



HOUSE OF LORDS

European Union Committee

15th Report of Session 2019–21

**Scrutiny of international
agreements:
Amended Schedules to the
Agreement on Government
Procurement entering into
force for Switzerland**

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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.

The five Sub-Committees are as follows:

EU Environment Sub-Committee
EU Goods Sub-Committee
EU Security and Justice Sub-Committee
EU Services Sub-Committee
International Agreements Sub-Committee

Membership

The Members of the European Union Select Committee are:

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<u>Lord Cavendish of Furness</u>	<u>Earl of Kinnoull (Chair)</u>	<u>Lord Teverson</u>
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<u>Baroness Hamwee</u>	<u>Lord Ricketts</u>	

The Members of the International Agreements Sub-Committee are:

<u>Lord Foster of Bath</u>	<u>Lord Lansley</u>	<u>Lord Risby</u>
<u>Lord Gold</u>	<u>Baroness Liddell of Coatdyke</u>	<u>Lord Robathan</u>
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<u>Lord Kerr of Kinlochard</u>	<u>Lord Oates</u>	<u>Lord Watts</u>

Further information

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

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

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 5791. Email HLIntlAgreements@parliament.uk.

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SUMMARY

This is the European Union Committee's twenty-fifth 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 third 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".¹ 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 one agreement, considered at the International Agreements Sub-Committee's meeting on 11 November 2020, on which we report for information:

- Amended Schedules to the Agreement on Government Procurement as a result of the protocol amending the agreement on government procurement, done at Geneva on 30 March 2012, entering into force for Switzerland (CP 304, 2020).

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

Scrutiny of international agreements: Amended Schedules to the Agreement on Government Procurement entering into force for Switzerland

CHAPTER 1: AGREEMENT REPORTED FOR INFORMATION

Amended Schedules to the Agreement on Government Procurement as a result of the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012, entering into force for Switzerland (CP 304, 2020)²

1. The Agreement on the Amended Schedules to the Agreement on Government Procurement was laid before Parliament on 7 October 2020, and the scrutiny period is scheduled to end on 19 November 2020. It was considered by the International Agreements Sub-Committee at its meeting on 11 November 2020.
2. The Agreement on Government Procurement (the GPA) is a plurilateral World Trade Organization (WTO) agreement under which the parties open their public procurement markets to each other. The GPA was first agreed in 1994, followed by an amended version—the Revised GPA—in 2012. The GPA does not automatically apply to all procurement activities of the parties. Rather, it contains coverage schedules which define each Party’s commitments, or in other words, the level of access provided. GPA-covered procurement globally is estimated to be worth around £1.3 trillion per annum.
3. The GPA and the Revised GPA were laid before Parliament on 18 February 2019 and were scrutinised by the EU Internal Market Sub-Committee. The European Union Committee reported them for information in a report published on 13 March 2019.³
4. On 7 October 2020, the WTO adopted a Decision on the Accession of the United Kingdom to the Government Procurement Agreement in its own right. This is the final step required for the UK to join the GPA. As a former EU member, the UK remains covered by the Agreement during the transition period, which ends on 31 December 2020.
5. The Decision will allow the UK to accede to the Agreement as soon as the transition period expires. The UK’s Ambassador to the WTO in Geneva,

2 Amended Schedules to the Agreement on Government Procurement as a result of the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012, entering into force for Switzerland (CP 304, 2020): <https://www.gov.uk/government/publications/amended-schedules-to-the-agreement-on-government-procurement-as-a-result-of-the-protocol-amending-the-agreement-on-government-procurement-done-at-gen> [accessed 23 October 2020]

3 European Union Committee, *Scrutiny of International Agreements: Treaties considered on 12 March 2019* (33rd Report, Session 2017–19, HL Paper 315)

Julian Braithwaite, delivered a statement at the WTO's Committee on Government Procurement welcoming the Decision:

“Today’s Decision once again marks Parties’ shared belief that the UK’s continued participation within this deal is to the benefit of all. It paves the way for us [to] deposit our Instrument of Accession 30 days before the end of the transition period between the United Kingdom and the European Union, to enable our independent membership to take effect on 1 January. When that happens, we will have delivered our longstanding joint objective of ensuring continuity for businesses in the UK and all Parties.

“Moving ahead, as a full Party, we will continue warm cooperation with all in this room, and deliver on our commitment to update our schedules under Article XIX early in the new year.”⁴

6. The Government’s accompanying Explanatory Memorandum (EM) states that the Amended Schedules relate to the fact that the Protocol adopted in 2012 has come into force for all parties to the GPA, other than Switzerland. Switzerland has since conducted various internal legal reforms to create a comprehensive and unified set of procurement rules for federal and cantonal level, and informed the GPA Committee that it has set the date of entry into force of the new legislation as 1 January 2021. Thus, the Protocol should come into force for Switzerland on the same date that the UK’s accession to the GPA will come into force.
7. The EM notes that once the Protocol comes into force for Switzerland, Switzerland’s schedules to the GPA will be revised, and a minor consequential amendment to those schedules as a result of the UK’s accession will come into effect. The new schedules are therefore being provided to Parliament.
8. The EM contends that, as a result of the UK’s accession to the GPA and Switzerland’s amended schedules, “UK suppliers will benefit from the increased opportunities provided by Switzerland’s revised market access coverage under its amended schedules”. It gives as an example the fact that Swiss coverage has been improved by a catch-all clause for central government entities and that coverage of services has been improved by the inclusion of telecommunication services. No assessment is made of the economic impact of these changes. This is unfortunate, as it makes it difficult to determine the importance of the agreement.
9. On the question of consultation, the EM notes that the devolved administrations have signalled their support for the UK’s efforts to accede to the GPA “on the basis of current commitments”. It adds that “the UK’s coverage schedules have been shared with the Devolved Administrations and official level dialogue will continue”. From this, we do not know whether the devolved administrations have expressed any concerns in respect of the coverage schedules, which should always be the case. We’ve previously indicated the importance of proper consultation with the devolved administrations. We propose that in future the Government should provide greater detail and clarity about its discussions with the devolved

4 UK statement to the WTO Committee on Government Procurement (7 October 2020): <https://www.gov.uk/government/speeches/uk-statement-to-the-wto-committee-on-government-procurement> [accessed 26 October 2020]

administrations on international agreements and whether they agree with its approach on them.

10. **We report the Agreement on the Amended Schedules to the Agreement on Government Procurement to the House for information.**

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

Members of the European Union Select Committee

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

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

International Agreements Sub-Committee Members and staff

Lord Foster of Bath

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

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 Vice President, Britain-Australia Society Education Trust

Trustee, Northcote Educational Trust

Lord Morris of Aberavon

No relevant interests

Lord Oates

Chair, Advisory Committee, Weber Shandwick UK

Non-Executive Director, Centre for Countering Digital Hate

Lord Risby (from 3 November 2020)

No relevant interests

Lord Robathan

No relevant interests

Earl of Sandwich

No relevant interests

Lord Watts

No relevant interests

The Committee staff are Dr Dominique Gracia (Clerk), Alexander Horne (Legal Adviser), Andrea Ninomiya (Policy Analyst), and George Stafford (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/>