



HOUSE OF LORDS

European Union Committee

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10th Report of Session 2019-21

# **Scrutiny of international agreements**

## **Treaties considered on 24 June 2020**

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### *The European Union Committee*

The European Union Select Committee and its five sub-committees are appointed each session to consider EU documents and draft laws; to consider other matters relating to the UK's relationship with the EU, including the implementation of the UK/EU Withdrawal Agreement, and the Government's conduct of negotiations on the United Kingdom's future relationship with the European Union; and to consider matters relating to the negotiation and conclusion of international agreements generally.

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EU Goods Sub-Committee  
EU Security and Justice Sub-Committee  
EU Services Sub-Committee  
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The Members of the International Agreements Sub-Committee are:

<a href="#"><u>Lord Fraser of Corriegarth</u></a>	<a href="#"><u>Lord Lansley</u></a>	<a href="#"><u>Lord Robathan</u></a>
<a href="#"><u>Lord Gold</u></a>	<a href="#"><u>Baroness Liddell of Coatdyke</u></a>	<a href="#"><u>The Earl of Sandwich</u></a>
<a href="#"><u>Lord Goldsmith (Chair)</u></a>	<a href="#"><u>Lord Morris of Aberavon</u></a>	<a href="#"><u>Lord Watts</u></a>
<a href="#"><u>Lord Kerr of Kinlochard</u></a>	<a href="#"><u>Lord Oates</u></a>	

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### *Sub-Committee staff*

The current staff of the Sub-Committee are Dominique Gracia (Clerk), Andrea Ninomiya (Policy Analyst), Alexander Horne (Legal Adviser) and George Stafford (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 4840. Email [HLIntlAgreements@parliament.uk](mailto:HLIntlAgreements@parliament.uk).

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## SUMMARY

This is the European Union Committee's twenty-third report on treaties, or international agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG). It is the first such report prepared by the new International Agreements Sub-Committee under the EU Committee's revised Terms of Reference, which include the provision "to consider matters relating to the negotiation and conclusion of international agreements".<sup>1</sup> Under these new Terms of Reference, the International Agreements Sub-Committee has taken on responsibility for scrutinising all international agreements laid before Parliament under CRAG.

This report addresses two agreements, considered at the International Agreements Sub-Committee's meeting on 24 June 2020, on which we report for information:

- Agreement in the form of an exchange of notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco in respect of Protocol 4 of the Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco (CP 233, 2020); and
- Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Poland on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other (CP 245, 2020).

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1 Procedure Committee ([1st Report](#), Session 2019–21, HL Paper 29), approved by the House on 17 March 2020

# Scrutiny of international agreements: treaties considered on 24 June 2020

## CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

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**Agreement in the form of an exchange of notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco in respect of Protocol 4 of the Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco (CP 233, 2020)<sup>2</sup>**

1. The UK-Morocco Agreement in respect of Protocol 4 of the UK-Morocco Association Agreement (the Cumulation Agreement) was laid before Parliament on 21 May 2020, and the scrutiny period is scheduled to end on 9 July 2020.<sup>3</sup> It was considered by the International Agreements Sub-Committee on 24 June 2020.
2. The EU Committee previously scrutinised the UK-Morocco Association Agreement, laid on 20 December 2019 and considered on 2 February 2020.<sup>4</sup> That Agreement was drawn to the special attention of the House on the grounds that it was politically important and gave rise to issues of public policy that the House may wish to debate prior to ratification, namely the treatment of goods from, and the status of, Western Sahara.<sup>5</sup> That report was debated together with a motion in the name of Lord Stevenson of Balmacara on 9 March.<sup>6</sup>
3. The reasons for the EU Committee drawing the Association Agreement to the special attention to the House related to its provisions on goods from Western Sahara. The Committee received representations from the Trade Justice Movement (TJM) about this issue and considered an open letter published on 24 January, signed by TJM and other civil society groups, as well as trade unions.<sup>7</sup> Western Sahara's status is disputed, and the UK's official policy

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2 Agreement in the form of an exchange of notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Morocco in respect of Protocol 4 of the Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco, CP 233, 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/886311/CS\\_Morocco\\_1.2020\\_UK\\_Morocco\\_Exchange\\_of\\_Notes\\_in\\_respect\\_of\\_Protocol\\_4\\_of\\_the\\_Agreement\\_establishing\\_an\\_Association\\_between\\_the\\_UK\\_and\\_Morocco.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886311/CS_Morocco_1.2020_UK_Morocco_Exchange_of_Notes_in_respect_of_Protocol_4_of_the_Agreement_establishing_an_Association_between_the_UK_and_Morocco.pdf) [accessed 11 June 2020]

3 Owing to the unusual sitting patterns of the two Houses during the COVID-19 pandemic, the scrutiny period dates have been revised since this agreement was first laid, when it was anticipated the scrutiny period would end on 14 July 2020.

4 Agreement establishing an association between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco, CP 202, 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/854581/CS\\_Morocco\\_2.2019\\_UK\\_Morocco\\_Agreement\\_establishing\\_an\\_Association.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/854581/CS_Morocco_2.2019_UK_Morocco_Agreement_establishing_an_Association.pdf) [accessed 11 June 2020]

5 European Union Committee, *Scrutiny of international agreements: treaties considered on 4 February 2020* (4th Report, Session 2019–21, HL Paper 14)

6 HL Deb, 9 March 2020, [cols. 907-922](#)

7 Trade Justice Movement, 'Civil Society organisations raise concerns about Morocco Association Agreement': <https://www.tjm.org.uk/blog/2020/civil-society-organisations-raise-concerns-about-uk-morocco-association-agreement> [accessed 11 June 2020]

position is that it considers the status of Western Sahara ‘undetermined’.<sup>8</sup> The EU Committee noted that “the inclusion of Western Sahara in the UK Agreement raises an important question of policy about how the UK should balance its commitment to Western Sahara’s ‘undetermined’ status with its pursuit of a trade agreement with Morocco”.<sup>9</sup>

4. This newly laid Cumulation Agreement takes the form of an exchange of notes between the two governments. As the Explanatory Memorandum (EM) states, the Cumulation Agreement was signed at the same time as the Association Agreement (26 October 2019), but was “unintentionally omitted” when the Association Agreement was laid. This is an unfortunate oversight, but we have considered the Cumulation Agreement in the light of our previous scrutiny of the Association Agreement.
5. The Government’s EM explains that the purpose of the Cumulation Agreement is to “provide continuity for businesses”, and that it will be implemented alongside the Association Agreement. It establishes a two-year transitional period for rules on cumulation under the Association Agreement. Rules of cumulation allow the parties to treat certain materials from other specified countries as originating in their own country for the purposes of qualifying for trade preferences under the agreement. The Cumulation Agreement would allow for diagonal cumulation with Turkey, Egypt and Jordan,<sup>10</sup> such that products incorporating materials from those third countries that entered either the UK or Morocco in the 12 months preceding the date of signature of the Agreement will continue to qualify for preferential treatment, provided the final product meets all other requirements of the Association Agreement. The Cumulation Agreement does not raise any additional issues in relation to Western Sahara.
6. The Association Agreement, as our earlier report noted, also introduced an extended cumulation of origin such that both parties will recognise content and processing from the EU as originating in the UK or Morocco in exports to one another; the parties’ preference for a trilateral approach with the EU on this issue is set out in a Joint Declaration in the Association Agreement. Such a trilateral approach would seek to “replicate coverage of existing trade flows” and explicitly regards the UK-Morocco Association Agreement as a “first step towards this outcome pending the outcome of the trade negotiations between the UK and the EU”<sup>11</sup>
7. In addition, beyond the EU, we noted:
 

“Wider cumulation provisions apply to the UK and Morocco, subject to a trade agreement being in place between the relevant parties. Products incorporating materials originating in the EFTA states (Switzerland, Liechtenstein, Iceland and Norway), Turkey and those countries that signed the Barcelona Declaration in 1995 can also be considered as originating in Morocco or the UK, provided they have undergone subsequent processing in the UK or Morocco beyond a minimum level.”<sup>12</sup>

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8 HM Government, ‘Western Sahara and the UK’: <https://www.gov.uk/world/western-sahara/news> [accessed 11 June 2020]

9 4th Report, Para. 20

10 The EM explains that these are contracting parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM), with which the EU and Morocco have trade agreements in place.

11 Association Agreement, p.69

12 *Scrutiny of international agreements: treaties considered on 4 February 2020*, para. 8

8. The Barcelona Process, or Euro-Mediterranean Partnership (Euromed), started in 1995 and set the foundations for the EU's relationship with its Mediterranean neighbours. In addition to the EU and Morocco, the signatories to the Barcelona Declaration were North Macedonia, Turkey, Algeria, Egypt, Israel, Jordan, Lebanon, Syria, Tunisia and the Palestinian Authority.<sup>13</sup>
9. Given that this Cumulation Agreement expressly covers three of these countries (Turkey, Egypt and Jordan), we asked officials from the Foreign and Commonwealth Office to clarify how the provisions established in this exchange of notes differed from, or built on, the provisions contained in the Association Agreement. They confirmed to us that the Cumulation Agreement sets out an additional transitional provision to apply if the UK has not applied a preferential trade agreement with Turkey, Egypt or Jordan by the time of the entry into force of the Association Agreement. In such circumstances, the Cumulation Agreement allows that the parties may (for a time-limited period) continue to treat products incorporating materials that had been imported pre-signature from the relevant third country as originating in their own. We are grateful to them for this clarification about the relationship between the two Agreements.
10. **We report the UK-Morocco Exchange of Notes to the House for information.**

**Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Poland on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other (CP 245, 2020)<sup>14</sup>**

11. The UK-Poland Agreement on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other (the UK-Poland Agreement) was laid on 8 June 2020, and the scrutiny period is scheduled to end on 14 July 2020. It was considered by the International Agreements Sub-Committee on 24 June 2020.
12. The EU Committee has previously scrutinised agreements on voting rights with Luxembourg, Portugal, and Spain.<sup>15</sup> As with those agreements, the UK-Poland Agreement does not seek to roll over a prior EU international agreement, but seeks to secure via a bilateral agreement certain voting rights that have hitherto been enjoyed by British citizens resident in Poland, and

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13 The Barcelona Process or Euro-Mediterranean Partnership (Euromed): [https://ec.europa.eu/research/iscp/pdf/policy/barcelona\\_declaration.pdf](https://ec.europa.eu/research/iscp/pdf/policy/barcelona_declaration.pdf) [accessed 11 June 2020].

14. Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Poland on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other, CP 217, 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/890567/CS\\_Poland\\_1.2020\\_UK\\_Poland\\_Agreement\\_Participation\\_Certain\\_Elections.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/890567/CS_Poland_1.2020_UK_Poland_Agreement_Participation_Certain_Elections.pdf) [accessed 11 June 2020]

15 See European Union Committee, *Scrutiny of International Agreements: Treaties considered on 23 July 2019* (45th Report, Session 2017–19, HL Paper 416) for details of the UK-Luxembourg: Agreement on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other, CP 141, 2019, and the UK-Portugal: Agreement between the United Kingdom of Great Britain and Northern Ireland and the Portuguese Republic Regarding the Participation in Local Elections of Nationals of Each State Resident in the Other's Territory, CP 142, 2019. See European Union Committee, *Scrutiny of International Agreements: Treaties considered on 3 April 2019* (36th Report, Session 2017–19, HL Paper 337), for details of the UK-Spain Agreement on the Participation of in Certain Elections of Nationals of Each Country Resident in the Territory of the Other, CP 71, 2019.



Polish citizens resident in the UK, under provisions of EU law. Such reciprocal voting rights were not protected under the Withdrawal Agreement.<sup>16</sup>

13. The Agreement would entitle UK nationals resident in Poland, and nationals of Poland resident in the UK, to continue to stand and vote in local elections. The Government's EM states that the Agreement will "encourage the continued social and political participation" of the approximately 6,000 UK nationals living in Poland, who were removed from the Polish electoral register on 31 January 2020, when the UK ceased to be an EU Member State. The Agreement would also apply to approximately one million Polish nationals living in the UK, who under existing UK legislation remain entitled, as EU citizens, to vote in local elections.<sup>17</sup> Accordingly, no legislation is necessary to give effect to this Agreement in UK law.
14. The EM describes the UK-Poland Agreement as "fully reciprocal in nature", but as with the UK-Spain, UK-Luxembourg and UK-Portugal Agreements, the voting rights it grants to nationals of each State are in fact not identical. This is because national definitions of 'local elections' vary. In the UK, 'local election' means local government elections, mayoral elections, and combined authority mayoral elections. In Poland, it means municipal council elections and elections of commune heads, mayors and presidents of cities.
15. No minimum residency requirements apply in either country. The term 'nationals of the UK' covers British citizens, British subjects, and British Overseas Territories citizens with a connection to Gibraltar.
16. Finally, the UK-Poland Agreement requires the parties to notify each other of changes to the franchise in their domestic law that are relevant to the scope and implementation of the Agreement (Article 4). It also provides that the Agreement may be amended by written agreement between the parties (Article 5), and that either party may terminate the Agreement by giving written notification to the other party (Article 8). The International Agreements Sub-Committee would expect to be informed of any such notifications or amendments.
17. **We report the UK-Poland Agreement to the House for information.**

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16 Treaty on the Functioning of the European Union, [OJ C 326](#) (26 October 2012), pp 47–390, Article 22 and Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals [OJ L 368](#) (31 December 1994), pp 38–47.

17 Representation of the People Act 1983, section 4(3) and section 202 as amended



## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Lord Fraser of Corriearth  
 Lord Gold  
 Lord Goldsmith QC  
 Lord Kerr of Kinlochard  
 Lord Lansley  
 Baroness Liddell of Coatdyke  
 Lord Morris of Aberavon  
 Lord Oates  
 Lord Robathan  
 Earl of Sandwich  
 Lord Watts

### Declarations of interest

Lord Fraser of Corriearth  
*No relevant interests*

Lord Gold  
*No relevant interests*

Lord Goldsmith (Chair)  
*Partner, Debevoise & Plimpton LLP*

Lord Kerr of Kinlochard  
*Chairman, Centre for European Reform*  
*Deputy Chairman, Scottish Power plc*  
*Member, Scottish Government's Standing Council on Europe*

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*

Lord Lansley  
*Director, LOW Associates Ltd*  
*Chair, UK-Japan 21st Century Group*  
*Trustee, Radix*

Baroness Liddell of Coatdyke  
*Adviser, PricewaterhouseCoopers*  
*Association Member, Bupa*  
*Chair, Annington Ltd*  
*Honorary Chair, Britain-Australia Society Education Trust*  
*Trustee, Northcote Educational Trust*

Lord Morris of Aberavon  
*No relevant interests*

Lord Oates  
*Chair, Advisory Committee, Weber Shandwick UK*  
*Director, Centre for Countering Digital Hate*

Lord Robathan  
*No relevant interests*

Earl of Sandwich

*No relevant interests*

Lord Watts

*No relevant interests*

The report was approved by the Chair of the EU Select Committee, the Earl of Kinnoull, as authorised under paragraph 11.55 of the Companion to the Standing Orders and Guide to the Proceedings of the House of Lords. 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/>