



House of Commons  
Committee on the Future  
Relationship with the European  
Union

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**The shape of future  
parliamentary scrutiny  
of UK-EU relations**

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**Fifth Report of Session 2019–21**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 14 January 2021*

## Committee on the Future Relationship with the European Union

The Committee on the Future Relationship with the European Union is appointed by the House of Commons to examine matters relating to the negotiations on the future relationship with the European Union.

### Current membership

[Hilary Benn MP](#) (*Labour, Leeds Central*) (Chair)

[Lee Anderson MP](#) (*Conservative, Ashfield*)

[Mr Peter Bone MP](#) (*Conservative, Wellingborough*)

[Joanna Cherry QC MP](#) (*Scottish National Party, Edinburgh South West*)

[Sir Christopher Chope MP](#) (*Conservative, Christchurch*)

[Mark Eastwood MP](#) (*Conservative, Dewsbury*)

[Florence Eshalomi MP](#) (*Labour, Vauxhall*)

[Sally-Ann Hart MP](#) (*Conservative, Hastings and Rye*)

[Antony Higginbotham MP](#) (*Conservative, Burnley*)

[Dr Rupa Huq MP](#) (*Labour, Ealing Central and Acton*)

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[Dr Jamie Wallis MP](#) (*Conservative, Bridgend*)

[Dr Philippa Whitford MP](#) (*Scottish National Party, Central Ayrshire*)

The following Members are former members of the Committee:

[Mark Fletcher MP](#) (*Conservative, Bolsover*); [Matthew Pennycook MP](#) (*Labour, Greenwich and Woolwich*)

### Powers

The powers of the Committee are set out in House of Commons Standing Orders, principally under a Temporary Standing Order of 16 January 2020 (amended on 2 March 2020). These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

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Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### **Committee staff**

The current staff of the Committee are Jonathan Arkless (Committee Specialist), Henry Ayi-Hyde (Committee Operations Officer), Gordon Clarke (Committee Clerk), Mark Earl and Hannah Finer (Committee Operations Managers), Dr Ariella Huff (Senior Committee Specialist), Duma Langton and Julian Mazowiecki (Committee Specialists), Fraser McIntosh (Specialist Assistant), Zac Mead (Second Clerk) and Ben Shave (Media and Communications Officer).

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You can follow the Committee on on Twitter using [@CommonsFREU](https://twitter.com/CommonsFREU)

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# 1 Current scrutiny mechanisms within the Commons committee system

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## Introduction

1. Parliament’s system for scrutiny of European affairs needs to change now that the UK is no longer a member of the European Union (EU) and the Transition Period provided for in the Withdrawal Agreement has ended. Since the referendum result in June 2016, various mechanisms within the House of Commons committee system have been either created or given additional powers and resources to facilitate effective scrutiny of the Government as it plotted our course out of the EU. The UK’s withdrawal from the EU has both created additional avenues for scrutiny (such as the creation of our Committee) and removed some of the House’s ability to influence (for example, through the loss of the scrutiny reserve). These scrutiny mechanisms should now be reformed. Our Committee—the Committee on the Future Relationship with the European Union—will cease to exist on 16 January 2021; potentially leaving a gap in the scrutiny of UK-EU relations. This Report examines why parliamentary scrutiny of UK-EU relations should continue beyond 2020 and makes recommendations on how that can be achieved.

## Committee on the Future Relationship with the European Union

2. In the last Parliament our predecessor Committee was established under a temporary Order that lapsed at dissolution ahead of the December 2019 general election. The Government decided to re-establish the Committee in this Parliament and on 16 January 2020 the House passed a temporary Order creating the Exiting the European Union Committee<sup>1</sup> to examine the work of the Department for Exiting the European Union. On 31 January 2020 the Government closed the Department for Exiting the European Union. On 2 March 2020 the House amended the 16 January temporary Order<sup>2</sup> and renamed the Committee as the Committee on the Future Relationship with the European Union (CFREU).<sup>3</sup> The Committee’s new role was “to examine matters relating to the negotiations on the future relationship with the European Union”.<sup>4</sup> The temporary Order lapses on 16 January 2021.

3. The membership size of the Committee is 21, which is much larger than most other select committees. The party balance of the committee reflects the party balance in the House; we are made up of 12 Conservative MPs, seven Labour MPs and two Scottish National Party MPs. The party balance in the House meant it was not possible for parties representing Northern Ireland to be included in the Committee’s membership, which we regret. Our Chair, Hilary Benn, is a Labour MP, and was elected by the House of Commons.

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1 House of Commons, [‘Exiting the European Union Committee’](#), accessed 16 November 2020

2 House of Commons, [Addendum to Standing Orders](#) (23 April 2020), p 25

3 House of Commons, [‘Committee on the Future Relationship with the EU’](#), accessed 16 November 2020

4 House of Commons, [Addendum to Standing Orders](#) (23 April 2020), p 25

4. We have agreed four Reports since March 2020 (in addition to this one):
- **First Report**—*The need for progress in the negotiations*.<sup>5</sup> This Report focused on: the lead up to the negotiations; the impact of covid-19 on the negotiations; the current status of the negotiations at the time of publication; the involvement of the Devolved Administrations in the negotiations; and preparing for the end of the Transition Period.
  - **Second Report**—*Implementing the Withdrawal Agreement: citizens' rights*.<sup>6</sup> This Report focussed on: citizens' rights provisions in the Withdrawal Agreement; UK nationals in the EU; EU citizens in the UK; and arrangements for after the end of the Transition Period.
  - **Third Report**—*Preparing for the end of the Transition Period*.<sup>7</sup> With only two weeks remaining until the end of the Transition Period, this Report focused on the steps UK businesses and the Government still needed to take in order to be ready for 2021. It considered in particular border preparedness.
  - **Fourth Report**—*The UK-EU future relationship: the Trade and Cooperation Agreement*.<sup>8</sup> This Report was published to assist the House in its deliberations on the EU-UK Trade and Cooperation Agreement (as part of the passage of the European Union (Future Relationship) Bill).

To inform these Reports the Committee has held 24 oral evidence sessions and has received 163 submissions of written evidence. Our work would not have been possible without these contributions and we thank everyone involved. Our requests for written evidence coincided with the first wave of covid-19 and the first national lockdown and we know how difficult it will have been for some of our witnesses to provide submissions addressing our detailed questions; we are most grateful. We are also grateful for the way in which witnesses appearing before us by videoconference have adapted to virtual Committee meetings.

## European Scrutiny Committee

5. Scrutiny of EU legislation and policy in the House of Commons has traditionally been done by the European Scrutiny Committee (ESC). The UK's withdrawal from the EU has both created additional avenues for scrutiny (such as CFREU) and removed some of the ESC's ability to influence (such as the scrutiny reserve). The ESC is composed of 16 MPs from the three largest parties. Unlike departmental select committees, the Chair is elected from within the Committee's membership at its first meeting, rather than by the House.<sup>9</sup>

5 Committee on the Future Relationship with the European Union, First Report of Session 2019–21, [The need for progress in the negotiations](#), HC 458

6 Committee on the Future Relationship with the European Union, Second Report of Session 2019–21, [Implementing the Withdrawal Agreement: citizens' rights](#), HC 849

7 Committee on the Future Relationship with the European Union, Third Report of Session 2019–21, [Preparing for the end of the Transition Period](#), HC 1093

8 Committee on the Future Relationship with the European Union, Fourth Report of Session 2019–21, [The UK-EU future relationship: the Trade and Cooperation Agreement](#), HC 1094

9 House of Commons [Standing Order No. 122B](#) lists committees with Chairs elected by the House. All those not listed are elected by the traditional method of election from within membership. The number of committees with Chairs elected by the House has continued to increase over successive reviews

6. The ESC was tasked with conducting detailed scrutiny of proposed EU legislation and policy papers which were deposited by the Government.<sup>10</sup> It sifted around 1,100 documents a year.<sup>11</sup> For each EU document, the relevant Minister had to also provide an explanatory memorandum setting out the Government's position on the document, the implications for the UK and anything arising from its consultation with the devolved administrations. The Committee then assessed each document for political and/or legal importance, alerting the House to its conclusions through its weekly reports and other EU Member State national parliaments through the IPEX database.<sup>12</sup> Every document was eventually cleared or referred for debate in a 'European Committee'.<sup>13</sup> For those of particular importance, the Committee could request that the debate be held on the floor of the House; accepting this recommendation is at the Government's discretion.

7. Until cleared, documents remained subject to a 'scrutiny reserve' resolution. When the UK was a member of the EU, the reserve prevented a Minister from giving agreement in the Council or the European Council on proposed "European Community legislation or for a common strategy, joint action or common position under Title V or a common position, framework decision, decision or convention under Title VI of the Treaty on European Union" unless and until the Committee had finished conducting its scrutiny, or a Resolution had been reached by the House on a document recommended for debate (para 1). Where a Minister breached the reserve, the decision had to be explained to the Committee (para 4), or where there was an outstanding debate referral, to the House, at the soonest possible opportunity.<sup>14</sup> From 31 January 2020, the scrutiny reserve ceased to 'bite' as the UK no longer has a vote on EU legislation. With no UK role in the EU legislative process, the reserve has no impact on the progress of EU legislation.

8. As well as carrying out its traditional role, the ESC had an additional statutory role during the Transition Period in appraising proposed legislation. Under section 13A of the European Union (Withdrawal) Act 2018,<sup>15</sup> if the Committee considers that EU legislation (or proposed EU legislation) "raises a matter of vital national interest", it can require Ministers to arrange a debate and vote in the Commons within 14 sitting days of the publication of the Committee's Report.<sup>16</sup> It has done so once, triggering a debate on the floor of the House on the EU's mandate for negotiating a new partnership with the UK, when it also sought the opinion of 24 select committees on the "vital" areas within their policy remits.<sup>17</sup> The power to request an opinion of a departmental committee, and require a reply, is set out at Standing Order No. 143(11).<sup>18</sup> This power was intended to

10 House of Commons [Standing Order No. 143](#) sets out a comprehensive list of documents which the Government is required to deposit

11 European Scrutiny Committee, '[Role](#)', accessed 17 November 2020

12 IPEX, the Interparliamentary EU information exchange, is a platform for the mutual exchange of information between the national Parliaments and the European Parliament concerning issues related to the European Union

13 House of Commons [Standing Order No. 119](#) clarifies that European Committees are ad hoc committees appointed to debate a motion on a referred document. The motion, as amended by the Committee, is then considered by the House

14 House of Commons, [Standing Orders Appendix, Scrutiny of European Business](#) (23 April 2020), p 213, para 4

15 [European Union \(Withdrawal\) Act 2018](#)

16 Alan Wager, "[Commons Select Committees](#)", Parliament and Brexit, UK in a Changing Europe, March 2020, pp 30–31; S. 13A [European Union \(Withdrawal\) Act 2018](#), inserted (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#)

17 European Scrutiny Committee, Fifth Report of Session 2019–21, [The EU's mandate for negotiating a new partnership with the UK: outcome of Select Committee consultation](#), HC 333, para 18

18 House of Commons, [Standing Orders](#) (5 November 2019), p 176, para 11

allow the Committee to call on the expert opinion of a committee whose knowledge is more focused on the relevant policy area and has also prompted committees to conduct their own in-depth inquiries.

9. The ESC can also conduct inquiries into “related matters”, some of which have included the conduct of negotiations, effective scrutiny of the Joint Committee and application of the Northern Ireland Protocol.

### Other mechanisms for scrutiny

10. In addition to the Committee on the Future Relationship with the EU and the European Scrutiny Committee, there are several other mechanisms that play a part in parliamentary scrutiny of European affairs. In addition to parliamentary questions and debates, these include:

- The **Liaison Committee**, comprising the Chairs of Commons select committees, has taken an active interest in Brexit and has repeatedly sought to scrutinise the UK’s withdrawal from the EU in its oral evidence sessions with the Prime Minister.
- **Departmental and cross-cutting select committees** have regularly conducted inquiries into aspects of the UK-EU relationship, indeed there is a long history of efforts to further promote EU scrutiny by policy committees.<sup>19</sup> They have produced 122 reports (as at 7 January 2021) into a variety of EU-exit and future relationship related topics from the triggering of Article 50 through to future relationship negotiations.
- The **European Statutory Instruments Committee** (ESIC) was established under a Temporary Standing Order of 3 February 2020 to sift proposed negative instruments made under the EU (Withdrawal) Act 2018,<sup>20</sup> where Ministers were exercising powers to make statutory instruments (SIs) in order to correct deficiencies in the body of retained EU law or to make some consequential provision.<sup>21</sup>
- The **Joint Committee on Statutory Instruments** considers SIs made “in exercise of powers granted by Act of Parliament” and is empowered to draw the attention of both Houses to SIs on the grounds specified in its Standing Order but *not* to consider the merits of the instrument or its underlying policy. The **Select Committee on Statutory Instruments** has a similar role in relation to SIs that are only subject to scrutiny by the House of Commons.
- The **UK National Parliament Office** (NPO), which represents both Houses of Parliament at EU level,<sup>22</sup> is the principal means by which both Houses communicate with other European national parliaments through a network of representatives based in Brussels. It also provides support to delegations of MPs

19 European Scrutiny Committee, Twenty-fourth Report of Session 2013–14, [Reforming the European Scrutiny System in the House of Commons](#), HC 109-I, paras 204–5

20 House of Commons, [Addendum to Standing Orders](#) (17 February 2020), p 17

21 European Union (Withdrawal) Act 2018, [section 8](#); paragraphs 3(3)(b) and 17(3)(b) of [Schedule 7](#). These relate, respectively, to statutory instruments to be made under section 8(1) (the deficiency correcting power) and section 23(1) (consequential provision)

22 UK Parliament, [‘The Work of the National Parliament Office’](#), accessed 19 November 2020



and Peers participating in inter-parliamentary meetings with other national parliaments, MEPs, EU institutions, the UK Mission to the EU and other third countries. Since the UK left the EU the NPO has increasingly focused on gathering information on developments from Brussels-based stakeholders.

11. The **House of Lords** has its own system for scrutiny of European affairs. It is in the process of reforming its arrangements following the UK's departure from the EU. As a basis for comparison, these are set out in the Annex. On 15 December 2020 the House of Lords Liaison Committee published a review of House of Lords investigative and scrutiny committees.<sup>23</sup> The review concluded, much like this Report, that various changes are needed to their systems of EU scrutiny following the end of the Transition Period.

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23 House of Lords, Review of investigative and scrutiny committees: strengthening the thematic structure through the appointment of new committees, Fifth Report of the Liaison Committee, Session 2019–21, [HL Paper 193](#)

## 2 The need for scrutiny in 2021 and beyond

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### Introduction

12. In September 2019 the House of Commons Liaison Committee published a Report into *The effectiveness and influence of the Select Committee system*.<sup>24</sup> It identified tasks for committees relating to Brexit, including:

- scrutiny of future UK-EU relationship negotiations;
- examining the work of the Withdrawal Agreement Joint Committee;
- monitoring developments in EU law and policy; and
- the development of future UK-EU relations.

13. The need for effective scrutiny of UK-EU relations does not end with the conclusion of the Transition Period. The tasks identified by the Liaison Committee can be updated and refined now that the Transition Period has ended and the UK and EU have agreed the Trade and Cooperation Agreement (TCA). They are tasks that arise because of the agreements that have been reached with the EU, and because the UK's relationship with its near neighbour and a significant trading partner will continue to influence UK policy as it evolves.

14. The Withdrawal Agreement Joint Committee has wielded a significant amount of power and will continue to do so. Our predecessor Committees,<sup>25</sup> the European Scrutiny Committee,<sup>26</sup> and our equivalent Committee in the House of Lords<sup>27</sup> have all been concerned by the Government's lack of transparency in relation to the work of the Joint Committee and associated Specialised Committees, which has posed significant challenges for Parliament. As we noted in our Report *Implementing the Withdrawal Agreement: citizens' rights*, we consider this lack of transparency to be wholly inadequate and there needs to be a better formal structure for Parliamentary scrutiny.<sup>28</sup>

15. The Partnership Council is the joint UK-EU body created to oversee the Trade and Cooperation Agreement.<sup>29</sup> Anton Spisak, from the Tony Blair Institute, has produced a diagram (see below) showing the Partnership Council, its specialised committees and associated institutional structures.<sup>30</sup> The decisions Ministers will take on the positions

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24 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860

25 Oral evidence taken before the Exiting the European Union Committee on 30 October 2019, HC (2019) 35, [Q201–202](#) [Andrea Jenkyns]

26 European Scrutiny Committee, [Letter to the Chancellor of the Duchy of Lancaster on Parliamentary scrutiny of the Withdrawal Agreement Joint Committee](#) (20 July 2020)

27 House of Lords, *Beyond Brexit: how to win friends and influence people*, Thirty fifth Report of the Select Committee on European Union, Session 2017–19, [HL Paper 322](#), para 122

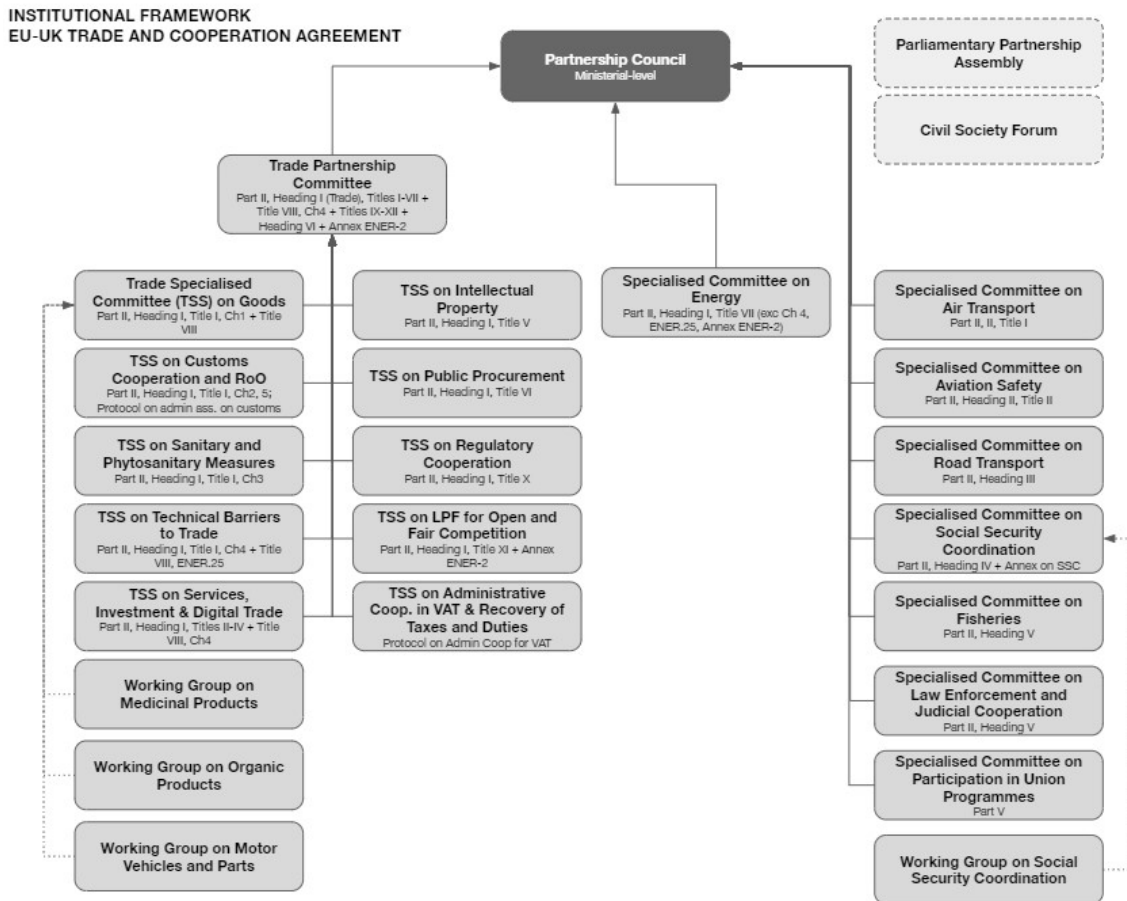
28 Committee on the Future Relationship with the European Union, Second Report of Session 2019–21, [Implementing the Withdrawal Agreement: citizens' rights](#), HC 849, para 123

29 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, TITLE III: INSTITUTIONAL FRAMEWORK Article INST.1: Partnership Council

30 @AntonSpisak, '[The Brexit deal marks a new beginning of a complex relationship in which Britain and the EU will have to learn to live together differently](#)', 26 December 2020

they adopt in the Partnership Council and its specialised committees, or in the Withdrawal Agreement Joint Committee, have the potential to affect people’s lives. Some of the decisions may need legislation to be passed or amended to give effect to them. Ministers have extensive powers to make and change legislation with little reference to Parliament. Given the effect these decisions could have it is important that Parliament knows what is happening and what decisions have been taken so that Ministers can be held to account. Professor Catherine Barnard, professor of EU law and employment law, University of Cambridge, said:

You also have a very powerful Partnership Council, which has quite considerable powers. It can amend the Agreement, not just to deal with infelicities in the Agreement, but to make quite significant changes. A really important issue going forward, for you as a Committee and for Parliament, is how to scrutinise not only how the deal is working, but how changes are being made to the deal and what is being done under the deal.<sup>31</sup>



16. Professor Adam Cygan, Dr Philip Lynch and Dr Richard Whitaker, University of Leicester, point to new accountability challenges Parliament will encounter with the UK outside the EU’s institutional architecture. They argue that the Executive, not Parliament, will be the primary beneficiary of the repatriation of competences to the UK.<sup>32</sup> Dr Hannah

31 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1158](#) [Mr Barry Sheerman]  
 32 Adam Cygan, Philip Lynch and Richard Whitaker, “[UK Parliamentary Scrutiny of the EU Political and Legal Space after Brexit](#)”, *Journal of Common Market Studies* (21 September 2020)

White, Deputy Director of the Institute for Government, supported this analysis, telling us that “there has been a massive shift of power towards the Executive and away from the legislature.”<sup>33</sup>

## The future relationship

17. The UK’s future relationship with the EU will be shaped by the implementation and operation of the agreements it has already reached with the EU: the Withdrawal Agreement and the Trade and Cooperation Agreement and the other ancillary agreements. It will also be shaped by any negotiations on further agreements, amendments to existing agreements, and disputes. The end of the Transition Period does not change the need for Parliament to monitor and engage in these areas. The UK-EU relationship will be affected as the two sovereign equals evolve their respective policy and regulatory frameworks, particularly where they start to diverge or where there is a strong common interest in coordinated action. Beyond this it will be in the UK’s interest to seek to influence the way the policy and regulatory framework develops in the EU, particularly in areas where the UK might have a comparative advantage. These are all good reasons why Parliament should want to scrutinise what the Government is doing with respect to European affairs, and to monitor how the Government is responding to developments in the EU.

## The EU-UK Trade and Cooperation Agreement

18. The EU-UK Trade and Cooperation Agreement includes several aspects of the future relationship that are subject to deadlines where decisions need to be made, and where the arrangements may evolve. Parliament will have an interest in scrutinising these. For example:

- The Agreement says that the UK and EU “shall jointly review the implementation of this Agreement and supplementing agreements” after five years, and then every five years thereafter.<sup>34</sup>
- The Protocol on Access to Waters provides for an adjustment period from 1 January 2021 till 30 June 2026, and requires the EU and the UK to “notify the other Party of any change in the level and conditions of access to waters that will apply from 1 July 2026.”<sup>35</sup> After this, there will be “consultations annually to agree” on the total allowable catch for fish stocks in the forthcoming year.<sup>36</sup>
- The energy chapter ceases to apply on 30 June 2026. In the time between 1 July 2026 and 31 December 2026 the Partnership Council can decide that the energy chapter can continue until 31 March 2027. Thereafter the Partnership Council can decide for it to continue on an annual basis until 31 March of the following year.<sup>37</sup>

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33 [Q12](#)

34 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, Article FINPROV.3: Review

35 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, ANNEX FISH.4: Protocol on Access to Waters

36 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, Article FISH.6: Fishing opportunities

37 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, Article ENER.33: Termination of this Title

- The TCA provides for the continued transfer of data from the EU to the UK for a period of four months, possibly extended to six months, on condition that the UK continues to apply the relevant data protection law as of 31 December 2020. This is to allow time for the Commission to carry out its data adequacy procedures. Any data adequacy decisions could be reviewed, suspended or revoked by the Commission in future or invalidated by the CJEU.
- The TCA contains a review clause for rules of origin relating to certain products relating to batteries for electric vehicles, not sooner than four years from the entry into force of the Agreement. On the basis of such a review, the Partnership Council may amend those product-specific rules as from 1 January 2027.<sup>38</sup>

19. The TCA includes dispute settlement mechanisms that include binding enforcement, an independent arbitration panel, and cross-sector retaliation where there is non-compliance with the decision of the arbitration panel. The dispute resolution mechanism covers the “vast majority” of the trade part of the TCA.<sup>39</sup> Professor Barnard described the TCA as “riddled with provisions on disputes” and said that “the dispute resolution mechanism is extremely complicated, because there are so many of them.”<sup>40</sup> In addition, there is a separate dispute resolution mechanism for the Law Enforcement part of the Agreement, that allows for consultation in the specialised committee on law enforcement, and, in the absence of a mutually agreed solution, for the law enforcement committee to manage how any part of the law enforcement arrangement is suspended.<sup>41</sup> It also contains a provision for one party to terminate the law enforcement part of the Agreement, including if the other denounces all or part of the European Convention on Human Rights.<sup>42</sup>

20. The TCA also contains a rebalancing mechanism, which allows for one party to retaliate where the other introduces significant changes in areas of the Level Playing Field, such as state aid, environment or employment law, and where that has a material impact on trade or investment. The timetable for the retaliatory measures is shorter than compared to traditional FTAs.<sup>43</sup> We were told that the mechanisms in the TCA for dispute resolution in the areas of Level Playing Field and the rebalancing mechanism were stronger than those in the EU agreement with Canada. Sam Lowe, Senior Research Fellow, Centre for European Reform, told us:

In the EU-Canada agreement or the EU-Japan agreement, when it comes to parties breaching their obligations under the labour and environment commitments, there is no sanction. Ultimately, a panel of experts will create a report and everyone will have to discuss it and try to work it out, but there is no consequence to breaching your obligations. There are consequences here. You can have aspects of the agreement suspended. [...] You also have

38 HM Government, *EU-UK Trade and Cooperation Agreement*, 24 December 2020, ANNEX ORIG-2B: Transitional product-specific rules for electric accumulators and electrified vehicles. The Partnership Council may also amend the TCA’s provisions on rules of origin, including the Annexes setting out relevant thresholds, at any time

39 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1164](#) [Mr Peter Bone]

40 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1166](#) [Mr Peter Bone]

41 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1202](#) [Joanna Cherry QC]

42 HM Government, *EU-UK Trade and Cooperation Agreement*, 24 December 2020, Article.LAW.OTHER.136 Termination; Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Qq1203–1205](#) [Joanna Cherry QC]

43 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Qq1166–1168](#) [Mr Peter Bone]

the rebalancing approach. It is very different. There is actual consequence to divergence and breaching obligation in areas where, in EU-Canada or EU-Japan, that is just not the case.<sup>44</sup>

21. Parliament will have an interest in areas where the UK and the EU agree to change the TCA and where the UK or the EU act in a way that leads to a dispute in an area covered by the TCA.<sup>45</sup> Furthermore, Parliament will have an interest where the UK or EU propose to act in a way that could trigger the rebalancing mechanism.

### **Future agreements and negotiations**

22. We were told in our evidence session on the TCA that there is scope for the relationship to be “chipped away” at, or be built upon in areas such as sanitary and phytosanitary checks, the mutual recognition of professional qualifications, or mutual recognition agreements on conformity assessments in certain areas.<sup>46</sup> While not included in the TCA, there may be scope for improving the relationship on financial services in a forthcoming memorandum of understanding,<sup>47</sup> or in the event that the EU adds to the two out of 39 potential equivalence decisions on financial services.<sup>48</sup>

23. Professor Barnard told us that:

One very striking feature of the agreement is that it envisages that there will be further bilateral agreements. Indeed, the possibility of future bilateral agreements is repeatedly referred to. [...] any future bilateral agreements, on whatever matter it might be, will be sucked under this overarching framework [of the TCA].<sup>49</sup>

24. She also drew our attention to the ability for the Partnership Council to amend the TCA, not just to deal with deficiencies in the agreement, but to make “quite significant” changes. She argued therefore that:

A really important issue going forward, for you as a Committee and for Parliament, is how to scrutinise not only how the deal is working, but how changes are being made to the deal and what is being done under the deal.<sup>50</sup>

In addition, the TCA includes a mechanism for the Partnership Council to consider the effects of new countries joining the EU and whether that might require the TCA to be amended.<sup>51</sup>

44 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1173](#) [Sally-Ann Hart]

45 For example: powers for the Partnership Council to amend the TCA under Article ORIG.31, CUSMTS.21, and ENER.31. And for Committees to amend the TCA under Article CUSTMS.21, ENER.31, and AVSAF.12.

46 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1159](#) [Mr Barry Sheerman]; [Q1206](#) [Chair]

47 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1187](#) [Stephen Kinnock]

48 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1190](#) [Stephen Kinnock]

49 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1147](#) [Chair]

50 Oral evidence taken on 6 January 2021, HC (2019–21) 203, [Q1158](#) [Mr Barry Sheerman]

51 HM Government, [EU-UK Trade and Cooperation Agreement](#), 24 December 2020, Article FINPROV.10: Future accessions to the Union

### **Implications for the UK of the evolution of the EU's policy and regulatory framework**

25. In late 2019 the European Scrutiny Committee began an inquiry into *Post-Brexit Scrutiny of EU Law and Policy*.<sup>52</sup> The written evidence they received contained different views of what future scrutiny should look like but, a common theme running through the evidence they received was the notion that “in virtually all conceivable long-term scenarios EU law and policy will continue to have an impact upon UK domestic policy—both directly and indirectly”.<sup>53</sup>

26. The Liaison Committee also noted in their September 2019 Report on select committee effectiveness that it was accepted that EU law would continue to play a significant role in the UK with its role varying depending on the nature of the future relationship between the UK and the EU.<sup>54</sup> In evidence to their inquiry, Agata Gostyńska-Jakubowska, Centre for European Reform, contended that the EU and its laws would continue to have an impact on the UK under any EU exit scenario, including no deal.<sup>55</sup>

27. Dr Sylvia de Mars, Newcastle University, Mr Colin Murray, Newcastle University, Professor Aoife O’Donoghue, Durham University, and Dr Ben Warwick, University of Birmingham, have pointed out that “geography alone suggests that it is in the UK’s best interest to remain closely apprised of what legislative and policy developments are taking place within the regional bloc”.<sup>56</sup>

### **Impact of EU policy on UK business and consumers; regulatory alignment**

28. Which? have argued for continuing parliamentary scrutiny of the EU from the perspective of consumers, saying:

When it comes to post-exit scrutiny of EU policy and law, it is vital that Parliament and Government have appropriate scrutiny and monitoring processes in place to assess policy developments in the EU and to understand the potential impact new legislation may have on UK consumers.<sup>57</sup>

29. The Law Society of England and Wales also believes that after UK membership of the EU has ended “it will be critical for the UK to monitor and scrutinise EU policy developments”.<sup>58</sup> This is because “the links and interdependencies between the EU and UK markets are deep and are significant to the UK economy. Decisions taken in the EU will continue to impact UK businesses and consumers and we are strongly of the view that the UK cannot ignore upcoming changes and the underlying reasons or objectives associated with the development.”<sup>59</sup> They said that the UK Government and Parliament would be putting an undue burden on businesses and consumers if there was not official

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52 European Scrutiny Committee, ‘[Post-Brexit Scrutiny of EU Law and Policy](#)’, accessed 24 November 2020

53 Dr Sylvia de Mars, Mr Colin Murray, Prof Aoife O’Donoghue and Dr Ben Warwick ([PBS0004](#)) para 24

54 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 62

55 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 64

56 Dr Sylvia de Mars, Mr Colin Murray, Prof Aoife O’Donoghue and Dr Ben Warwick ([PBS0004](#)) para 28

57 Which? ([PBS0009](#)) paras 40–41

58 Law Society of England and Wales ([PBS0016](#)) paras 4–7

59 Law Society of England and Wales ([PBS0016](#)) paras 4–7

monitoring and scrutiny of such changes. It may also be that EU developments call for a corresponding response within the UK, whether this is to maintain alignment or pursue an alternative approach.<sup>60</sup>

30. Regardless of whether there is regulatory alignment, EU policy will still be relevant to businesses operating in the UK, especially those doing business in the EU. For example, the Chemical Industries Association told our predecessor Committee that even if the UK did not formally agree to align with EU standards, most companies in the sector would manufacture to EU standards anyway as they do not “have the luxury” to operate differing manufacturing regimes and the EU REACH regulation sets the “global bar” which businesses will have to abide by.<sup>61</sup>

31. Professor Kenneth Armstrong, University of Cambridge, sees a role for Parliament in “monitoring regulatory developments of political importance with a view to engaging stakeholders in understanding the European origins of domestic regulatory developments”.<sup>62</sup> In his view, given the potential for divergence, parliamentary scrutiny should be oriented towards monitoring divergences in regulatory policy and evaluating the political importance of those divergences.<sup>63</sup> (See paras 17–24 above on The Future Relationship.)

### *Northern Ireland*

32. The Northern Ireland dimension is also critical. Agata Gostyńska-Jakubowska said that, as a result of the continued application of aspects of EU law in Northern Ireland, the UK Parliament should “ensure that the Government continues to present draft EU legislation in both Houses, together with thorough impact assessments.”<sup>64</sup>

33. The European Scrutiny Committee said in a scoping paper that “effective parliamentary oversight of the Ireland/Northern Ireland Protocol would include monitoring and scrutiny of changes to EU laws listed in the Protocol and of new laws within the scope of the Protocol; how they affect the UK internal market; what mitigations are proposed; the role of EU institutions, in particular the European Court of Justice; and liaison with Northern Ireland Assembly.”<sup>65</sup>

34. Professor Adam Cygan, University of Leicester, suggested that, to ensure legislative coherence, Parliament should monitor whether the implementation of new EU laws under the Protocol will lead to divergence with the rest of the UK and what the effect of any divergence could be on the UK Single Market.<sup>66</sup> He went on to point out, should the UK Government propose to diverge from EU law, Parliament could also consider what effect this may have on the Ireland/Northern Ireland Protocol and the UK Single Market.<sup>67</sup>

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60 Law Society of England and Wales (PBS0016) paras 4–7

61 European Scrutiny Committee, *The future of EU scrutiny* (scoping paper) (1 December 2020), p 5

62 Kenneth Armstrong (PBS0010) para 38

63 Kenneth Armstrong (PBS0010) para 31

64 Centre for European Reform (Agata Gostyńska-Jakubowska), *Westminster’s (continuous) oversight of European affairs post-Brexit* (April 2019), p 6

65 European Scrutiny Committee, *The future of EU scrutiny* (1 December 2020), p 10

66 Professor Adam Cygan (UFR0001) para 25

67 Professor Adam Cygan (UFR0001) para 25



### *Areas of UK-EU common interest*

35. Dr Sara Hagemann, London School of Economics and Political Science, made the case to us of the importance of continuing to monitor certain EU policy areas post-Transition:

It is extremely important that we keep in mind the political and policy developments in Europe at the moment. We are looking at really important new initiatives in a range of areas, which the UK has a strong interest in being closely associated with and collaborating on: security and defence issues or the new initiative of the health union. All of those are big policy topics and it is substantively in the UK's and Parliament's interests to know what is happening on the European side.<sup>68</sup>

### *Awareness of EU affairs needed in order to influence*

36. The Local Government Association made the case that the ability to gain intelligence and influence EU legislation in relation to “trade, competition, migration, environment, sustainable development, climate change, energy, regional development, transport, fisheries, research, education and youth programmes” would “remain of strategic importance to the UK even if we are formally outside the scope of EU law”.<sup>69</sup> In evidence to us Professor Simon Usherwood, University of Surrey, was wary of the UK “not being caught by surprise by what the EU does or might do”<sup>70</sup> in the future. It will only be possible for the UK to influence the EU's policy agenda if we are to understand their intentions.

37. Professor Adam Cygan noted in his evidence to us that much EU documentation is readily available via the Commission's website but that Parliament will need to be proactive in order to ensure that it accesses documentation in a timely manner on future EU policy and legislative proposals that may be relevant to the UK.<sup>71</sup> That said, he also made the important point that:

In order for effective scrutiny to be possible the government should also continue to provide Explanatory Memoranda systematically as these will form the basis of scrutiny whenever relevant.<sup>72</sup>

## **Tasks for Parliament**

38. The key tasks now for Parliament are:

- Monitoring the implementation and operation of the **EU-UK Trade and Cooperation Agreement**, with a focus on the work of the **Partnership Council**, its specialised committees and working groups

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68 [Q7](#)

69 Local Government Association ([PBS0002](#)) para 3.11

70 [Q9](#)

71 Professor Adam Cygan ([UFR0001](#)) para 5

72 Professor Adam Cygan ([UFR0001](#)) para 5

- Scrutinising the work of **Withdrawal Agreement Joint Committee**<sup>73</sup> and its specialised committees and monitoring the implementation and operation of the Withdrawal Agreement, with a particular focus on:
  - the **Ireland/Northern Ireland Protocol**, including the work of the **Joint Consultative Working Group** and the Joint Committee’s Specialised Committee on the implementation of the Ireland/Northern Ireland Protocol
  - the **rights of EU citizens in the UK and of UK citizens in the EU**,<sup>74</sup> including the work of the **Independent Monitoring Authority** in the UK and the Joint Committee’s Specialised Committee on Citizens’ Rights
- Monitoring and examining any **disputes** that arise under any UK-EU agreements<sup>75</sup> and monitoring how any remedies to resolve disputes are applied
- Scrutinising the effectiveness of the UK-EU relationship and examining any **negotiations to change or extend the terms of current agreements or to add new agreements**
- Monitoring developments in **EU law and policy that affect the UK**
- Developing **interparliamentary relations** with the European Parliament and parliaments in EU Member States

39. **It will be important for Parliament to continue to scrutinise the UK’s relationship with the EU. There are compelling political and policy reasons for doing so beyond the process and procedural reasons built into the Agreements. We recommend that the Government brings forward proposals for reform of the current system for scrutiny of European affairs by the end of April at the latest so that the House can decide what it wants to do. In drawing up its proposals we recommend that the Government consult the European Scrutiny Committee, the Liaison Committee, the Procedure Committee and the chairs of committees that are likely to be the most closely involved in European Affairs going forward.**

40. **We recommend that the Government provide a statement to the House after each meeting of the Partnership Council and of the Withdrawal Agreement Joint Committee. Such statements should include details of any decisions reached by these bodies and should be followed by an opportunity for questions.**

73 The House of Commons Library has published a full table of outstanding Joint Committee’s tasks, showing how much it still has to do. See *The UK-EU Withdrawal Agreement Joint Committee: functions and tasks*, [Briefing Paper 8996](#), House of Commons Library, 2 September 2020

74 This Committee recently published a Report on this topic: *Implementing the Withdrawal Agreement: citizens’ rights*, which goes into much further detail on this topic. See Committee on the Future Relationship with the European Union, Second Report of Session 2019–21, [Implementing the Withdrawal Agreement: citizens’ rights](#), HC 849

75 The Withdrawal Agreement and the Trade and Cooperation Agreement both provide for dispute resolution mechanisms; these are complicated in the case of the Trade and Cooperation Agreement. Under both agreements the sanctions for non-compliance are potentially significant

## 3 Next steps: a proposed way forward

### Introduction

41. Whilst Chapter 2 outlined the areas of the UK-EU relationship that will require ongoing scrutiny, this Chapter proposes a new framework for conducting that scrutiny. It would not be appropriate for the same EU scrutiny mechanisms to exist post-Brexit that were in force during our membership of the EU: Parliament needs to adapt. As noted by UK in a Changing Europe:

‘Taking back control’ was a key message during the referendum campaign; Parliament needs to be sure that—where appropriate—control returns to the UK’s legislatures, not just its governments.<sup>76</sup>

42. Some commentators have noted that even during the Transition Period Parliament’s scrutiny mechanisms of UK-EU relations were not fit for purpose. For example, in Dr Hannah White’s view “committees have done well in promoting openness of Government. They have been able to ask questions and get things on the record that otherwise would not have been but, in terms of influence or, indeed, informing the public, they have struggled.”<sup>77</sup> In addition, Dr Sara Hagemann told us that “I would not want to give a grade, as such, to the success of the Committee or Parliament, but certainly the structures that are in place have made it difficult for Parliament to influence the process in any significant way.”<sup>78</sup> She went on to say that “in the specific negotiations between the UK Government and the EU, it has really been the Executive in control.”<sup>79</sup>

43. One of the problems with the current set up, as noted by the Centre for European Reform, is that EU-related work of the Commons is divided between different committees and this can lead to duplication or contradictory recommendations on the same issues.<sup>80</sup> They have highlighted that Parliamentarians will need to “develop new dynamic structures” to enable them to shift the balance of their EU work.<sup>81</sup>

44. The Liaison Committee has also considered this matter. In its Report on select committee effectiveness it considered the potential factors, principles, structures, resources and provision of information that it believed should help guide the House in shaping its future EU-related operations. It recommended that any approach adopted by the House needed to be “dynamic, cohesive, collaborative and flexible”.<sup>82</sup> It also stressed the importance of avoiding the “arguably inevitable”<sup>83</sup> duplication of Committee work that took place during the Article 50 negotiations.

76 The UK in a Changing Europe (Maddy Thimont Jack and Hannah White), [Parliament and Brexit](#) (March 2020), p 33

77 [Q5](#)

78 [Q4](#)

79 [Q4](#)

80 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 1

81 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 7

82 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 90

83 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 90

## European Affairs Committee

45. The Chancellor of the Duchy of Lancaster has noted more than once that it is for Parliament to decide what should happen next in terms of future scrutiny of UK-EU affairs.<sup>84</sup> As we outline below, many commentators are of the view that the most effective way for the House of Commons to scrutinise UK-EU relations going forward would be the creation of a new ‘European Affairs Committee’ to replace both this Committee (the Committee on the Future Relationship with the EU) and the European Scrutiny Committee. Now that we have left the EU and the Transition Period has ended, there is no longer the need for the same levels, or kinds of scrutiny of the EU, that have been in place in recent years. Parliament needs to adapt to the UK’s new relationship with the EU.

46. Professor Simon Usherwood and Dr Hannah White told us that there was an important need for a central point of EU scrutiny in the Commons. This was because the EU is such a wide-ranging organisation that the need for scrutiny and oversight goes beyond what you might expect for normal international relations.<sup>85</sup> In Professor Usherwood’s view “having a specialised body within Parliament makes clear sense”.<sup>86</sup> The Institute for Government agree that one committee, working also with subject-based committees, is the best way forward.<sup>87</sup> As does Agata Gostyńska-Jakubowska, who recommends entrusting all post-Brexit scrutiny functions to a single EU Affairs Committee, noting that it would help reduce the burden on departmental committees.<sup>88</sup>

47. Dr Sara Hagemann meanwhile made the case for any European Affairs Committee to assist other committees in their EU-related work. She saw a role for such a committee in building up expertise in European affairs, becoming a specialist unit across many committees.<sup>89</sup> She views this as very different kind of scrutiny because it becomes one where it is “powerful in terms of information and steering policies in specific directions, but also communicating what new initiatives may look like and bringing attention to topics.”<sup>90</sup>

48. As part of their inquiry into effective select committee scrutiny, the Liaison Committee also took a view on this. They concluded that:

One option which we believe requires further investigation is the creation of a single integrated European committee to provide oversight of EU-UK matters. [...] This more integrated approach could also help to avoid gaps and overlaps, enabling deeper integration between the different elements of EU-UK oversight. Externally, it would also help to ensure consistent interparliamentary engagement on EU-UK matters both internationally and within the UK. Finally, it could assist with deployment of the existing EU legal and policy staff resource more efficiently, facilitating its availability for all committees.<sup>91</sup>

84 For example: HM Government (Chancellor of the Duchy of Lancaster), [Letter to the Speaker House of Commons regarding interparliamentary relations with the European Parliament](#) (14 August 2020), p 1

85 [Q2](#) (Simon Usherwood) & [Q5](#) (Hannah White)

86 [Q2](#)

87 Institute for Government ([SCS0038](#)) para 5

88 Agata Gostyńska-Jakubowska ([PBS0008](#)) para 26

89 [Q20](#)

90 [Q20](#)

91 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 83

The Liaison Committee report also contained the following comments:

The need to involve—and to liaise between—departmental select committees has been recognised as fundamental. The UK in a Changing Europe conceived of a role for the Liaison Committee, suggesting that it could coordinate EU-related inquiries.<sup>92</sup>

Turning to scrutiny of the UK’s international treaties beyond those reached with the EU, Arabella Lang noted that there have been consistent arguments in favour of a joint (House of Lords and House of Commons) committee on international treaties. The House of Lords Constitution Committee concluded in its recent report on Parliamentary Scrutiny of Treaties that “a dedicated treaty committee is required to provide effective parliamentary scrutiny of treaties”. It noted that there was a choice to be made—by the Liaison Committees of both Houses—between establishing a treaty committee in either or both Houses, or establishing a joint committee, and that there were advantages and disadvantages of each approach.<sup>93</sup>

The need to coordinate between committees in relation to international treaties is similar to that identified for UK-EU matters. Dr Hestermeyer and Dr Simson Caird suggested that the Liaison Committee might also play a role in coordinating between committees, potentially by way of a Sub-Committee.<sup>94</sup>

49. Agata Gostyńska-Jakubowska said:

MPs should abolish the European Scrutiny Committee and put all post-Brexit scrutiny functions in the hands of one committee. This would reduce possible duplication in the committees’ work and give MPs a stronger voice vis-à-vis the government. [...] <sup>95</sup>

50. In a letter of 17 December 2020 to the Chair of the House of Lords European Union Committee, the Chancellor of the Duchy of Lancaster said:

I do not [...] believe that it would be proportionate to simply roll over existing [EU] scrutiny arrangements after the end of the Transition Period when the UK’s relationship with the EU will be fundamentally different.<sup>96</sup>

**51. Brexit is done and we agree with the Government that Parliament no longer requires the complex EU scrutiny mechanisms that have existed until this point. What we need now, as a sovereign state exercising that sovereignty, is a new and proportionate mechanism to scrutinise our relationship with the EU. The House no longer requires two select committees with large memberships. In fact, we consider that**

92 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 78

93 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 79

94 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 81

95 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 7–8

96 House of Lords European Union Committee, [Letter from the Chancellor of the Duchy of Lancaster on future parliamentary scrutiny arrangements](#) (17 December 2020), p 1

any new EU Affairs Committee will unavoidably duplicate the work of departmental select committees and members and staff of such a committee will lack the specialist knowledge available to those committees. *We therefore recommend that the Liaison Committee produce recommended allocations of responsibility for oversight of EU-UK relations to individual departmental select committees and itself establishes a sub-committee to co-ordinate this work to ensure important issues are being addressed and minimise duplication. The sub-committee could consist of the Chairs of committees most affected by EU-UK relations.*

## Role

52. The UK-EU relationship will require ongoing scrutiny. As highlighted by Professor Simon Usherwood, this would give “an opportunity for Parliament to be not merely a place that is a convening point and a clearing house for European issues within the UK, but a key axis for EU-UK relations”.<sup>97</sup>

53. Dr White said any such committee should be cross-cutting, rather than department-focused, with an ability to look more broadly than just at specific policy areas which, as she says, may be better delegated to and/or brought to the attention of departmental committees.<sup>98</sup> Professor Usherwood noted that a cross-cutting committee would be particularly appropriate given that the TCA’s dispute resolution mechanism allows cross-linkage, meaning that a dispute in one policy area might have implications for a different Government department.”<sup>99</sup>

54. The areas of the UK-EU relationship that will require ongoing scrutiny are outlined in Chapter 2. The Liaison Committee should produce recommendations for which departmental committee is best placed to focus on the following issues, potentially through use of joint committee or guesting where appropriate:

- Monitoring the implementation and operation of the **EU-UK Trade and Cooperation Agreement**;
- Scrutinising the work of the **Partnership Council** and its specialised committees and working groups;
- Scrutinising the work of **Withdrawal Agreement Joint Committee**;
- Examining the **implementation and operation of the Ireland/Northern Ireland Protocol**;
- Monitoring and scrutinising policies that affect **the rights of EU citizens in the UK and of UK citizens in the EU**;
- Monitoring and examining any **disputes** that arise under any UK-EU agreements;
- Scrutinising any **review of current agreements or consideration of suspension or termination and any negotiations to change or extend the terms of current agreements or make new agreements**;

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97 [Q28](#)

98 [Q20](#)

99 [Q30](#)

- Monitoring developments in **EU law and policy that affect the UK**;
- Developing **interparliamentary relations** with the European Parliament and parliaments in EU Member States

### Powers

55. The Liaison Committee or its sub-committee will require additional formal powers beyond those of most other select committees (i.e. beyond the ability for call for persons, papers and records). As Dr Sara Hagemann told us, “Parliaments that have a lot of influence and are strong in European affairs in particular are those that have formal powers that enable them to directly influence Government positions, so there are institutional reasons for that influence.”<sup>100</sup> For example, Agata Gostyńska-Jakubowska argues that “rather than abolishing the [European Scrutiny Committee] scrutiny reserve completely, parliamentarians should try to retain it in a modified form by amending the procedure to reflect the new post-Brexit institutional architecture.”<sup>101</sup> The Liaison Committee suggests that a further way of Parliament engaging with the Joint Committee would be to require the Government to place particular issues on the agenda of the Joint Committee subject to the EU’s consent.<sup>102</sup>

56. **Whilst of course the UK Government and the EU should rightly have the ability to agree decisions within meetings of the Partnership Council and its specialised committees, Trade Partnership Committee and Trade Specialised Committees, Withdrawal Agreement Joint Committee and its specialised Committees and Joint Consultative Working Group as they see fit, we believe it is also appropriate for Parliament to be able to scrutinise the work of these bodies and hold Ministers to account for the decisions and positions they adopt. As well as having sight of documents in relation to these meetings (both before and afterwards), we recommend that the Liaison Committee should be able to recommend that the Government request that an item be placed on the agendas of such meetings. We think this is a fair compromise in response to the loss of the European Scrutiny Committee’s formal ‘scrutiny reserve’ mechanism. The Government should ensure that the Committee is aware of any deadlines that would need to be met in order for such a request to be successfully made.**

### Use of sub-committees

57. As discussed in the Annex, the House of Lords European Union Committee has many sub-committees which consider issues in greater detail than their parent committee can. As Dr Sara Hagemann pointed out to us:

The House of Lords has one umbrella committee and then sub-committees. [...] this may or may not be desirable in the Commons, but certainly there is a close connection to committees dealing with the more specific policy areas. I would highly recommend not just having the big perspective

100 Q14

101 Centre for European Reform (Agata Gostyńska-Jakubowska), *Westminster’s (continuous) oversight of European affairs post-Brexit* (April 2019), p 5

102 Liaison Committee, Fourth Report of Session 2017–19, *The effectiveness and influence of the select committee system*, HC 1860, para 61

and the big umbrella committee doing the triage part but ensuring that responsibilities are defined for each and every policy area where there are close collaborations with the EU.<sup>103</sup>

58. Agata Gostyńska-Jakubowska recommends entrusting all post-Brexit scrutiny functions to a single European Affairs Committee in the Commons, which could in turn delegate work to sub-committees, much like in the Lords.<sup>104</sup> She is of the view that:

This committee, like other select committees, would have the power to create ad hoc sub-committees. If the committee members thought that juggling [their] main scrutiny tasks was too much, they could delegate some of these roles to sub-committees. That would also give the committee the flexibility to respond quickly to any new, possibly sudden, developments in EU-UK relations without getting in the way of any of its regular tasks.<sup>105</sup>

**59. As the House of Lords European Union Committee has demonstrated, effective use of the sub-committee system can allow committees to cover more ground than would otherwise be the case. While we do not accept Agata Gostyńska-Jakubowska's recommendation of a standing committee, we do consider that use of sub-committees by departmental select committees for EU-UK relationship work would represent a sensible option to them in managing their workloads.**

### **Relationship with other select committees**

60. In addition to the importance of sharing EU staff expertise between select committees, there are other benefits to be drawn from joint working between committees. As Professor Adam Cygan noted in his evidence to us:

Better coordination of EU affairs within Parliament will be essential in order to maximise resources, avoid duplication of inquiries and to build Parliament's capacity as an institution which is monitoring a policy-making and legislative processes in which the UK no longer participates. Thus, some distinction will be required between technical scrutiny work around future possible alignment of UK law with EU law and more substantive policy focused work and oversight of the UK-EU relationship. One change brought about by the parliamentary Brexit process has been that departmental select committees, which had hitherto mainly been peripheral actors in EU scrutiny, became more directly engaged. If this trend continues post [Transition Period], it needs to be managed in order for Parliament to respond to government proposals and utilise resources effectively.<sup>106</sup>

103 [Q7](#)

104 Agata Gostyńska-Jakubowska ([PBS0008](#)) paras 25–26

105 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster's \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 7–8

106 Professor Adam Cygan ([UFR0001](#)) para 12



61. Both Rt Hon Sir David Lidington (when he was Prime Minister Theresa May’s de facto deputy) and Dr Hannah White have noted that, prior to the 2016 referendum result, select committees had very little interest in the EU-related elements of their roles. David Lidington told the House of Lords in 2019 that when he was Europe minister, he found it difficult to get departmental select committees to focus on the European dimension of their business.<sup>107</sup> Whilst Dr White told us in evidence that:

Prior to 2016, EU scrutiny in the House of Commons was pretty siloed and very much seen as the preserve of the European Scrutiny Committee. Although there was a system at the time of trying to have rapporteurs in departmental committees who would take a particular interest in Europe on behalf of their committee, and be contacted by the European Scrutiny Committee if there was something relevant to that committee, it did not really work very well, to be honest. EU issues were dealt with pretty poorly by departmental committees. It just was not seen as a high priority in comparison to all the domestic scrutiny that they could be doing. I would be reluctant to go back to a situation like that.<sup>108</sup>

62. Dr Sara Hagemann highlighted the importance of having a committee in a coordination role “not just [being] a filter and post office to other departmental committees”;<sup>109</sup> a coordination committee would need to “make the different interests and special focuses come together to something that is coherent across the different departmental committees.”<sup>110</sup> The reason this is key is that “apart from the really important co-ordination in one committee, there needs to be the in-depth scrutiny in other committees too.”<sup>111</sup> One of many elements to this is that, as noted by the Liaison Committee, “committees may need to monitor how the EU’s regulatory oversight role is replaced domestically (through a variety of agencies)”.<sup>112</sup>

63. Dr Hannah White suggests that one way of building links with other select committees is that committees “... could make use of guesting procedures to bring together small sub-groups of Members to work with it on different topic areas. In a way, it would be co-opting people with the right expertise for the right task, while being small enough to be nimble and to keep everybody focused on their role within the core committee.”<sup>113</sup>

64. Another important point to note is the expanded remits of departmental committees. As areas of competence have repatriated from the EU to the UK, this has in turn increased the remits of departmental select committees and added an additional layer of complexity to their work. This is one of the benefits of placing staff expertise in the shared resource of a European Affairs Unit to the benefit of multiple select committees.

107 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 2

108 [Q5](#)

109 [Q20](#)

110 [Q20](#)

111 [Q7](#)

112 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 67

113 [Q22](#)

## 4 Interparliamentary relations

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### Relations with the EU

65. Given that EU policy will continue to affect the UK post-Transition Period, many commentators, such as Dr Davor Jančić, Queen Mary University of London, have suggested that Parliament will need “more not less presence in Brussels”<sup>114</sup> and, as the Institute for Government argue, “Parliamentarians should not take a step back from engaging with Europe”.<sup>115</sup> In evidence to us Dr Sara Hagemann noted that “Parliament’s role becomes even more important as the UK is no longer part of decision-making within the EU”.<sup>116</sup>

66. In Professor Simon Usherwood’s view, anything that reduces the British presence in and around EU institutions and policy-making communities raises the chances of inadvertent problems arising.<sup>117</sup> He pointed out that there are a whole range of areas where the EU is going to make decisions and choices that will have material effects on the UK, so the more the UK can be kept in mind as those things are happening, the better chance there is of doing that in a less problematic way.<sup>118</sup> He went on to say that “doing more is always advantageous just because of the dense network of relationships and dynamics that are going on. Weight and consistency across the board is what really matters.”<sup>119</sup>

67. Professor Usherwood also points out that the EU is an intensely lobbied body, with an awful lot of interests trying to have their voices heard, and that the visibility of what might be important to the UK has already dropped in the EU because of the UK’s removal from the formal institutions.<sup>120</sup> The Institute for Government has found however that “other third countries agree that ministerial and parliamentary engagement is a vital way of influencing Brussels. And senior parliamentarians can often be a useful proxy for the Government to discuss difficult issues when ministerial engagement is too sensitive.”<sup>121</sup> Professor Cygan notes that the role of Parliament will need to change from being an actor which is trying to influence the process to one which is potentially just a lobbyist; it is going to be a fundamental change, and the modus operandi is going to have to change.<sup>122</sup>

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114 Dr Davor Jančić, Queen Mary University of London ([PBS0006](#)) para 35

115 Institute for Government, [Parliament after Brexit](#) (May 2019), p 19

116 [Q2](#)

117 [Q26](#)

118 [Q26](#)

119 [Q27](#)

120 [Q26](#)

121 Institute for Government, [Parliament after Brexit](#) (May 2019), p 19

122 Oral evidence taken before the European Scrutiny Committee on 16 October 2019, HC (2019) 17, [Q120](#) [Kelvin Hopkins]

### **Formal relations: the Parliamentary Partnership Assembly**

68. The importance of ongoing UK-EU parliamentary dialogue was referenced in the Political Declaration, agreed between the UK and the EU in October 2019, which stated:

The Parties support the establishment of a dialogue between the European Parliament and the Parliament of the United Kingdom, where they see fit, in order for the legislatures to share views and expertise on issues related to the future relationship.<sup>123</sup>

69. In July 2020 this Committee—along with our equivalent committee in the House of Lords—wrote to the Speakers of both Houses<sup>124</sup> and to the Government<sup>125</sup> to ask that, as part of the negotiations, there be an agreement on the formal framework for the institutional arrangements necessary to support effective inter-parliamentary dialogue between the UK and EU from the start of 2021. This was because the Government’s position until that point had been to support interparliamentary dialogue in principle, but that the establishment of such dialogue is a matter for Parliament, not the Government.<sup>126</sup> This Committee acknowledged the point of constitutional principle, but noted that the Government alone represented the UK in the negotiations, not Parliament.

70. The Chancellor of the Duchy of Lancaster responded in August 2020 and told us he was in favour of parliamentarians working together, and encouraged inter-parliamentary dialogue.<sup>127</sup> He confirmed he had carefully considered the recent correspondence on this issue and was “happy to confirm that in negotiations with the EU we will seek to include provision that would allow for inter-parliamentary dialogue, recognising your position that much of the detail of its operation is properly a matter for Parliament and can follow later, if this reflects the view of Parliament.”<sup>128</sup>

71. As promised by the Government, within the EU-UK Trade and Cooperation Agreement both parties agreed the following in relation to future parliamentary cooperation:

The European Parliament and the Parliament of the United Kingdom may establish a Parliamentary Partnership Assembly consisting of Members of the European Parliament and of Members of the Parliament of the United Kingdom, as a forum to exchange views on the partnership.

Upon its establishment, the Parliamentary Partnership Assembly:

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123 HM Government, *Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom*, 19 October 2019, para 125

124 Committee on the Future Relationship with the European Union, *Letter to Speakers regarding interparliamentary relations with the European Parliament* (21 July 2020)

125 Committee on the Future Relationship with the European Union, *Letter to the Chancellor of the Duchy of Lancaster regarding interparliamentary relations with the European Parliament* (21 July 2020)

126 For example: Oral evidence taken on 27 April 2020, HC (2019–21) 203, [Q189](#) [Seema Malhotra]

127 HM Government (Chancellor of the Duchy of Lancaster), *Letter to the Speaker House of Commons regarding interparliamentary relations with the European Parliament* (14 August 2020), p 1

128 HM Government (Chancellor of the Duchy of Lancaster), *Letter to the Speaker House of Commons regarding interparliamentary relations with the European Parliament* (14 August 2020), p 1

- (a) may request relevant information regarding the implementation of this Agreement [the EU-UK Trade and Cooperation Agreement] and any supplementing agreement from the Partnership Council, which shall then supply that Assembly with the requested information;
- (b) shall be informed of the decisions and recommendations of the Partnership Council; and
- (c) may make recommendations to the Partnership Council.<sup>129</sup>

72. The European Parliament currently has a few models for managing interparliamentary relations with third countries, one of which is the Assembly model proposed in the EU-UK Trade and Cooperation Agreement. All models involve the creation of a European Parliament ‘standing delegation’ to that country. The Assembly model involves representatives from more than two parliaments convening in regular, formal meetings.

**73. The UK may have left the EU, but it is still in Europe, and our cultural and economic ties continue to be important. We support the creation of the UK-EU Parliamentary Partnership Assembly, as provided for in the EU-UK Trade and Cooperation Agreement. We urge the Government and the parliamentary authorities to set up the Assembly as quickly as possible; there are issues that need to be discussed now.**

**74. We recommend that the Parliamentary authorities should provide the resources necessary to facilitate the UK branch of the Assembly (which should include representation from both Houses), including a dedicated secretariat.**

**75. The party balance on the Commons side of the delegation should reflect the party balance in the House. The delegation should include representation from all UK nations.**

### **Informal engagement**

76. Dr Jančić has said that even though British parliamentarians will not have the right to vote within European interparliamentary forums, they will be an important asset in terms of putting matters on the EU agenda or proposing ideas for policy development that could resonate with EU colleagues and allow the UK Parliament to exercise a degree of indirect influence after Brexit.<sup>130</sup> He encouraged Parliament to set out “a clear agenda of international engagement” with other national parliaments to help “realise the goal of constructing a global Britain”<sup>131</sup> and to reinvent Westminster as “a leader and engine for global parliamentary diplomacy”.<sup>132</sup> Professor Armstrong agreed, urging Parliament to engage in more “upstream” activity, contributing to EU consultation and evaluation processes which precede new legislative proposals and are open to non-EU actors.<sup>133</sup>

129 HM Government, *EU-UK Trade and Cooperation Agreement*, 24 December 2020, p 16

130 Dr Davor Jančić, Queen Mary University of London ([PBS0006](#)) para 37

131 Dr Davor Jančić, Queen Mary University of London ([PBS0006](#)) para 35

132 Dr Davor Jančić, Queen Mary University of London ([PBS0006](#)) para 44

133 Kenneth Armstrong ([PBS0010](#)) para 33

77. Agata Gostyńska-Jakubowska argues that, in order to maximise its influence over EU decision-making, the UK should follow the example set by Norway of intensifying bilateral contacts with individual EU Member States and strengthening its presence in EU capitals holding (or due to hold) the presidency of the Council.<sup>134</sup>

78. The importance of maintaining a presence in EU interparliamentary forums has been noted. For example, the Conference of Parliamentary Committees for European Affairs (COSAC), the Interparliamentary Conference for CFSP-CSDP, the Joint Parliamentary Scrutiny Group on Europol and Eurojust, and a wide range of more informal interparliamentary meetings on specific policy issues of common interest. In Professor Cygan's view "attendance at COSAC could be a worthwhile strategy for Parliament to pursue, especially [...] in the context of the Northern Ireland Protocol. It would also allow the UK Parliament to exert its 'soft power' more directly to national parliaments in the EU-27."<sup>135</sup> According to Professor Armstrong, "what is important about that is creating a flow of information and level of contact that allows scrutiny to operate effectively, because it means that you do not have to wait for somebody else to provide you with information."<sup>136</sup>

79. Another important factor—as emphasised by Dr Hannah White—is ensuring that serious thought is given to facilitating how the devolved administrations will be able to play a role in UK parliamentary engagement with the EU's institutions.<sup>137</sup> It is important that UK-wide views are represented in future discussions with the EU.

### *EU willingness to engage*

80. The EU's current 'Guidelines for Interparliamentary Cooperation', state that one of the main objectives of interparliamentary cooperation is "to promote cooperation with parliaments from third countries."<sup>138</sup> Non-Member State parliaments, including those of Iceland, Norway and Turkey regularly request and receive invitations to attend COSAC and other interparliamentary events. That said, invitations to interparliamentary conferences and meetings are not automatic for non-Member States, with different criteria applying to different events. At the Virtual COSAC on 30 November 2020, Gunter Krichbaum, Co-Chair of COSAC, advised that non-Member State countries would be welcome to attend COSAC in future but only when there was a sufficiently strong thematic link between the agenda and the parliament's concerns.

81. On the question of whether the EU would welcome continued UK engagement, Dr Hagemann told us she was "very sure that other national representations and the EU institutions will welcome a British presence in Brussels and will see Britain as a key ally in many policy areas."<sup>139</sup> In addition, Agata Gostyńska-Jakubowska has pointed out that in 2017, the majority of committees responsible for European affairs in the EU Member

134 Centre for European Reform (Agata Gostyńska-Jakubowska), *Westminster's (continuous) oversight of European affairs post-Brexit* (April 2019), p 6

135 Professor Adam Cygan (UFR0001) para 16

136 Oral evidence taken before the European Scrutiny Committee on 4 September 2019, HC (2017–19) 2493, [Q82](#) [Mr Fysh]

137 [Q25](#)

138 Conference of Speakers of the European Union Parliaments, *Guidelines for Inter-parliamentary Cooperation in the European Union* (June 2008), p 3

139 [Q26](#)

States indicated their willingness to continue to invite Westminster representatives to inter-parliamentary conferences post-Brexit.<sup>140</sup> She argues that “the UK Parliament should exploit this support to request participation in these inter-parliamentary forums”.<sup>141</sup>

### *UK Parliament presence in Brussels*

82. Many submitters of written evidence to the European Scrutiny Committee noted the importance of “having eyes and ears on the ground”<sup>142</sup> in Brussels, predominantly through the UK’s National Parliament Office (NPO) based there. Dr Hagemann agreed with this, telling us in relation to the NPO that she would recommend that the UK tries to be as well represented in Brussels as possible, and maintains the current level of representation when outside the EU.<sup>143</sup> Professor Cygan is also of the view that Parliament “would benefit from a well-resourced UK Parliamentary representation in Brussels that would enable Parliament to have direct contacts with EU institutions and allow it to go ‘upstream’ in the EU decision-making process.”<sup>144</sup> This was because it “could help Parliament identify, as early as possible, legislative proposals that may be of relevance to the UK.”<sup>145</sup> Agata Gostyńska-Jakubowska also agrees noting that the work of the NPO becomes even more important after Brexit due to its ability to provide useful insights into EU positions.<sup>146</sup>

83. In terms of whether the EU would be willing continue to ‘host’ the NPO in Brussels post-Transition Period, aside from the fact that this facility is already provided to Norway (and it is not an EU Member State),<sup>147</sup> Klaus Welle, Secretary General of the European Parliament, wrote to the Clerks of both Houses on 22 December 2020 indicating that the European Parliament is indeed content to offer continued hosting of the Commons and the Lords in the European Parliament, including office accommodation, subject to appropriate practical arrangements in light of the evolving relations between the EU and the UK.

84. ***To ensure the UK’s interests continue to be represented across the continent, the UK Parliament should increase its bilateral and multilateral efforts to engage informally with the EU’s institutions and Member States. Particular attention should be paid to intensifying bilateral relationships with the parliaments of EU Member States holding (or due to hold) the presidency of the Council. The Government should facilitate this, as necessary. Engagement mechanisms should include representation from the devolved administrations. The House of Commons authorities should provide the resources necessary to achieve this heightened engagement, including continuing to fund the National Parliament Office—Parliament’s physical ‘eyes and ears’—in Brussels.***

140 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 9

141 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 9

142 For example: Oral evidence taken before the European Scrutiny Committee on 16 October 2019, HC (2019) 17, [Q124](#) [Kelvin Hopkins]

143 [Q26](#)

144 Professor Adam Cygan ([UFR0001](#)) para 5

145 Professor Adam Cygan ([UFR0001](#)) para 5

146 Centre for European Reform (Agata Gostyńska-Jakubowska), [Westminster’s \(continuous\) oversight of European affairs post-Brexit](#) (April 2019), p 9

147 [Q29](#)

85. **Parliament should participate in European inter-parliamentary forums and events where possible, even if only with observer/non-voting status. It should look to engage with COSAC and other interparliamentary conferences. The access to information and soft power gained from such forums will aid Parliament’s ability to scrutinise and influence. *The Government should also set out its plans for its future (post-UKREP) diplomatic representation in Brussels, and in doing so should explain how this new body will work with Parliament, for example by briefing members of committees and the Parliamentary Partnership Assembly when they are visiting Brussels on parliamentary business.***

## Relations within the UK

86. Absent any formal interparliamentary mechanisms, the Interparliamentary Forum on Brexit was set up by the Chairs and Conveners of Committees scrutinising Brexit-related issues in the Scottish Parliament, National Assembly for Wales, House of Commons and House of Lords. It is intended to provide a forum to discuss the process of the UK’s withdrawal from the European Union, and collective scrutiny of that process in legislatures across the UK.<sup>148</sup> It held its first meeting on 12 October 2017. The intention was to establish a setting for discussion of common issues between the devolved legislatures and the two Houses, including implications for the future of the devolution settlements.<sup>149</sup> It has met quarterly in the period to now, with officials-only meetings taking place since the covid-19 lockdowns.

87. In the view of UK in a Changing Europe:

The Interparliamentary Forum on Brexit [...] has demonstrated how informal networks can provide a way to manage coordination on issues which cut across the UK Parliament and devolved legislatures’ interests. Something similar should be the absolute minimum required in future.<sup>150</sup>

88. They go on to say that:

It is in the spirit of information exchange and knowledge building that the Interparliamentary Forum on Brexit has thrived. Reflecting this, it does not undertake any formal scrutiny and meets in private—including with Ministers. It has started to develop something of a common voice for parliaments—through sending letters to UK Government Ministers highlighting areas of joint concern.<sup>151</sup>

89. Now that the Transition Period has ended and Brexit is done, there is uncertainty about the future of the Forum, and UK interparliamentary relations more generally. Whilst there is a general consensus that there will be a need for interparliamentary dialogue on post-Brexit issues such as scrutiny of the EU-UK Trade and Cooperation Agreement, common frameworks, the UK Internal Market Act and the Northern Ireland Protocol, no decision has been taken on how this should be established or what changes should occur to the Forum.

148 The Scottish Parliament, [‘Interparliamentary Forum on Brexit’](#), accessed 3 January 2021

149 UK Parliament, [‘Interparliamentary Forum on Brexit’](#) (12 October 2017)

150 The UK in a Changing Europe (Maddy Thimont Jack and Hannah White), [‘Parliament and Brexit’](#) (March 2020), p 33

151 The UK in a Changing Europe (Jack Sheldon and Hedydd Phylip), [‘Parliament and Brexit’](#) (March 2020), p 34

90. In 2019, the Liaison Committee inquiry into select committee effectiveness concluded that they:

noted [...] the demand for greater [UK] interparliamentary working, which should be an aim whatever the nature of the UK's future relationship with the EU turns out to be. Successive reports since devolution have lamented the lack of attention given to this aspect the new constitutional settlement. But this idea will continue to languish unfulfilled if some proper resources are not dedicated to it. Neither will it work if it is seen as a purely Westminster-driven initiative. We recommend that the Clerk of the House negotiate with the chief executives of the devolved legislatures to establish a jointly-owned "shadow" secretariat of a UK-wide co-ordinating body to undertake feasibility studies and prepare options for the establishment of an effective, but not over-formalised, UK interparliamentary body based around the committees of each UK legislature.<sup>152</sup>

91. *We agree with the Liaison Committee that there should be an effective, but not over-formalised, UK interparliamentary body based around the committees of each UK legislature. As part of its work this new forum would cover important post-Transition topics such as the EU-UK Trade and Cooperation Agreement, common frameworks, the UK Internal Market Act and the Northern Ireland Protocol. However, until such a body is created, the Interparliamentary Forum on Brexit should continue its work, under a new name which reflects that Brexit is done. The UK Parliament should work with the other UK administrations to identify the Forum's priorities.*

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152 Liaison Committee, Fourth Report of Session 2017–19, [The effectiveness and influence of the select committee system](#), HC 1860, para 294



## Conclusions and recommendations

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### The need for scrutiny in 2021 and beyond

1. It will be important for Parliament to continue to scrutinise the UK's relationship with the EU. There are compelling political and policy reasons for doing so beyond the process and procedural reasons built into the Agreements. *We recommend that the Government brings forward proposals for reform of the current system for scrutiny of European affairs by the end of April at the latest so that the House can decide what it wants to do. In drawing up its proposals we recommend that the Government consult the European Scrutiny Committee, the Liaison Committee, the Procedure Committee and the chairs of committees that are likely to be the most closely involved in European Affairs going forward.* (Paragraph 39)
2. *We recommend that the Government provide a statement to the House after each meeting of the Partnership Council and of the Withdrawal Agreement Joint Committee. Such statements should include details of any decisions reached by these bodies and should be followed by an opportunity for questions.* (Paragraph 40)

### Next steps: a proposed way forward

3. Brexit is done and we agree with the Government that Parliament no longer requires the complex EU scrutiny mechanisms that have existed until this point. What we need now, as a sovereign state exercising that sovereignty, is a new and proportionate mechanism to scrutinise our relationship with the EU. The House no longer requires two select committees with large memberships. In fact, we consider that any new EU Affairs Committee will unavoidably duplicate the work of departmental select committees and members and staff of such a committee will lack the specialist knowledge available to those committees. *We therefore recommend that the Liaison Committee produce recommended allocations of responsibility for oversight of EU-UK relations to individual departmental select committees and itself establishes a sub-committee to co-ordinate this work to ensure important issues are being addressed and minimise duplication. The sub-committee could consist of the Chairs of committees most affected by EU-UK relations.* (Paragraph 51)
4. Whilst of course the UK Government and the EU should rightly have the ability to agree decisions within meetings of the Partnership Council and its specialised committees, Trade Partnership Committee and Trade Specialised Committees, Withdrawal Agreement Joint Committee and its specialised Committees and Joint Consultative Working Group as they see fit, we believe it is also appropriate for Parliament to be able to scrutinise the work of these bodies and hold Ministers to account for the decisions and positions they adopt. *As well as having sight of documents in relation to these meetings (both before and afterwards), we recommend that the Liaison Committee should be able to recommend that the Government request that an item be placed on the agendas of such meetings. We think this is a fair compromise in response to the loss of the European Scrutiny Committee's formal*

*'scrutiny reserve' mechanism. The Government should ensure that the Committee is aware of any deadlines that would need to be met in order for such a request to be successfully made. (Paragraph 56)*

5. As the House of Lords European Union Committee has demonstrated, effective use of the sub-committee system can allow committees to cover more ground than would otherwise be the case. While we do not accept Agata Gostyńska-Jakubowska's recommendation of a standing committee, we do consider that use of sub-committees by departmental select committees for EU-UK relationship work would represent a sensible option to them in managing their workloads. (Paragraph 59)

### Interparliamentary relations

6. The UK may have left the EU, but it is still in Europe, and our cultural and economic ties continue to be important. We support the creation of the UK-EU Parliamentary Partnership Assembly, as provided for in the EU-UK Trade and Cooperation Agreement. *We urge the Government and the parliamentary authorities to set up the Assembly as quickly as possible; there are issues that need to be discussed now. (Paragraph 73)*
7. *We recommend that the Parliamentary authorities should provide the resources necessary to facilitate the UK branch of the Assembly (which should include representation from both Houses), including a dedicated secretariat. (Paragraph 74)*
8. *The party balance on the Commons side of the delegation should reflect the party balance in the House. The delegation should include representation from all UK nations. (Paragraph 75)*
9. *To ensure the UK's interests continue to be represented across the continent, the UK Parliament should increase its bilateral and multilateral efforts to engage informally with the EU's institutions and Member States. Particular attention should be paid to intensifying bilateral relationships with the parliaments of EU Member States holding (or due to hold) the presidency of the Council. The Government should facilitate this, as necessary. Engagement mechanisms should include representation from the devolved administrations. The House of Commons authorities should provide the resources necessary to achieve this heightened engagement, including continuing to fund the National Parliament Office—Parliament's physical 'eyes and ears'—in Brussels. (Paragraph 84)*
10. Parliament should participate in European inter-parliamentary forums and events where possible, even if only with observer/non-voting status. It should look to engage with COSAC and other interparliamentary conferences. The access to information and soft power gained from such forums will aid Parliament's ability to scrutinise and influence. *The Government should also set out its plans for its future (post-UKREP) diplomatic representation in Brussels, and in doing so should explain how this new body will work with Parliament, for example by briefing members of committees and the Parliamentary Partnership Assembly when they are visiting Brussels on parliamentary business. (Paragraph 85)*

11. *We agree with the Liaison Committee that there should be an effective, but not over-formalised, UK interparliamentary body based around the committees of each UK legislature. As part of its work this new forum would cover important post-Transition topics such as the EU-UK Trade and Cooperation Agreement, common frameworks, the UK Internal Market Act and the Northern Ireland Protocol. However, until such a body is created, the Interparliamentary Forum on Brexit should continue its work, under a new name which reflects that Brexit is done. The UK Parliament should work with the other UK administrations to identify the Forum's priorities. (Paragraph 91)*

## Annex: Current and future EU scrutiny mechanisms within the House of Lords committee system

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The principal body for considering EU documents and activities in the House of Lords is the **European Union Committee** (EUC).<sup>153</sup> The EUC, assisted by five Sub-Committees, sifts EU documents and inquires into other EU-related matters, in advance of decisions being taken on them in Brussels, in order to hold the Government to account for its decisions at EU level. The Committee scrutinises EU legislative proposals, conducts inquiries and prepare reports, much like the corresponding European Scrutiny Committee in the House of Commons.

Since the UK's EU withdrawal in January 2020, the European Union Committee has held an over-arching inquiry into the *Progress of UK-EU Future Relationship Negotiations*.<sup>154</sup> Among the topics covered in the Committee's reports are the beginning of the future relationship negotiations;<sup>155</sup> the Northern Ireland Protocol;<sup>156</sup> the practice of scrutinising treaties;<sup>157</sup> and the UK Internal Market Bill.<sup>158</sup>

As well as conducting cross-cutting scrutiny work, the EUC coordinates the work of five subject-specific Sub-Committees. The Sub-Committees scrutinise legislation and conduct inquiries on topics within their policy remit. They are:

- EU Environment Sub-Committee<sup>159</sup>
- EU Goods Sub-Committee<sup>160</sup>
- EU Security and Justice Sub-Committee<sup>161</sup>
- EU Services Sub-Committee<sup>162</sup>
- EU International Agreements Sub-Committee<sup>163</sup>

As well as leading on scrutiny of the EU-UK Trade and Cooperation Agreement, the **EU International Agreements Sub-Committee** also coordinates House of Lords scrutiny of free trade agreements that the UK is looking to conclude with other countries.

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153 House of Lords, '[European Union Committee](#)', accessed 18 November 2020

154 House of Lords, '[Progress of UK-EU future relationship negotiations](#)', accessed 18 November 2020

155 House of Lords, Report pursuant to section 29 of the European Union (Withdrawal Agreement) Act 2020: Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement, Eighth Report of the European Union Committee, Session 2019–21, [HL Paper 32](#)

156 House of Lords, The Protocol on Ireland/Northern Ireland, Ninth Report of the European Union Committee, Session 2019–21, [HL Paper 66](#)

157 House of Lords, Treaty scrutiny: working practices, Eleventh Report of the European Union Committee, Session 2019–21, [HL Paper 97](#)

158 House of Lords, The United Kingdom Internal Market Bill: Part 5, Fourteenth Report of the European Union Committee, Session 2019–21, [HL Paper 147](#)

159 House of Lords, '[EU Environment Sub-Committee](#)', accessed 18 November 2020

160 House of Lords, '[EU Goods Sub-Committee](#)', accessed 18 November 2020

161 House of Lords, '[EU Security and Justice Sub-Committee](#)', accessed 18 November 2020

162 House of Lords, '[EU Services Sub-Committee](#)', accessed 18 November 2020

163 House of Lords, '[EU International Agreements Sub-Committee](#)', accessed 18 November 2020

The House of Lords also has a **Secondary Legislation Scrutiny Committee**<sup>164</sup> which considers all statutory instruments (SIs) subject to parliamentary procedure in the Lords. It has taken on an additional sifting role examining SIs tabled as proposed negatives, pursuant to the EU (Withdrawal) Act 2018.

In addition, the House of Lords has a **Common Frameworks Scrutiny Committee**<sup>165</sup> which assess new agreements between the UK and devolved governments on how they will coordinate in a range of policy areas after the end of the Transition Period.<sup>166</sup>

On 15 December 2020 the House of Lords Liaison Committee published a review of House of Lords investigative and scrutiny committees.<sup>167</sup> The review proposed the creation of a new **European Affairs Committee**<sup>168</sup> to replace their existing European Union Committee. They proposed this for many of the same reasons we are suggesting changes to the House of Commons system of scrutiny. For example, the remit of the House of Lords European Affairs Committee would cover:

- Consideration of matters relating to the UK-EU relationship;
- Scrutiny of ongoing UK-EU negotiations;
- Scrutiny of the implementation of agreements between the UK and the EU, including the Withdrawal Agreement and any future relationship agreement concluded before the end of 2020 [the EU-UK Trade and Cooperation Agreement];
- Scrutiny of the operation of the Protocol on Ireland/ Northern Ireland, and of new EU laws applying in Northern Ireland.<sup>169</sup>

The review also proposes the creation of an **International Agreements Committee** to replace their EU International Agreements Sub-Committee.<sup>170</sup>

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164 House of Lords, '[Secondary Legislation Scrutiny Committee](#)', accessed 18 November 2020

165 House of Lords, '[Common Frameworks Scrutiny Committee](#)', accessed 6 January 2021

166 House of Lords, '[Lords Committee to scrutinise post-Brexit common frameworks](#)', accessed 6 January 2021

167 House of Lords, Review of investigative and scrutiny committees: strengthening the thematic structure through the appointment of new committees, Fifth Report of the Liaison Committee, Session 2019–21, [HL Paper 193](#)

168 House of Lords, Review of investigative and scrutiny committees: strengthening the thematic structure through the appointment of new committees, Fifth Report of the Liaison Committee, Session 2019–21, [HL Paper 193](#), para 23

169 House of Lords, Review of investigative and scrutiny committees: strengthening the thematic structure through the appointment of new committees, Fifth Report of the Liaison Committee, Session 2019–21, [HL Paper 193](#), para 22

170 House of Lords, Review of investigative and scrutiny committees: strengthening the thematic structure through the appointment of new committees, Fifth Report of the Liaison Committee, Session 2019–21, [HL Paper 193](#), para 38

## Formal minutes

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Thursday 14 January 2021

Virtual meeting  
Members present:

Hilary Benn, in the Chair

Lee Anderson	Nigel Mills
Mr Peter Bone	Nicola Richards
Joanna Cherry QC	Gary Sambrook
Mark Eastwood	Mr Barry Sheerman
Florence Eshalomi	Jane Stevenson
Sally-Ann Hart	Matt Vickers
Antony Higginbotham	Dr Jamie Wallis
Stephen Kinnock	Dr Philippa Whitford
Seema Malhotra	

Draft Report (*The shape of future parliamentary scrutiny of UK-EU relations*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 50 read and agreed to.

Paragraph 51 read, as follows:

**Brexit is done and we agree with the Government that Parliament no longer requires the complex EU scrutiny mechanisms that have existed until this point. What we need now, as a sovereign state exercising that sovereignty, is a new and proportionate mechanism to scrutinise our relationship with the EU. We believe that a single European Affairs Committee is all that is now needed; the House no longer requires two select committees with large memberships. *Given that what we are proposing requires a revision of the existing mechanisms for EU scrutiny within the House of Commons committee structure, we recommend that a European Affairs Committee be set up under a temporary Standing Order, initially until the end of this Parliament, thereby allowing a decision to be made after that period as to whether it is working effectively, needs to be adapted, or whether it should end. Proposed Standing Orders for the creation of a European Affairs Committee can be found in Annex 1.***

Amendment proposed, in line 5, to leave out from, “the EU” to “the House no longer requires”.—(*Nigel Mills*.)

Question put, That the Amendment be made.

The Committee divided:

Ayes, 11	Noes, 5
Lee Anderson	Joanna Cherry QC
Mr Peter Bone	Florence Eshalomi
Mark Eastwood	Stephen Kinnock
Sally-Ann Hart	Seema Malhotra
Antony Higginbotham	Dr Philippa Whitford
Nigel Mills	
Nicola Richards	
Gary Sambrook	
Jane Stevenson	
Matt Vickers	
Dr Jamie Wallis	

Question accordingly agreed to.

An Amendment proposed, in line 7, leave out from “**large memberships.**” to the end of the paragraph and insert “**In fact we consider that any new EU Affairs Committee will unavoidably duplicate the work of departmental select committees and members and staff of such a committee will lack the specialist knowledge available to those committees. We therefore recommend that the Liaison Committee produce recommended allocations of responsibility for oversight of EU-UK relations to individual departmental select committees and itself establishes a sub-committee to co-ordinate this work to ensure import issues are being addressed and minimise duplication. The sub-committee could consist of the Chairs of committees most affected by EU-UK relations.**”—(Nigel Mills.)

Question put, That the Amendment be made.

The Committee divided:

Ayes, 11	Noes, 5
Lee Anderson	Joanna Cherry QC
Mr Peter Bone	Florence Eshalomi
Mark Eastwood	Stephen Kinnock
Sally-Ann Hart	Seema Malhotra
Antony Higginbotham	Dr Philippa Whitford
Nigel Mills	
Nicola Richards	
Gary Sambrook	
Jane Stevenson	
Matt Vickers	
Dr Jamie Wallis	

Question accordingly agreed to.

Paragraph 51, as amended, agreed to.

Paragraph 52 read as follows:

The UK-EU relationship will require ongoing scrutiny and a new European Affairs Committee should be the primary ‘owner’ of that scrutiny. As highlighted by Professor Simon Usherwood, this would give “an opportunity for Parliament to be not merely a place that is a convening point and a clearing house for European issues within the UK, but a key axis for EU-UK relations”.

Amendment proposed, in line 1, to delete from “require ongoing scrutiny” to “As highlighted by”.—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 52, as amended, agreed to.

Paragraph 53 read and agreed to.

Paragraph 54, read as follows:

The areas of the UK-EU relationship that will require ongoing scrutiny are outlined in Chapter 2. In summary, the proposed European Affairs Committee should focus on:

- Monitoring the implementation and operation of the **EU-UK Trade and Cooperation Agreement**;



- Scrutinising the work of the **Partnership Council** and its specialised committees and working groups
- Scrutinising the work of **Withdrawal Agreement Joint Committee**;
- Examining the **implementation and operation of the Ireland/Northern Ireland Protocol**;
- Monitoring and scrutinising policies that affect **the rights of EU citizens in the UK and of UK citizens in the EU**;
- Monitoring and examining any **disputes** that arise under any UK-EU agreements;
- Scrutinising any **review of current agreements or consideration of suspension or termination and any negotiations to change or extend the terms of current agreements or make new agreements**;
- Monitoring developments in **EU law and policy that affect the UK**;
- Developing **interparliamentary relations** with the European Parliament and parliaments in EU Member States”

Amendment proposed, in line 2, to delete from “in Chapter 2.” to the end of line 3 and insert “The Liaison committee should produce recommendations for which departmental committee is best placed to focus on the following issues, potentially through use of joint committee or guesting where appropriate:”.—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson  
Mr Peter Bone  
Mark Eastwood  
Sally-Ann Hart  
Antony Higginbotham  
Nigel Mills  
Nicola Richards  
Gary Sambrook  
Jane Stevenson  
Matt Vickers  
Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC  
Florence Eshalomi  
Stephen Kinnock  
Seema Malhotra  
Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 54, as amended, agreed to.

Paragraph 55, read as follows:

*We recommend that the remit of a European Affairs Committee should cover three core areas: (1) implementation and operation of the Withdrawal Agreement, (2) implementation and operation of the EU-UK Trade and Cooperation Agreement, and (3) the UK's relationship with the EU. The Committee should have a cross-cutting thematic role, covering all Government departments. The Cabinet Office should therefore be responsible for coordinating the provision of evidence to the Committee on behalf of the Government.*

Question put, that paragraph 55, stand part of the Report.

The Committee divided:

**Ayes, 5**

Joanna Cherry QC  
Florence Eshalomi  
Stephen Kinnock  
Seema Malhotra  
Dr Philippa Whitford

**Noes, 11**

Lee Anderson  
Mr Peter Bone  
Mark Eastwood  
Sally-Ann Hart  
Antony Higginbotham  
Nigel Mills  
Nicola Richards  
Gary Sambrook  
Jane Stevenson  
Matt Vickers  
Dr Jamie Wallis

Question accordingly disagreed to.

Paragraph 56 (now paragraph 55), read as follows:

For a European Affairs Committee to be effective in its new role, it will require additional formal powers beyond those of most other select committees (i.e. beyond the ability for call for persons, papers and records). As Dr Sara Hagemann told us, “Parliaments that have a lot of influence and are strong in European affairs in particular are those that have formal powers that enable them to directly influence Government positions, so there are institutional reasons for that influence.” For example, Agata Gostyńska-Jakubowska argues that “rather than abolishing the [European Scrutiny Committee] scrutiny reserve completely, parliamentarians should try to retain it in a modified form by amending the procedure to reflect the new post-Brexit institutional architecture.” The Liaison Committee suggests

that a further way of Parliament engaging with the Joint Committee would be to require the Government to place particular issues on the agenda of the Joint Committee subject to the EU's consent.

Amendment proposed, in line 1, delete from the beginning of the sentence to “additional formal powers” and insert “The Liaison Committee or its sub-committee will require”.—  
(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

Ayes, 11	Noes, 5
Lee Anderson	Joanna Cherry QC
Mr Peter Bone	Florence Eshalomi
Mark Eastwood	Stephen Kinnock
Sally-Ann Hart	Seema Malhotra
Antony Higginbotham	Dr Philippa Whitford
Nigel Mills	
Nicola Richards	
Gary Sambrook	
Jane Stevenson	
Matt Vickers	
Dr Jamie Wallis	

Question accordingly agreed to.

Paragraph 56 (now paragraph 55), as amended, agreed to.

Paragraph 57 (now paragraph 56) read as follows:

**Whilst of course the UK Government and the EU should rightly have the ability to agree decisions within meetings of the Partnership Council and its specialised committees, Trade Partnership Committee and Trade Specialised Committees, Withdrawal Agreement Joint Committee and its specialised Committees and Joint Consultative Working Group as they see fit, we believe it is also appropriate for Parliament to be able to scrutinise the work of these bodies and hold Ministers to account for the decisions and positions they adopt. *As well as having sight of documents in relation to these meetings (both before and afterwards), we recommend that a European Affairs Committee should be able to recommend that the Government request that an item be placed on the agendas of such meetings. We think this is a fair compromise in response to the loss of the European Scrutiny Committee's formal 'scrutiny reserve' mechanism. The Government should ensure the Committee is aware of any deadlines that would need to be met in order for such a request to be successfully made.***

Amendment proposed, in line 9, delete from “we recommend” to “should be able” and insert “the Liaison Committee”.—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 57 (now paragraph 56), as amended, agreed to.

Paragraphs 58 to 63 read as follows:

**Membership**

58. There is currently a large disparity in the membership numbers of Commons select committees. This Committee (the Committee on the Future Relationship with the EU) has 21 members, the European Scrutiny Committee has 16 members and the Foreign Affairs Committee has 11 members. Larger committees tend to come about due to two, often linked, issues: (1) sensitivity/politicisation of topics, and (2) the need for representation from a wider number of political parties and/or UK nations. In terms of what works best, Dr White told us that:

I would go for a smaller committee than either of the EU committees that we have at present. The reason why your Committee and the European Scrutiny Committee have been large in the past has been to do with the politics and the need to represent lots of different viewpoints. I hope that, going forward now, that might be slightly less necessary, that the EU question is settled to a large degree, and that you could have a smaller, more efficient committee, because smaller committees of the size of other departmental committees of 11 tend to work better.

59. Dr White also pointed out however, in relation to the need for UK-wide representation, that:

I know that past practice has been, among the usual channels, to ensure that, where there are particular interests in different policy areas, representatives of smaller parties get to be represented where the formula for setting who would be on an 11-member committee would not normally give them representation. A committee focused on the UK's future relationship with the EU is one where you would need to ensure that smaller parties that wanted to were able to be represented. The Northern Ireland issue [...] is very significant for the Westminster Parliament, given the significance of the Northern Ireland protocol moving forward and the scrutiny of that.

**60. The membership size of a European Affairs Committee is a tight balancing act. On one hand we know that smaller committees tend to be more nimble, specialised and effective. On the other hand, we view it as essential that all constituent parts of the UK are fairly represented. This is especially pertinent to Northern Ireland, which will continue to be more closely aligned to the EU than the rest of the UK. We recommend that the size of a European Affairs Committee should be broadly in line with the size of the departmental and other cross-cutting committees. It is important, however, that all four UK nations be fairly represented and, when necessary, the size of the Committee should be increased to achieve this objective.**

#### **Elected Chair**

61. The Liaison Committee's Report on select committee effectiveness contains a section on the impact of elected chairs which concludes that "the relevant changes to Standing Order No. 122B be made to extend chair elections to all select committees." This was for three main reasons. Firstly, because of the positive effect they had on the gender diversity of chairs. Secondly, because "there is strong anecdotal evidence to suggest that elections have led to more confident committees, with an increasing willingness to innovate and push the boundaries." And finally, because it enhances the credibility of the committee system.

62. Select committee chairs elected by the House are now the norm rather than the exception. In the view of Dr Hannah White, "in any [European] committee system that is designed going forward, it is really important that the chair of the committee is elected, in line with best practice across the rest of the committee system."

**63. It is no coincidence that the increasing prominence of select committees has coincided with the increasing number of select committees with chairs elected by the House. In order to provide the level of authority and legitimacy that a European Affairs Committee would need, we recommend that any such committee has a chair elected by the House of Commons, as is now normal practice for most select committees.**

Question put, That paragraphs 58 to 63 stand part of the Report.

The Committee divided:

**Ayes, 5**

Joanna Cherry QC  
Florence Eshalomi  
Stephen Kinnock  
Seema Malhotra  
Dr Philippa Whitford

**Noes, 11**

Lee Anderson  
Mr Peter Bone  
Mark Eastwood  
Sally-Ann Hart  
Antony Higginbotham  
Nigel Mills  
Nicola Richards  
Gary Sambrook  
Jane Stevenson  
Matt Vickers  
Dr Jamie Wallis

Question accordingly disagreed to.

Paragraphs 64 and 65 (now paragraphs 57 and 58) read and agreed to.

Paragraph 66 (now paragraph 59) read as follows:

**As the House of Lords European Union Committee has demonstrated, effective use of the sub-committee system can allow committees to cover more ground than would otherwise be the case. For a European Affairs Committee, that ground could be expansive, covering for example the Withdrawal Agreement, the EU-UK Trade and Cooperation Agreement and future EU legislation. *We recommend that a European Affairs Committee should have the power to create one or more sub-committees, if it decides that this is the most effective way to discharge its remit.***

Amendment proposed, in line 3, delete from “the case.” to the end of the paragraph and insert “**While we do not accept Agata Gostyńska-Jakubowska’s recommendation of a standing committee, we do consider that use of sub-committees by departmental select committees for EU-UK relationship work would represent a sensible option to them in managing their workloads.**”—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 66 (now paragraph 59), as amended, agreed to.

Paragraphs 67 to 69 (now paragraphs 60 to 62) read and agreed to.

Paragraph 70 (now paragraph 63) read as follows:

Dr Hannah White suggests that one way of building links with other select committees is that a “European Affairs Committee could make use of guesting procedures to bring together small sub-groups of Members to work with it on different topic areas. In a way, it would be co-opting people with the right expertise for the right task, while being small enough to be nimble and to keep everybody focused on their role within the core committee.”

Amendment proposed, in line 2, delete from “is that” to “could make use of” and insert “committees”.—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 70 (now paragraph 63), as amended, agreed to.

Paragraph 71 (now paragraph 64) read and agreed to.

Paragraphs 72 and 73 read as follows:

***72. We recommend that a European Affairs Select Committee have the same powers departmental select committees have to work concurrently with other committees and to share evidence. We recommend that it have a power similar to the European Scrutiny Committee's power to seek an opinion from other committees in relation to document scrutiny. We further recommend that these formal powers to share information and work together be accompanied by proactive informal engagement between committee chairs and at official level to ensure that select committee engagement on European issues is built and sustained.***

***73. In our view guesting processes are currently underutilised across select committees and, given its crosscutting nature, a European Affairs Committee should resolve to be a beacon of best practice in this area. To maintain a proactive and coordinated approach to engaging with other select committees on EU issues, we recommend that a European Affairs Committee should have the same powers as other committees to invite members of other committees to 'guest'. We further recommend that it make a permanent offer of a 'guesting' slot on their committee to the Northern Ireland Affairs, Scottish Affairs, Welsh Affairs, Foreign Affairs, International Trade, Home Affairs and European Statutory Instruments Committees. A European Affairs Committee should seek to let any or all these committees (or any others) know if their upcoming evidence sessions are likely to be of interest/relevance to the competences of other select committees, with a view to involving them.***



Question put, That paragraphs 72 and 73 stand part of the Report.

The Committee divided:

**Ayes, 5**

Joanna Cherry QC  
 Florence Eshalomi  
 Stephen Kinnock  
 Seema Malhotra  
 Dr Philippa Whitford

**Noes, 11**

Lee Anderson  
 Mr Peter Bone  
 Mark Eastwood  
 Sally-Ann Hart  
 Antony Higginbotham  
 Nigel Mills  
 Nicola Richards  
 Gary Sambrook  
 Jane Stevenson  
 Matt Vickers  
 Dr Jamie Wallis

Question accordingly disagreed to.

Paragraphs 74 to 82 (now paragraphs 65 to 73) read and agreed to.

Paragraph 83 (now paragraph 74) read as follows:

**We recommend that the Parliamentary authorities should provide the resources necessary to facilitate the UK branch of the Assembly (which should include representation from both Houses and devolved UK legislatures), including a dedicated secretariat.**

Amendment proposed, in line 3, delete from “Houses” to “), including”.—(*Nigel Mills.*)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 83 (now paragraph 74), as amended, agreed to.

Paragraph 84 (now paragraph 75) read as follows:

***We recommend that Commons' representation in the Assembly should be drawn from any new European Affairs Committee, the UK's delegation to the Parliamentary Assembly of the Council of Europe and relevant departmental select committees. The party balance on the Commons side of the delegation should reflect the party balance in the House. The delegation should include representation from all UK nations.***

Amendment proposed, in line 1, delete the first sentence.—(Nigel Mills.)

Question put, That the Amendment be made.

The Committee divided:

**Ayes, 11**

Lee Anderson

Mr Peter Bone

Mark Eastwood

Sally-Ann Hart

Antony Higginbotham

Nigel Mills

Nicola Richards

Gary Sambrook

Jane Stevenson

Matt Vickers

Dr Jamie Wallis

**Noes, 5**

Joanna Cherry QC

Florence Eshalomi

Stephen Kinnock

Seema Malhotra

Dr Philippa Whitford

Question accordingly agreed to.

Paragraph 84 (now paragraph 75), as amended, agreed to.

Paragraphs 85 to 100 (now paragraphs 76 to 91) read and agreed to.

Annex agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[The Committee adjourned.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 02 December 2020

**Dr Sara Hagemann**, Associate Professor, London School of Economics and Political Science; **Professor Simon Usherwood**, Professor of Politics, University of Surrey; **Dr Hannah White**, Deputy Director, Institute for Government

[Q1–30](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

UFR numbers are generated by the evidence processing system and so may not be complete.

1 Cygan , Professor Adam ([UFR0001](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the publications page of the [Committee's website](#).

### Session 2019–21

Number	Title	Reference
1st	The need for progress in the negotiations	HC 458
2nd	Implementing the Withdrawal Agreement: citizens' rights	HC 849
3rd	Preparing for the end of the Transition Period	HC 1093
4th	The UK-EU future relationship: the Trade and Cooperation Agreement	HC 1094
1st Special Report	Implementing the Withdrawal Agreement: citizens' rights: Government Response to the Committee's Second Report	HC 1095
2nd Special Report	Preparing for the end of the Transition Period, and The UK-EU future relationship: the Trade and Cooperation Agreement: Government Response to the Committee's Third and Fourth Reports	HC 1159