ratification processes can be completed, the Agreement allows for provisional application between individual SACUM countries and the UK.

Memorandum of Understanding

9. To bridge the gap between what at the time could have been a no-deal exit on 31 October 2019 and the parties' ability to provisionally apply the Agreement, the UK and SACUM countries agreed to a non-legally binding MoU. The MoU was a precautionary measure, designed to ensure continuity of trade. It would have affirmed the parties' intention to apply the EU-SADC EPA *mutatis mutandis*⁴ for the period between the EU Agreement ceasing to apply to the UK and the UK-SACUM Agreement taking effect. In the end, the MoU was not required. We do, however, reiterate the point made in our report *Scrutiny of international agreements: lessons learned* that reliance upon a MoU in such circumstances “blurs the lines between a legally binding international agreement and a politically binding MoU, and raises concerns over the absence of scrutiny of MoUs.”⁵

The UK's trade relationship with the SACUM countries

10. Trade with the SACUM countries accounts for 0.7% of UK trade, with South Africa being the dominant trading partner, accounting for 91% of that trade. In 2018, UK trade in goods with all SACUM countries was worth £5.7 billion. The UK imported more goods from the SACUM region than it exported. Main UK exports included goods falling under the ‘machinery and mechanical appliances’, ‘vehicles other than railway or tramway stock’, and ‘electrical machinery and equipment’ categories of the Harmonised System—the international nomenclature for the classification of products. Main goods imports from the SACUM countries fell in the ‘precious stones and metals’, ‘edible fruits and nuts’, and ‘vehicles other than railway or tramway stock’ categories.
11. UK trade in services with the SACUM countries was worth just over £4 billion in 2018. The UK exports more services than it imports, offsetting the trade deficit in goods exports. Sectoral data is available for trade in services

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)

5 European Union Committee, *Scrutiny of international agreements: lessons learned* (42nd Report of Session 2017-19, HL Paper 387), para 73

with South Africa only, the largest market for UK services. The main services exported to South Africa from the UK in 2018 were in transportation, travel and other business services. Top service imports from South Africa were travel and other business services.

Rules of origin and cumulation

12. The Agreement allows the UK to recognise processing and materials originating in the SACUM countries as UK processing or content; similarly, the SACUM countries may deem processing and materials originating in the UK as SACUM processing or content. However, cumulation between the SACUM countries is not without restrictions. Reflecting the precursor EU Agreement, the UK Agreement imposes some restrictions on exporters in Botswana, Eswatini, Lesotho, Mozambique and Namibia cumulating certain materials from South Africa in their exports to the UK. Under Article 117(4) of the UK-SACUM Agreement, however, the UK and SACUM countries have agreed to begin a review of these restrictions within 15 months of the Agreement coming into force.
13. Like other trade agreements previously considered by the Committee, the Agreement also introduces an extended cumulation of origin. This allows both Parties to recognise content from the EU as originating in the UK or a SACUM country in exports to one another. EU processing can, under certain conditions, also be recognised in UK exports to SACUM countries and vice versa. The Government notes that, without these provisions, products from the UK or a SACUM country using EU content or processing would no longer meet the origin requirements for preferential treatment by the other party. The Agreement includes a review mechanism, whereby if there is no UK-EU trade agreement in place after three years, the Parties can either extend these cumulation provisions or consider alternatives that are no less beneficial.
14. The Agreement also contains an Origin Quota for prepared or preserved Albacore tuna from Namibia, allowing a specified volume to be exported under a more lenient rule of origin. The quota was resized to reflect the UK's smaller market size compared to the EU. In resizing the quota, a proxy was used as the UK did not import any tuna products from Namibia under the relevant codes in 2018.

Tariff rate quotas

15. 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 SACUM 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.

Geographical indicators

16. Protections afforded to the geographical indications (GIs) of all Parties under the EU Agreement have been retained. Additionally, UK-Irish cross-border GIs (e.g. Irish Whiskey and Irish Cream) have been included in the UK Agreement.

Wine

17. The UK-SACUM Agreement affirms the importance of the wine trade between South Africa and the UK, and both Parties have agreed to enter into negotiations with a view to facilitating this trade. No start date for these negotiations has been specified.

Trade remedies

18. The Agreement includes a number of trade defence provisions, both for the SACUM countries and the UK.
19. To protect domestic industry and maintain food security in the SACUM countries, the agricultural safeguards in the EU Agreement have been read across. These safeguards enable duties to be imposed if imports of specified agricultural products exceed certain trigger levels.
20. The precursor EU Agreement contains an Entry Price System (EPS), which applies to 15 types of fruit and vegetables from South Africa, ensuring that during the European growing seasons, an additional duty is charged if fruits and vegetables imported are below a pre-determined entry price. The EPS is not being immediately applied by the UK Agreement, but the UK reserves the right to apply it in future.
21. The UK has also transitioned the bilateral safeguards relating to sugar prices, but has agreed with the SACUM countries to suspend the trigger price mechanism for a period of five years, as the appropriate trigger price level is difficult to determine. The mechanism will be reviewed once the Agreement has entered into force. The EU has not previously made use of the trigger price mechanism.

Transitional arrangements

22. Article 118 introduces transitional arrangements to facilitate the implementation of the Agreement by the SACUM countries. For example, it allows the SACUM countries to continue to use, for a specified period, EU customs forms, model health certificates and plant protection certificates.

Future amendments to the Agreement

23. Under Article 116 any Party may submit proposals for amendments to the Agreement, which are then subject to adoption by the Joint Council—the main governance body established under the Agreement. The parliamentary report 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”. Yet 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
24. We welcome the fact that the Government has provided detailed information on the geographical extent of agreements, clarifying which elements would apply to Gibraltar, the Crown Dependencies and the Overseas Territories.

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

We also welcome that the Minister confirms in the EM that “HMG shares stable agreement texts...on individual agreements”. However, while the EM confirms that the Government has shared the draft text of this specific Agreement with Gibraltar, the Crown Dependencies and the Overseas Territories, it does not make clear whether the text was also shared with the devolved administrations prior to signature. This is disappointing, as we have repeatedly 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”.⁷ Following an exchange with officials, we confirmed that the draft Agreement was shared with the devolved administrations and no concerns were raised. We welcome recent confirmation from officials that the Government will specify in future EMs that the specific agreement to which the EM relates has been shared with the devolved administrations.

25. We report the UK-SACUM Economic Partnership Agreement to the House for information.

Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia (CP 196, 2019)⁸

26. The UK-Georgia Strategic Partnership and Cooperation Agreement was laid on 4 November 2019, and the scrutiny period is scheduled to end on 4 February 2020. It was considered by the EU External Affairs Committee at its meeting on 16 January 2020.
27. The precursor agreement to the UK-Georgia Agreement is the EU-Georgia Association Agreement,⁹ which entered into force in 2016. The UK Agreement replicates the trade-related provisions of the EU Agreement, removing all tariffs and quotas on goods, and includes provisions on services, intellectual property, geographical indications and government procurement. The Agreement also includes cooperation commitments in areas such as foreign, political and security matters.
28. Once it is ratified by both Parties, the Agreement will come into force on the day the EU Agreement ceases to apply to the UK.¹⁰ To ensure continuity, should the UK cease to be a Party to the EU Agreement before ratification processes can be completed, the Agreement allows for provisional application.
29. The UK’s trade with Georgia accounts for less than 0.1% of UK trade. The UK has a trade surplus in both goods and services. The main goods exported to Georgia in 2018 included goods falling under the ‘vehicles other than railway or tramway stock’, ‘pharmaceutical products’, and ‘machinery and mechanical appliances’ categories of the Harmonised System—the international nomenclature for the classification of products. The main UK

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

8 Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia, CP 196, 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844167/CS_Georgia_1.2019_UK_Georgia_Strategic_Partnership_and_Cooperation_Agreement.pdf [accessed 17 December 2019]

9 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, *OJ L 261* (30 August 2014)

10 In practice, at the end of the transition period under the Withdrawal Agreement.

goods imports from Georgia were goods in the ‘precious stones and metals’, ‘fertilisers’, and ‘iron and steel’ categories.

30. Like other trade agreements previously considered by the Committee, the Agreement introduces an extended cumulation of origin. This allows both Parties to recognise materials from the EU as originating in the UK or Georgia in exports to one another. EU processing can, under certain conditions, also be recognised in UK exports to Georgia and vice versa. The Government sets out that, without these provisions, products from the UK or Georgia using EU content or processing would no longer meet the origin requirements for preferential treatment by the other party.
31. Wider cumulation provisions also apply to both parties. Subject to free trade agreements between the UK, Georgia and the following countries, products and materials originating in the EFTA states (Switzerland, Norway, Iceland and Liechtenstein), Turkey and other parties to the PEM Convention¹¹ can also be counted as originating in the UK or Georgia, subject to minimum working or processing requirements. For the UK (though not for Georgia), wider cumulation provisions also apply to ‘working and processing’ as working and processing carried out in Iceland or Norway can also count as having been conducted in the UK.
32. The UK-Georgia Agreement, like the EU-Georgia Agreement it seeks to replicate, removes tariffs across all goods. There is only a single inward Tariff Rate Quota (TRQ), which applies to garlic imports from Georgia.
33. Protections afforded to the geographical indications (GIs) of all Parties under the EU Agreement have been retained. UK-Irish cross-border GIs (e.g. Irish Whiskey and Irish Cream) have also been included in the UK Agreement.
34. The EU-Georgia Agreement contains an Entry Price System (EPS), which applies to 28 types of fruits and vegetables. It ensures that during the European growing seasons, an additional duty is charged if incoming fruits and vegetables are below a pre-determined entry price. The UK-Georgia Agreement does not establish such an EPS, but the UK reserves the right to establish and implement one in the future. The UK would need to notify Georgia in advance of its intent to apply an EPS. It would only apply to the 28 types of fruits and vegetables that the EU EPS applies to and it would replicate the EU’s price and additional duty levels.
35. The UK-Georgia Agreement, like its predecessor EU Agreement, also applies an anti-circumvention mechanism to 15 categories of agricultural products. This is designed to prevent third countries from exporting certain agricultural goods to the EU via Georgia and benefit from its trade preferences. After reaching a determined threshold level of imports, if Georgia has not provided “sound justification that [it] has the capacity to produce the products for export into the United Kingdom in excess of the volumes set out”, the UK may temporarily suspend the preferential treatment of the specified goods in the product category, and any further imports would be subject to the UK’s MFN rate.

¹¹ The signatories to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the ‘PEM Convention’) are: the European Union, Iceland, Liechtenstein, Norway, Switzerland, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Palestinian Authority, Syria, Tunisia, Turkey, Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia, Kosovo, the Faroe Islands, Moldova, Georgia, and Ukraine.

36. The institutional and governance provisions relating to the Agreement allow for significant amendments. Under Article 362 of the UK-Georgia Agreement, the Parties may mutually agree to amend the text of the Agreement subject to “each Party’s internal legal procedures”. According to the parliamentary report, in the UK “amendments to the Agreement that are expressly subject to a formal exchange of notes to confirm completion of internal procedures would engage the process of Parliamentary scrutiny set out in the Constitutional Reform Act [CRA Act] 2010”.¹² We again reiterate our previous recommendation that to support appropriate scrutiny, the Government should report regularly to Parliament on changes to international agreements.¹³
37. The Strategic Partnership and Cooperation Forum (the ‘Forum’, replacing the EU-Georgia Association Council), which oversees the operation and implementation of the Agreement, may also make modifications in specified technical areas. These amendments would be unlikely to engage the parliamentary scrutiny process under the CRA 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 Forum of the UK-Georgia Agreement.
38. In line with most continuity trade agreements scrutinised by the Committee, this Agreement does not replicate the mechanism for bilateral parliamentary engagement existing in the EU-Georgia Agreement. With limited exceptions, 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 without prior consultation. However, the Agreement states that “nothing in this Agreement shall restrict cooperation between the UK Parliament and the Parliament of Georgia”.
39. Unlike the EU-Georgia Agreement, the UK-Georgia Agreement incorporates explicit references to the Russia-Georgia conflict, UK support for Georgia’s territorial integrity, and the Parties’ aim to achieve a peaceful resolution. It also provides for a Strategic Political Dialogue “on all areas of mutual interest, including foreign and security matters as well as domestic reform”.
40. 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. We also welcome that the Minister confirms in the EM that “we now share text of agreements, once stable, with the DAs [devolved administrations]”. However, while FCO officials have since explained that regular meetings have taken place with the devolved administrations on the Agreement, they have not confirmed that the text of the Agreement was also shared with the devolved administrations prior to signature. Our views on this issue are set out in paragraph 24 above.
41. **We report the UK-Georgia Strategic Partnership and Cooperation Agreement to the House for information.**

12 Foreign and Commonwealth Office, Continuing the United Kingdom’s trade relationship with Georgia (November 2019) para 54: <https://www.gov.uk/government/publications/continuing-the-uks-trade-relationship-with-georgia-parliamentary-report> [accessed 17 December 2019]

13 See above, para 23, and European Union Committee, *Scrutiny of international agreements: lessons learned* (42nd report, Session 2017-19, HL Paper 387), para 68

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Lebanon (CP183, 2019)¹⁴

42. The UK-Lebanon Association Agreement was laid on 22 October 2019, and the scrutiny period is scheduled to end on 22 January 2020. It was considered by the EU External Affairs Committee at its meeting on 16 January.
43. The precursor to the UK-Lebanon Agreement is the EU-Lebanon Agreement,¹⁵ which entered into force in 2006. It incorporates a trade agreement and outlines a framework for political, economic, social and cultural cooperation. The UK-Lebanon Agreement seeks to ensure continuity of effect with the EU Agreement by incorporating it *mutatis mutandis* with only a small number of modifications. Consequently, it has been published in short form. The Agreement also incorporates the EU-Lebanon Dispute Settlement Mechanism Protocol.¹⁶
44. For the Agreement to enter into force, it must be ratified by both the UK and Lebanon. The Agreement will come into force either on the day the EU Agreement ceases to apply to the UK, or when both Parties have confirmed that their domestic ratification procedures have been completed (whichever is the later). Article 11 of the Agreement 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.
45. Trade with Lebanon accounts for less than 0.1% of UK trade. In 2018, UK services exports were worth £192 million and UK goods exports accounted for £486 million. Main UK goods exports include pharmaceutical products, vehicles and goods falling under the ‘machinery and mechanical appliances’ category of the Harmonised System—the international nomenclature for the classification of products. Main UK goods imports from Lebanon include goods in the ‘beverages, spirits and vinegar’, the ‘preparations of vegetables, fruit or nuts’, and goods in the ‘plastics and articles thereof’ category.
46. 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 Lebanon in exports to one another. The Government notes that, without these provisions, products from the UK or Lebanon incorporating EU materials would no longer meet the origin requirements for preferential

14 Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and Lebanon, CP 183, 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840961/CS_Lebanon_1.2019_Agreement_establishing_an_Association_between_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_and_the_Republic_of_Lebanon.pdf [accessed 13 November 2019]

15 Council Decision of 14 February 2006 concerning the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States of the one part, and the Republic of Lebanon, of the other part, [OJ L 143/2](#) (30 May 2006)

16 Council Decision of 10 November 2009 on the conclusion of an Agreement in the form of a Protocol between the European Community and its Member States and the Republic of Lebanon establishing a dispute settlement mechanism applicable to disputes under the trade provisions of the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, [OJ L 328/20](#) (14 December 2010)

treatment by the other party.¹⁷ EU processing can, under certain conditions, also be recognised in UK exports to Lebanon (though not vice versa).¹⁸

47. 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 Lebanon. 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.
48. The UK-Lebanon Agreement, like its predecessor EU Agreement, does not include substantive commitments on the protection of geographical indicators (GIs)—the EU has only sought to incorporate extensive GI provisions in its trade agreements since 2009. Instead, the UK-Lebanon Agreement (like the EU Agreement) refers to broader international standards and commitments on intellectual property rights.
49. The institutional and governance provisions of the Agreement allow for significant amendments. Under Article 10 of the UK-Lebanon Agreement, the Parties may mutually agree to amend the text of the Agreement subject to “each Party’s internal legal procedures”. According to the parliamentary report, in the UK “amendments to the Agreement that are expressly subject to a formal exchange of notes to confirm completion of internal procedures would engage the process of Parliamentary scrutiny set out in the CRAg Act”.¹⁹ This risks leaving a scrutiny gap in those circumstances where amendments would not require a formal exchange of notes (see paragraph 23 above).
50. The Association Council and Association Committee—the main governance bodies established under the Agreement—may also make modifications in specified technical areas. These amendments would be unlikely to engage the parliamentary scrutiny process under the CRAg Act—our concerns on this issue are set out in paragraph 37 above.
51. 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. We also welcome that the Minister confirms in the EM that “HMG shares stable agreement texts...on individual agreements”. However, while the EM confirms that the Government 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. Our views on this issue are set out in paragraph 24 above.

17 Foreign and Commonwealth Office, Continuing the United Kingdom’s trade relationship with the Republic of Lebanon (October 2019) para 87: <https://www.gov.uk/government/publications/continuing-the-uks-trade-relationship-with-lebanon-parliamentary-report> [accessed 19 November 2019]

18 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)

19 Foreign and Commonwealth Office, Continuing the United Kingdom’s trade relationship with the Republic of Lebanon (October 2019) para 51: <https://www.gov.uk/government/publications/continuing-the-uks-trade-relationship-with-lebanon-parliamentary-report> [accessed 19 November 2019]

52. Following an exchange with officials, we confirmed that the Agreement was shared with the devolved administrations when it was initialled. We welcome confirmation from officials that the Government will make clear in future EMs when stable texts have been shared with the devolved administrations.
53. **We report the UK-Lebanon Association Agreement to the House for information.**

Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia (CP 188, 2019)²⁰

54. The UK-Tunisia Association Agreement was laid on 25 October 2019, and the scrutiny period is scheduled to end on 27 January 2020. It was considered by the EU External Affairs Committee at its meeting on 16 January 2020.
55. The precursor agreement to the UK-Tunisia Agreement is the EU-Tunisia Association Agreement,²¹ which entered into force in 1998. The UK-Tunisia Agreement seeks to ensure continuity of effect with the EU Agreement by incorporating it *mutatis mutandis* with only a small number of modifications. Consequently, the UK Agreement has been published in short form. The UK-Tunisia Agreement also incorporates the EU-Tunisia Dispute Settlement Mechanism Protocol²².
56. Like the EU-Tunisia Agreement, the UK-Tunisia Association Agreement eliminates tariffs on industrial goods, and progressively reduces tariffs on agricultural, agri-food and fisheries products. It also contains provisions on quotas, the movement of capital, competition, intellectual property, and replicates the limited provisions for trade in services in the EU-Tunisia Agreements.
57. As an Association Agreement, it is broader in scope than a free trade agreement and incorporates cooperation commitments in areas such as agriculture, education, energy, and cultural matters. The Agreement also replicates the human rights provisions of the EU-Tunisia Agreement, envisaging the possibility of “appropriate measures”—including suspension of the Agreement—in the case of material breach by one of the Parties.
58. Once both the UK and Tunisia have received notification confirming that the other party’s domestic ratification procedures have been completed, the Agreement will come into force either on the day the EU Agreement ceases to apply to the UK (at the end of the implementation period under the Withdrawal Agreement or, when both Parties have confirmed that their domestic ratification procedures have been completed (whichever is the later). The Agreement does not allow for provisional application, which could lead to a break in continuity should the UK cease to be a party to EU

20 Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia, CP 188, 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/842050/CS_Tunisia_1.2019_UK_Tunisia_Agreement_establishing_an_Association.pdf [accessed 17 December 2019]

21 Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, *OJ L97/2* (30 March 1998)

22 Protocol between the European Community and the Republic of Tunisia establishing a dispute settlement mechanism applicable to disputes under the trade provisions of the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, *OJ L 40* (13 February 2010)

Agreements before ratification processes can be completed in the UK or Tunisia. FCO officials have confirmed that this was requested by Tunisia as they are unable to provisionally apply a treaty.

59. Trade with Tunisia accounts for less than 0.1% of UK trade. In 2018 UK-Tunisia trade in goods was worth £250 million, with the UK enjoying a £4 million surplus. Main UK exports include goods falling under the ‘machinery and mechanical appliances’, ‘mineral fuels or oils’, and ‘electrical machinery and equipment’ categories of the Harmonised System. Main UK goods imports from the Tunisia were clothing articles and accessories, and goods in the ‘electrical machinery and equipment’ category. UK-Tunisia services trade was worth £128 million, with a UK surplus of £26 million.
60. The Agreement also introduces an extended cumulation of origin. This allows both parties to recognise content from the EU as originating in the UK or Tunisia in exports to one another. The Government notes that, without these provisions, products from the UK or Tunisia using EU content would no longer meet the origin requirements for preferential treatment by the other party. EU processing can, under certain conditions, also be recognised in UK exports to Tunisia and vice versa.
61. The Agreement also allows the UK and Tunisia to recognise products or materials from the EFTA states (Switzerland, Norway, Iceland and Liechtenstein), Turkey and other parties to the PEM Convention²³ as originating in the UK or Tunisia. The list of countries where ‘working and processing’ can count as ‘working and processing’ carried out in the UK or Tunisia is more limited. For the UK, aside from the EU and Tunisia, it includes Iceland, Norway, Morocco and Algeria. For Tunisia, only working or processing carried out in the UK, the EU, Morocco or Algeria can be recognised as originating in Tunisia. These wider cumulation provisions are subject to the existence of free trade agreements between the relevant parties.
62. 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 Tunisia. 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.
63. The UK-Tunisia Agreement, like its predecessor EU Agreement, does not include substantive commitments on the protection of geographical indicators (GIs). The Agreement builds on intellectual property commitments under TRIPS, unlike more recent EU trade agreements which include extensive GI provisions.
64. The institutional and governance provisions of the Agreement allow for significant amendments. Under Article 10 of the UK-Tunisia Agreement, the Parties may mutually agree to amend the text of the Agreement subject to “each Party’s internal legal procedures”. According to the parliamentary

23 The signatories to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the ‘PEM Convention’) are: the European Union, Iceland, Liechtenstein, Norway, Switzerland, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Palestinian Authority, Syria, Tunisia, Turkey, Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia, Kosovo, the Faroe Islands, Moldova, Georgia, and Ukraine.

report, in the UK “amendments to the Agreement that are expressly subject to a formal exchange of notes to confirm completion of internal procedures would engage the process of Parliamentary scrutiny set out in the Constitutional Reform Act [CRAG Act] 2010”²⁴. Again, to avoid a scrutiny gap, we recommend that the Government report regularly to Parliament on changes to international agreements.

65. The Association Council—the main governance body established under the Agreement—may also make modifications in specified technical areas. These amendments would be unlikely to engage the parliamentary scrutiny process under the CRAG Act. Our views on this issue are set out in paragraph 37 above.
66. In line with the majority of continuity trade agreements scrutinised by the Committee, it does not replicate the mechanism for bilateral parliamentary engagement existing in the EU-Tunisia Agreement; 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. The Agreement does provide for the continuation of a regular bilateral political dialogue, superseding the existing Tunisia-UK Bilateral Forum established in 2009, to “cover all issues of common interest”.
67. 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. We also welcome that the Minister confirms in the EM that “HMG shares stable agreement texts...on individual agreements”. However, while the EM confirms that the Government 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. Our views on this issue are set out in paragraph 24 above.
68. Following an exchange with officials, we confirmed that the Agreement was shared when it was initialled. We welcome confirmation from officials that the Government will make clear in future EMs that stable texts have been shared with the devolved administrations.
69. **We report the UK-Tunisia Association Agreement to the House for information.**

²⁴ Foreign and Commonwealth Office, Continuing the United Kingdom’s trade relationship with the Republic of Tunisia (October 2019) para 51: <https://www.gov.uk/government/publications/continuing-the-uks-trade-relationship-with-tunisia-parliamentary-report> [accessed 17 December 2019]

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
 Lord Oates
 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
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

Non-Executive Director, Mitie

Commissioner, Guernsey Financial Services Commission

Baroness Donaghy

Former President of the Trades Union Congress

Former member of the European 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

Liberal Democrat Lords Spokesperson on Immigration

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, UK ASEAN Business Council

Non-Executive Director, Capita Plc

Non-Executive Director, Secure Trust Bank Plc

Non-Executive Director, Health Data Research UK

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

Shareholdings as set out in the register

Lord Oates

*Director, Centre for Countering Digital Hate
Chairman, Advisory Board, Weber Shandwick
Non-Executive Director, NHSBT*

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)
Director, Good Law Project*

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), Oliver Rix (Policy Analyst) 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 Corriegarth
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) and Laura Ayres (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 Dee Goddard (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 Simon Pook (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 Mountevans
 Baroness Prashar
 Lord Robathan
 Lord Russell of Liverpool
 Lord Shipley
 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 Dominique Gracia (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

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/>