



HOUSE OF LORDS

International Agreements Committee

13th Report of Session 2022–23

**Scrutiny of
International
Agreements:
UK-Japan
Reciprocal Access
Agreement**

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International Agreements Committee

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See Appendix 1.

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SUMMARY

This report addresses the following Agreement, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010:

Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the facilitation of reciprocal access and cooperation between the armed forces of the United Kingdom of Great Britain and Northern Ireland and the self-defense forces of Japan (CP 798, 2023)

The purpose of this Agreement is to facilitate mutually beneficial defence cooperation between the UK and Japan by establishing a framework for the conduct of such cooperation and defining the status of the Visiting Force and Civilian Component.

The Agreement comes out of five years of negotiations and builds on increasingly strengthened defence and security ties with Japan, with whom the UK will be the first European country to have such an Agreement. It previously agreed with Japan a transfer of arms and military technologies agreement in 2013 and a defence logistics agreement in 2017. It then committed to deepening cooperation in its 2021 command paper, *Defence in a Competitive Age*. In 2021, the HMS Queen Elizabeth carrier strike group visited Japan as part of its first deployment. The Government recently announced plans to develop a new combat aircraft with Japan and Italy further deepening its defence relationship with Japan.

For Japan, although the US has historically been its closest strategic ally, it has been seeking to broaden its defence and security partnerships in recent years, in the context of rising security tensions in East Asia.

We report this Agreement between the United Kingdom and Japan to the special attention of the House on the grounds that it is politically important and gives rise to notable matters of public policy. In particular, the Agreement is strategically significant in that it is part of the UK's wider tilt to the Indo-Pacific region, alongside its negotiations for accession to the Comprehensive and Progressive Agreement for a Trans-Pacific Partnership (CPTPP).

Scrutiny of International Agreements: UK-Japan Reciprocal Access Agreement

AGREEMENT REPORTED FOR SPECIAL ATTENTION

Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the facilitation of reciprocal access and cooperation between the armed forces of the United Kingdom of Great Britain and Northern Ireland and the self-defense forces of Japan (CP 798, 2023)¹

1. The Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the facilitation of reciprocal access and cooperation between the armed forces of the United Kingdom of Great Britain and Northern Ireland and the self-defense forces of Japan (the Agreement) was laid before Parliament on 20 February 2023.
2. The scrutiny period for the Agreement is scheduled to end on 24 March 2023. The Agreement was considered by the Committee at its meeting on 16 March 2023.
3. The Agreement is to facilitate defence cooperation between the UK and Japan by establishing a framework for such cooperation as it affects visiting military and associated personnel. The Agreement also sets out the status of these personnel, known as the Visiting Force and Civilian Component (“the Visiting Force”).

Background to the Agreement

4. The Agreement is politically and strategically significant in that it forms a part of the UK’s wider “tilt to the Indo-Pacific” region described in the Government’s 2021 Integrated Review of Security, Defence, Development and Foreign Policy.² Prime Minister Rt Hon. Rishi Sunak MP said the Agreement is “hugely significant” and that it “cements our commitment to the Indo-Pacific and underlines our joint efforts to bolster economic security, accelerate our defence cooperation and drive innovation that creates highly skilled jobs”.³ Notably, since January 2021 the Government has been negotiating UK accession to the Comprehensive and Progressive Agreement

1 HM Government, *Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the Facilitation of Reciprocal Access and Cooperation between the Self-Defense Forces of Japan and the Armed Forces of the United Kingdom of Great Britain and Northern Ireland*, CP 798, January 2023 : https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137171/CS_Japan_1.2023_Agreement_Facilitation_SelfDefense_Armed_Forces.pdf [accessed on 9 March 2023]

2 Cabinet Office, ‘Global Britain in a Competitive Age: the Integrated Review of Security, Defence, Development and Foreign Policy’: <https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy> [accessed on 9 March 2023]

3 HM Government, ‘Prime Minister hosts Japanese PM and agrees historic defence agreement’: <https://www.gov.uk/government/news/prime-minister-hosts-japanese-pm-and-agrees-historic-defence-agreement> [accessed on 9 March 2023]

for Trans-Pacific Partnership (CPTPP) trading bloc of 11 countries, with Japan serving as the CPTPP chair of the UK's Accession Working Group. The Government has stated that, "acceding to the CPTPP will help the UK engage more deeply with the region, from a trade and wider foreign policy perspective."⁴

5. The Agreement comes out of five years of negotiations and builds on increasingly strengthened defence and security ties with Japan, whom the Government called its "closest Asian security partner."⁵ The UK will be the first European country to have a Reciprocal Access Agreement with Japan. The Government agreed with Japan a transfer of arms and military technologies agreement in 2013⁶ and a defence logistics agreement in 2017.⁷ In its 2021 command paper, *Defence in a Competitive Age*, the Government stated that over the next decade, it will "deepen cooperation between the Japanese Self Defence Forces and the British armed forces towards a free and open Indo-Pacific."⁸ In 2021, the HMS Queen Elizabeth carrier strike group visited Japan as part of its first deployment. The Government announced plans to develop a new combat aircraft with Japan and Italy on 9 December 2022, further deepening its defence relationship with Japan. The Global Combat Air Programme is expected to replace the Typhoon aircraft in the UK and Italy, and Japan's MHI F-2 in the 2030s.⁹
6. Although the US has historically been Japan's closest strategic ally, Japan has been seeking to broaden its defence and security partnerships in recent years, in the context of rising security tensions in East Asia. Japan signed a similar Reciprocal Access Agreement with Australia in January 2022.¹⁰ It published a new national defence and security strategy¹¹ in December 2022, which the Japanese Government declared will "dramatically transform" the country's post-war approach to security and describes China as "the greatest strategic challenge" for Japan and the international community.¹²

4 Department for International Trade, *UK Accession to CPTPP: The UK's Strategic Approach*, June 2021, p 8: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027860/dit-cptpp-uk-accession-strategic-approach.pdf [accessed on 9 March 2023]

5 HM Government, 'UK and Japan set to rapidly accelerate defence and security ties with landmark agreement': <https://www.gov.uk/government/news/uk-and-japan-set-to-rapidly-accelerate-defence-and-security-ties-with-landmark-agreement> [accessed on 9 March 2023]

6 HM Government, *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan Concerning the Transfer of Military of Arms and Military Technologies necessary to Implement Joint Research, Development and Production of Defence Equipment and Other Related Items*, Cm 8687, July 2013: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/252506/TS.27.Cm8687.pdf [accessed on 16 March 2023]

7 Foreign & Commonwealth Office, Ministry of Defence, 'UK and Japan strengthen defence ties' (26 January 2017): <https://www.gov.uk/government/news/uk-and-japan-strengthen-defence-ties> [accessed 9 March 2023]

8 Ministry of Defence, *Defence in a competitive age*, CP 411, March 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974661/CP411_-_Defence_Command_Plan.pdf [accessed 9 March 2023]

9 HM Government, 'PM announces new international coalition to develop the next generation of combat aircraft' (9 December 2022): <https://www.gov.uk/government/news/pm-announces-new-international-coalition-to-develop-the-next-generation-of-combat-aircraft> [accessed 9 March 2023]

10 Ministry of Foreign Affairs of Japan, 'Japan-Australia Reciprocal Access Agreement' (6 January 2022): https://www.mofa.go.jp/a_o/ocn/au/page4e_001195.html [accessed 9 March 2023]

11 Ministry of Foreign Affairs of Japan, 'National Security Strategy of Japan' (27 December 2022): https://www.mofa.go.jp/fp/nsp/page1we_000081.html [accessed 9 March 2023]

12 Ministry of Foreign Affairs of Japan, *National Security Strategy of Japan* (December 2022), p 3: <https://www.cas.go.jp/jp/siryoku/221216anzenhoshou/nss-e.pdf> [accessed 9 March 2023]

The Agreement

7. On 11 January 2023, the Prime Ministers of the UK and Japan signed a Reciprocal Access Agreement in London. The UK Government said the Agreement will:
 - Allow the UK and Japan to deploy forces in one another's countries
 - Rapidly accelerate defence and security cooperation
 - Cement the UK's commitment to Indo-Pacific security
 - Allow both forces to plan and deliver larger scale, more complex military exercises and deployments.¹³
8. The Explanatory Memorandum (EM) accompanying the Agreement states that the "aim of the Agreement is to enhance defence relations by increasing our ability to have more direct defence cooperation between the Japanese Self-Defence Forces and the British Armed Forces. The RAA [Reciprocal Access Agreement] facilitates this by making provision for UK and Japanese personnel undertaking activity in one another's country."¹⁴
9. The Agreement establishes a legal and technical framework that will govern a range of mutually determined UK/Japan defence cooperative activities. As described in the EM, the "Agreement makes provision for the status of the visiting force and the accompanying civilian component in relation to; entry, movement and exit; official vehicles; status and jurisdiction; Duty, Importation and Exportation; Access to Facilities; Provision of Training Areas; Environmental protections; Civil Claims and Liabilities; Taxation, Protection of Information; and settlement of disputes".¹⁵

Human rights

10. The Agreement sets out the circumstances in which members of the Visiting Force will be subject to the criminal jurisdiction of the host state¹⁶. Japan would have primary jurisdiction over any member of a UK Visiting Force who committed an offence in Japan while off-duty unless the offence was committed against UK persons or property. Japan would also have exclusive jurisdiction over offences against the national security of Japan (e.g., espionage). Japan retains the death penalty for certain serious offences, although in practice in recent years it has been imposed only for aggravated murder¹⁷. Members of a UK visiting force could therefore be prosecuted for a capital offence.

13 HM Government, 'Prime Minister hosts Japanese PM and agrees historic defence agreement' (11 January 2023): <https://www.gov.uk/government/news/prime-minister-hosts-japanese-pm-and-agrees-historic-defence-agreement> [accessed 9 March 2023]

14 HM Government, *Explanatory Memorandum on the Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the facilitation of reciprocal access and cooperation between the armed forces of the United Kingdom of Great Britain and Northern Ireland and the self-defence forces of Japan*, CM 798, para 3a: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137195/EM_CS_Japan_1.2023_Agreement_Facilitation_Self_Defense_Armed_Forces.odt [accessed 9 March 2023]

15 *Ibid.*, para 4(b)

16 HM Government, *Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the Facilitation of Reciprocal Access and Cooperation between the Self-Defence Forces of Japan and the Armed Forces of the United Kingdom of Great Britain and Northern Ireland*, Article XXI

17 International Federation for Human Rights, *The Death Penalty in Japan: The Law of Silence* (October 2008), p 25: <https://www2.ohchr.org/english/bodies/hrc/docs/ngos/FIDHJapan94.pdf> [accessed 7 March 2023]

11. The EM notes that UK armed forces regularly deploy to countries which retain the death penalty, including Japan. In such cases the armed forces will undertake risk assessments and take operational measures such as briefing and orders to minimise the risk that service personnel will be exposed to host state jurisdiction. The Agreement also contains some safeguards. While there is an obligation on the sending state to assist a criminal investigation by the host state into an offence alleged to be committed by a member of the Visiting Force, including by surrendering the individual¹⁸, this obligation does not apply if the parties “mutually determine” that the provision of such assistance would be contrary to the international human rights obligations of the sending State¹⁹. The obligations of the United Kingdom under the ECHR would undoubtedly be engaged if a member of a UK visiting force was being investigated for a capital offence. The Agreement also includes specific due process safeguards which are to apply in the event of the prosecution of a member of a Visiting Force.

Entry into force

12. The Agreement will enter into force 30 days after the UK and Japan have exchanged diplomatic notes noting the completion of their respective internal procedures. The Agreement can be terminated by either Party by providing six months’ written notice.²⁰

Territorial scope

13. In respect to the arrangements for the entry and presence of visiting forces within the UK, the Agreement applies to the metropolitan UK only. The EM notes that as the UK “retains responsibilities for their defence and there is no extension of the provision for visiting forces outside of metropolitan UK, there is no requirement to apply the Agreement to the Crown Dependencies and Overseas Territories.”²¹

Consultation

14. The EM notes that the Agreement relates to a fully reserved matter with no direct implications for the Devolved Administrations, Crown Dependencies, or Overseas Territories. As such the Government did not consult on the drafting of the Agreement.²²

Amendments

15. The Agreement provides that amendments must be approved in accordance with the parties’ respective internal procedures which means that amendments to the Agreement would be subject to further scrutiny in accordance with the Constitutional Reform and Governance Act 2010.²³

18 HM Government, *Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the Facilitation of Reciprocal Access and Cooperation between the Self-Defense Forces of Japan and the Armed Forces of the United Kingdom of Great Britain and Northern Ireland*, Article XXI, paras 5(a) and 6(a)

19 *Ibid.*, Annex, para 2

20 *Ibid.*, Article XXIX

21 HM Government, *Explanatory Memorandum on the Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan concerning the facilitation of reciprocal access and cooperation between the armed forces of the United Kingdom of Great Britain and Northern Ireland and the self-defense forces of Japan*, para 6(a)

22 *Ibid.*, para 10(a)

23 *Ibid.*, para 4(d)

16. **We welcome the UK-Japan Reciprocal Access Agreement, which confirms the UK's decision to strengthen defence and security ties with Japan and helps support its objectives in this regard by facilitating more direct defence cooperation. It is significant that the UK is the first European country to conclude such an Agreement with Japan. The Agreement is also a notable one for Japan, forming part of its recent policy to broaden its defence and security partnerships.**
17. **We note that Japan will have primary jurisdiction over members of the UK Visiting Forces who commit offences off-duty in the country, including offences which may attract the death penalty. However, given the safeguards included and that UK forces are already deployed in certain circumstances in other countries with the death penalty, we do not see this as a bar to ratification.**
18. **We also note the wider political and strategic significance of the Agreement, and its relevance to notable matters of public policy. In particular, it forms part of the UK's reported tilt to the Indo-Pacific region, alongside its negotiations for accession to the Comprehensive and Progressive Agreement for a Trans-Pacific Partnership (CPTPP).**
19. **We therefore report the 2023 Reciprocal Access Agreement with Japan to the special attention of the House because of its notable political, defence and security implications.**

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Fox
Lord Geidt
Lord Grimstone of Boscobel
Baroness Hayter of Kentish Town (Chair)
Lord Howell of Guildford
Lord Kerr of Kinlochard
Baroness Kingsmill
Lord Marland
Lord Morris of Aberavon
Lord Razzall
Lord Udny-Lister
Lord Watts

Declarations of interest

Lord Fox
No relevant interests

Lord Geidt
Chairman of Council, King's College London
President, Royal Overseas League
Trustee, Nuffield Trust for the Forces of the Crown

Lord Grimstone of Boscobel
No relevant interests

Baroness Hayter of Kentish Town
Senior Non-Executive Director, Association of British Insurers

Lord Howell of Guildford
Adviser to Japan Central Railways Ltd
Consultant to Mitsubishi Electric Europe BV
Regular columnist, Japan Times

Lord Kerr of Kinlochard
No relevant interests

Baroness Kingsmill
No relevant interests

Lord Marland
Trustee, Atlantic Partnership
Chairman, Tickets for Troops

Lord Morris of Aberavon
No relevant interests

Lord Razzall
No relevant interests

Lord Udny-Lister
No relevant interests

Lord Watts
No relevant interests