



HOUSE OF LORDS

International Agreements Committee

1st Report of Session 2019–21

**Scrutiny of international
agreements: Free Trade
Agreement with Singapore,
Trade Continuity Agreement
with Canada and Association
Agreement with Egypt**

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International Agreements Committee

The International Agreements Committee is appointed by the House of Lords in each session to consider matters relating to the negotiation, conclusion and implementation of international agreements, and to report on treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010.

Membership

The Members of the International Agreements Committee are:

<u>Lord Foster of Bath</u>	<u>Lord Morris of Aberavon</u>
<u>Lord Gold</u>	<u>Lord Oates</u>
<u>Lord Goldsmith</u> (Chair)	<u>Lord Risby</u>
<u>Lord Kerr of Kinlochard</u>	<u>Lord Robathan</u>
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<u>Baroness Liddell of Coatdyke</u>	<u>Lord Watts</u>

Declaration of interests

See Appendix 1.

A full list of Members' interests can be found in the Register of Lords' Interests:

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SUMMARY

This is the International Agreements Committee's first report on treaties, or international agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG). On 28 January 2021, the International Agreements Committee succeeded the EU International Agreements Sub-Committee, which since April 2020 has had responsibility for scrutinising all international agreements laid before Parliament under CRAG.

This report addresses two Agreements, agreed by the International Agreements Committee on 28 January 2021, which we draw to the special attention of the House:

- Free Trade Agreement, done at Singapore on 10 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore (CP 356, 2020)
- Agreement, done at Ottawa on 9 December 2020, between the United Kingdom of Great Britain and Northern Ireland and Canada on Trade Continuity (CP 351, 2020)

This report also addresses a further Agreement, on which we report for information:

- Agreement, done at Cairo on 5 December 2020, establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Arab Republic of Egypt (CP 350, 2020)

Scrutiny of international agreements: Free Trade Agreement with Singapore, Trade Continuity Agreement with Canada and Association Agreement with Egypt

CHAPTER 1: AGREEMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Free Trade Agreement, done at Singapore on 10 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore (CP 356, 2020)¹

1. The Free Trade Agreement between the UK and Singapore (the Free Trade Agreement) was laid on 15 December 2020, and the scrutiny period is scheduled to end on 8 February 2021. It was considered by the International Agreements Committee on 28 January 2021.
2. The UK was previously a party to the EU-Singapore Free Trade Agreement, which was signed on 19 October 2018 and came into force on 21 November 2019. This new, bilateral, Agreement between the UK and Singapore seeks to maintain the effects of the EU-Singapore agreement following the end of the Brexit transition period. It is worth noting that while the original EU-Singapore Free Trade Agreement was accompanied by an Investment Protection Agreement, this has not been included in the Free Trade Agreement. However, as set out below and in paragraph 23, the Agreement includes a Joint Declaration, committing the UK and Singapore to commence a review of their investment protection commitments within two years.
3. The Free Trade Agreement contains several Joint Declarations in which the UK and Singapore commit to hold a dialogue on future trade liberalisation measures, including on investment; financial services; and rules of origin. These Joint Declarations are considered further below.
4. The Free Trade Agreement is a “short form agreement”, which incorporates by reference the relevant provisions of the underlying EU agreement with relatively few (but necessary) modifications. This has been common practice during the Government’s trade continuity programme. It means that the terms of the underlying EU Agreement are applied mutatis mutandis, that is, with the technical changes necessary to apply the EU-Singapore Agreement as if it had been concluded between the UK and Singapore in the first instance. Where more substantive amendments were required, the

¹ Free Trade Agreement, done at Singapore on 10 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore, CP 356, 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944339/CS_Singapore_1.2020_Free_Trade_Agreement.pdf [accessed 5 January 2021]

Parliamentary Report accompanying the Free Trade Agreement makes clear that these have been included in the Annex to the Agreement.

The UK's trade relationship with Singapore

5. An overview of UK-Singapore trade is provided in Box 1.

Box 1: UK trade with Singapore

Singapore is the UK's 21st largest trading partner, accounting for 1.2% of total UK trade. In 2019, trade in goods and services between the UK and Singapore was worth £17.6 billion. However, the Parliamentary Report also notes that "figures for trade flows between the UK and Singapore must be treated with caution given that they will capture substantial trade passing through its port but destined for (or originating from) other countries in the region."

Trade in goods

The UK exports more goods to Singapore than it imports, with £6.1 billion worth of exports, compared to £2.9 billion of imports in 2019.

Top UK goods exports to Singapore include machinery and mechanical appliances; electrical equipment, beverages, spirits and vinegar; precious stones and metals; and, optical, photographic, cinematographic, and medical equipment. Top goods imports from Singapore include machinery and mechanical equipment; precious stones and metals; electrical equipment; ships, boats and floating structures; and, mineral fuels and oils.

Trade in services

In 2019, the UK had a marginal trade surplus in services, exporting £4.6 billion in services to Singapore and importing £4 billion.

'Other business services', including legal, accounting, management consulting and others, were the main services exported to and imported from Singapore.

In a written evidence submission to the International Agreements Committee, TheCityUK² noted that "the UK and Singapore are both leading international financial centres, trading hubs and advocates for the global rules-based trading system. The two countries benefit from strong bilateral trading ties in services—£8.5bn in 2019. Overall UK services exports to Singapore stood at £4.6bn, and financial services accounted for 24% of that sum."³

6. HMRC has estimated that around 10,300 VAT-registered UK businesses exported goods to and 3,400 imported goods from Singapore in 2019. The Parliamentary Report explains that these figures are likely to be an underestimate, as they do not include UK companies providing services in Singapore.

Institutional and general provisions

Entry into force

7. Article 9.1 of the Agreement provides that it shall enter into force on the first day of the second month following the date of receipt of the later of the Parties' notifications that they have completed their applicable legal requirements and procedures, unless agreed otherwise. The Explanatory

² TheCityUK is an industry-led body representing UK-based financial and related professional services.

³ Written evidence from TheCityUK ([SFT0001](#))

Memorandum (EM) acknowledged that it would not be possible to ratify the Free Trade Agreement before the end of the transition period and that it would therefore be provisionally applied in the interim, as per Article 9.2 of the Agreement.

Territorial application

8. The EM notes that the UK-Singapore Agreement will apply to the United Kingdom of Great Britain and Northern Ireland, but also extends to Gibraltar, and the Crown Dependencies (Isle of Man, Bailiwick of Jersey, Bailiwick of Guernsey) to the extent the EU-Singapore Free Trade Agreement applied to those territories.⁴

Consultation

9. The EM indicates that the Government has consulted both the Devolved Administrations (DAs), the Crown Dependencies and Gibraltar.
10. We note that the Government states that it has “regularly updated the Devolved Administrations” and that throughout the Trade Agreement Continuity Programme, “Both Ministers and officials have spoken to their counterparts in the DAs on a regular basis, sharing progress and inviting them to highlight international agreements of importance or concern.” The EM also confirms that the Government has:

“Shared the stable text of the UK-Singapore Agreement with the DAs, the Crown Dependencies and Gibraltar. In the case of the latter two, this is in line with the spirit of the recommendations in the House of Lords EU Committee’s report on International Agreements.”

11. **We welcome the provision of information from the Government about its consultation with the DAs, Crown Dependencies and Gibraltar. However, we reiterate our previous request that the Government also provide clear information as to whether any concerns have been raised, and, if so, how they have been addressed.**

Governance, amendments and dispute resolution

12. The Free Trade Agreement establishes a Trade Committee and several specialised committees, broadly replicating the structure of the underlying EU-Singapore Agreement. The accompanying EM indicates that while “Incorporated Article 16.1.2 provides that the Trade Committee shall meet every two years, or in urgent cases at the request of a Party ... the Parties have committed to pausing other committee work whilst reviewing possible streamlining at the first meeting of the Trade Committee.”
13. The Parliamentary Report makes clear that the Free Trade Agreement can be amended either by the Parties or, in certain circumstances, and in respect of specific annexes and the protocol, by the Trade Committee.
14. **The use of a short form agreement, combined with the opacity of the language in the Parliamentary Report, make it unclear precisely**

⁴ The Parliamentary Report indicates that the territories to which this agreement may apply have been separated into two categories based upon the application of the EU Treaties under EU law to date. These categories of territory, are: (a) The Crown Dependencies (Isle of Man, Jersey, Guernsey), to which, provisions relating to tariffs and trade in goods apply; (b) Gibraltar, to which, broadly, provisions not relating to goods or customs apply.

which provisions might be amended by the Trade Committee. The text of the UK-Singapore Free Trade Agreement simply provides that “the Parties may, in the Trade Committee or relevant committee established by the Parties under this Agreement, adopt a decision amending this Agreement, where provided for in the Incorporated Agreement”.⁵ The Parliamentary Report indicates that the annexes and protocols cover issues such as rules of origin, cumulation, origin quotas, sanitary and phytosanitary rules and issues relating to intellectual property, but these provisions also cover divergences from the original EU-Singapore Agreement.

15. It may be that these amendments are not be subject to scrutiny under the Constitutional Reform and Governance Act 2010 (CRAG), but the explanatory material is not clear on this point. It is regrettable that, over a year since we first raised these issues, the explanatory materials accompanying agreements still do not specify what parts of an agreement can be amended without parliamentary scrutiny.⁶
16. Section 25 of the Constitutional Reform and Governance Act 2010 sets out the definition of treaties which are covered by the Act. However, section 25(2) provides that the word “treaty” does not include “a regulation, rule, measure, decision or similar instrument made under a treaty (other than one that amends or replaces the treaty (in whole or in part)).” The Government has yet to provide us with a clear interpretation of this provision, nor has it agreed with us what it means in practice for parliamentary scrutiny.
17. In addition, the continued absence of a mechanism for the Government to highlight changes to treaties to Parliament causes a significant scrutiny gap. While we welcome the Government’s commitment to “working with departments to ensure that all amendments to treaties are published in the UK’s Treaty Series, including those that are not subject to CRAg”,⁷ proposals for how this would operate in practice have yet to be put forward.
18. We have repeatedly raised the issue of amendments to international agreements, including the lack of clarity in the Government’s explanatory materials. We urge the Government to engage with us to reach an agreed interpretation on the relevant principles that should be applied to determine whether an amendment should be subject to parliamentary scrutiny.
19. We also recommend that the Government provide a formal mechanism of notifying Parliament of changes to international agreements where they are not subject to the requirements of CRAG. This could include regular publication of amendments in the UK’s Treaty Series, as previously suggested by the Government.⁸

5 The original EU-Singapore FTA merely provides that at Article 16.5 the “the Parties may, in the Trade Committee or a specialised committee, adopt a decision amending this Agreement, where provided for in this Agreement.”

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

7 Department for International Trade, *Government Response to the House of Lords International Agreements Sub-Committee Report: Treaty Scrutiny, Working Practices*, (25 September 2020): <https://committees.parliament.uk/publications/2742/documents/27116/default/> [accessed 28 January 2021]

8 *Ibid.*

20. Regarding the resolution of disputes, the Parliamentary Report states that the “UK-Singapore Agreement replicates the effects of the dispute settlement provisions in the EUSFTA *mutatis mutandis*”. Chapter 14 of the underlying EU-Singapore Agreement provides for arbitration in circumstances where the Parties are unable to settle a dispute through consultation.

Rules of origin and cumulation

21. Under the Agreement, EU materials can be recognised (‘cumulated’) in UK and Singapore exports to one another. Furthermore, EU processing can be recognised in UK exports to Singapore. The possibilities to cumulate with other countries, as per the original EU-Singapore Agreement, are also replicated in the UK-Singapore Agreement on the same terms.⁹
22. However, the Parliamentary Report makes clear that the Free Trade Agreement provides only for trade between the UK and Singapore and does not provide for either party’s direct trade with the EU, including, for example, where UK and Singapore based exporters use content from each other in exports to the EU. The Agreement includes a non-binding Joint Declaration committing the UK and Singapore to update the rules of origin to reflect a trilateral approach with the EU, should the UK and EU subsequently reach an agreement on ‘diagonal cumulation’, allowing extended cumulation with common trade partners. Such an approach is not currently provided for by the UK-EU Trade and Cooperation Agreement.

Investment protections

23. **As noted in paragraph 2 above, in addition to the EU-Singapore FTA, additional investment protection obligations were included in the separate agreement between the EU and Singapore. The Parliamentary Report notes that this agreement is not yet in force, and that separate investment protection commitments between Singapore and the UK are continuing under an existing UK-Singapore Bilateral Investment Treaty. Nonetheless, via one of the Joint Declarations mentioned above (paragraph 2), the UK and Singapore have committed to updating the investment protection commitments. Negotiations are to start within two years of the entry into force of the UK-Singapore Agreement, and the Parties will endeavour to conclude them within four years.**

Financial services

24. TheCityUK highlighted a particular difference between the underlying EU-Singapore Agreement and the Free Trade Agreement in respect of Qualifying Full Banks (QFBs):¹⁰

“In the EUSFTA, Singapore committed to offering QFB licences to an EU bank each time such a licence was granted to a bank from another market with existing QFB licences. This measure is not in the UK-Singapore agreement. Instead, the UKSFTA says that a UK

9 The EU Agreement allows Singapore-based manufacturers to incorporate raw materials and parts from ASEAN Member states for certain manufactured products and count them as originating in Singapore.

10 Foreign banks in Singapore are categorised as qualifying full banks (QFBs), wholesale banks, and offshore banks. Wholesale and offshore banks have faced restrictions on their activities whereas domestic banks are allowed to undertake universal banking activities. QFBs have the same access to ATM and e-banking/online banking activities as local banks.

bank incorporated in Singapore, provided it has a full bank licence with QFB privileges at the time of entry into force of the Agreement, can establish an additional 10 customer service locations. The UKSFTA also states that if a UK Bank has QFB privileges (and is deemed by the MAS [Monetary Authority of Singapore] to be significantly rooted in Singapore) then it may be granted an additional Full Bank licence. The UKSFTA sets out some of the criteria which the MAS could use to establish the UK bank's degree of rootedness in Singapore. Singapore also committed to allowing UK banks with a QFB licence to apply for an additional full bank licence."¹¹

25. The Parliamentary Report states that two UK banks currently operate with QFB privileges (HSBC and Standard Chartered) and “both will benefit from additional benefits that go beyond the commitments within the [EU-Singapore FTA].” Despite raising issues, TheCityUK concluded that the securing of the continuity agreement has “provided important certainty around the terms of trade between the UK and Singapore”.¹²

Other differences from the underlying EU-Singapore Agreement

26. The Parliamentary Report notes a significant number of changes from the underlying EU-Singapore Agreement. Most of these are described as minor or technical. They include resizing of origin quotas; minor modifications to the SPS provisions; “minor non-substantive technical change” to the provisions on competition and state aid; and a number of changes to the Services chapters.

Looking forward

27. TheCityUK argued that the Free Trade Agreement has broader significance for two reasons. First, they noted that “along with the UK-Japan CEPA and the UK's FTA negotiations with Australia and New Zealand, it is another stepping stone for the UK as it seeks accession to the CPTPP”. Second, they highlighted additional commitments in the Joint Declarations accompanying the Free Trade Agreement to negotiate an Investment Protection Agreement (within two to four years), and to continue the ongoing programme of financial regulatory cooperation already underway through the UK-Singapore Financial Dialogue. They also highlighted the Joint Statement on a proposed Digital Economy Agreement (DEA), negotiations on which are due to start in the spring of 2021. The Government has indicated that:

“Under the DEA, the UK and Singapore will aim to ensure an open, thriving, and safe digital environment for our consumers and businesses. The agreement will promote the flow of data across borders while maintaining high levels of personal data protection. It will also promote interoperable digital systems to connect our thriving innovation ecosystems, harness the interaction between financial services and the digital economy, and help shape global standards for effective regulation in key areas such as cyber security and emerging technology. The DEA will also form a strong basis for our cooperation in the WTO and other multilateral fora in pursuing a likeminded approach to global trade rules.”¹³

11 Written evidence from TheCityUK ([SFT0001](#))

12 *Ibid.*

13 Department for International Trade, ‘Joint statement by the UK and Singapore’: <https://www.gov.uk/government/news/joint-statement-by-the-uk-and-singapore> [accessed 28 January 2021]

28. In relation to these forward-looking commitments, TheCityUK has contended that the UK ought to focus on a number of areas, including liberalising digital trade; cyber security; introducing transparent, stable and predictable rules governing investment (possibly through an Investment Court or an Investor-State Dispute Settlement (ISDS) method of arbitration); enabling movement of professionals between the two countries in line with GATS Mode 4 provisions;¹⁴ and moving towards closer bilateral cooperation on sustainable finance.¹⁵
29. **While we acknowledge that the UK-Singapore Free Trade Agreement is primarily a continuity trade agreement, we note the additional aims set out in the Joint Declarations accompanying the Agreement. Accordingly, we ask the Government to keep us informed of any steps taken in respect of these, particularly any moves to negotiate an Investment Protection Agreement and a Digital Economy Agreement with Singapore.**
30. **We draw special attention to the Free Trade Agreement between the UK and Singapore on the grounds that:**
- **It is politically important and gives rise to issues of public policy that the House may wish to debate prior to ratification.**

Agreement, done at Ottawa on 9 December 2020, between the United Kingdom of Great Britain and Northern Ireland and Canada on Trade Continuity (CP 351, 2020)¹⁶

31. The Agreement on Trade Continuity between the UK and Canada (the Trade Continuity Agreement) was laid on 10 December 2020, and the scrutiny period is scheduled to end on 3 February 2021. It was considered by the International Agreements Committee on 28 January 2021.
32. The precursor agreement to the UK-Canada Agreement is the Comprehensive Economic and Trade Agreement between Canada and the EU (CETA). CETA was applied provisionally on 21 September 2017. The UK Agreement seeks to replicate the terms of CETA—which addresses virtually all sectors of Canada-EU trade—subject to some changes to reflect the new bilateral context.
33. The Agreement is a 'short form agreement', which incorporates by reference the relevant provisions of the underlying EU Agreement, with a few necessary modifications. It means that the terms of the underlying EU Agreement are applied *mutatis mutandis*, that is, with the technical changes necessary to apply the EU Agreement to the UK Agreement with Canada. More substantial changes are included in annexes to the Agreement. In written evidence, the UK Trade Policy Observatory noted that "there are almost no differences and the impacts, in comparison to CETA, will be negligible".¹⁷

14 To cover temporary entry and stay of national persons for business for a range of professionals, including both intra-corporate transferees and consulting specialists working on particular projects.

15 Written evidence from TheCityUK ([SFT0001](#))

16 Agreement, done at Ottawa on 9 December 2020, between the United Kingdom of Great Britain and Northern Ireland and Canada on Trade Continuity, CP 351, 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942941/CS_Canada_1.2020_Agreement_on_Trade_Continuity_UK_Canada.pdf [accessed 12 January 2020]

17 Written evidence from the UK Trade Policy Observatory ([CCA0003](#))

34. It is worth noting at the outset that the Trade Continuity Agreement is designed to be a temporary agreement. Article IV of the Trade Continuity Agreement commits both Parties to start negotiations for an enhanced UK-Canada FTA within one year of entry into force of the Agreement, and to complete them within three years.

The UK's trade relationship with Canada

35. An overview of UK-Canada trade is provided in Box 2.

Box 2: UK trade with Canada

Canada is the UK's 15th largest trading partner, accounting for 1.6% of total UK trade. In 2019, trade in goods and services between the UK and Canada was worth £22.4 billion.

Trade in goods

The UK exports fewer goods to Canada than it imports, with £5.7 billion worth of exports, compared to £8.4 billion of imports in 2019.

Top goods exports to Canada include machinery and mechanical appliances, and vehicles. Top goods imports from Canada include precious stones and metals, which the Parliamentary Report explains represented over two thirds of Canadian goods imported by value.¹⁸

Trade in services

In 2019, the UK exported more services than it imported from Canada, exporting £5.8 billion in services and importing £2.5 billion.

Insurance and pensions was the largest UK services export to Canada, while the top services import from Canada is classed as 'Other Business Services', covering legal, accounting and management consulting services, and other sectors.

36. HMRC has estimated that around 12,500 VAT-registered UK businesses exported goods to and 8,400 imported goods from Canada in 2019. The Parliamentary Report explains that these figures are likely to be an underestimate, as they do not include UK companies providing services in Canada.

Institutional and general provisions

Entry into force

37. While the Trade Continuity Agreement was meant to take effect from the end of the Brexit transition period, it could not come into force on 1 January, as the Canadian Parliament was unable to pass the domestic legislation needed to implement the Agreement in time.
38. As a result, on 22 December 2020 both Parties signed a Memorandum of Understanding (MoU) agreeing transitional measures to mitigate the impact of the delay in ratifying and implementing the Agreement. This MoU was shared with the International Agreements Committee on 23 December 2020 and was published online alongside the Agreement. The Committee,

¹⁸ Department for International Trade, Continuing the UK's trade relationship with Canada: parliamentary report, (December 2020), p.8: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

however, would welcome advance notification of similar issues were they to arise in respect of future agreements.

39. In evidence, the Food and Drink Federation (FDF) also commented on a perceived lack of transparency with UK businesses, stating that “the Canadian Government had been quite open with us about the risks around timing and it might have been helpful if DIT had taken a similar approach in its comms to UK industry of this deal given the real risks that businesses would have faced if no bridging arrangements had been reached”.¹⁹
40. The UK-Canada MoU will be in place until the Trade Continuity Agreement is ratified by Canada and the UK, or it has been provisionally applied.²⁰ It provides commitments on:
 - tariff-free trade on goods eligible for preferential treatment under the Agreement;
 - access to tariff rate quotas maintained for products covered in the Agreement;
 - rules of origin to enable EU content and processing to count as originating in the UK, as set out in the Agreement.
41. Trade in services is not covered by the MoU and will therefore need to be conducted on WTO terms, under the General Agreement on Trade in Services (GATS). The UK Government has published guidance on its website for UK businesses providing services to Canada from 1 January.²¹
42. **While we welcome the fact that the MoU was shared with parliamentary committees as soon as it was agreed—and the certainty the MoU provides on tariffs and rules of origin—we would welcome it if the Government were to communicate pro-actively with the Committee and other interested parties on issues that unexpectedly arise in relation to agreements.**

Territorial application

43. The Trade Continuity Agreement applies to the UK, and certain elements, also apply to the Crown Dependencies and Gibraltar. The Parliamentary Report spells out that, generally, provisions on goods apply to the Crown Dependencies and non-goods provisions apply to Gibraltar.²²

Consultation

44. The Explanatory Memorandum (EM) to the Agreement explains that Ministers and officials have engaged with the Devolved Administrations (DAs) on a regular basis throughout the Trade Agreement Continuity Programme and invited them to “highlight international agreements of

19 Written evidence from the Food and Drink Federation ([CCA0004](#))

20 It additionally includes a termination date of 3 months from the date of the MoU coming into effect, extendable by mutual agreement.

21 Department for International Trade, ‘Trade with Canada from 1 January 2021’: <https://www.gov.uk/guidance/summary-of-the-uk-canada-trade-continuity-agreement#uk-canada-trade-continuity-agreement-tca> [accessed 17 January 2021]

22 Department for International Trade, *Continuing the UK’s trade relationship with Canada: parliamentary report*, (December 2020), para 44: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

importance or concern”. We welcome the Minister’s specific confirmation that “HMG has shared the stable text of the TCA with the DAs, the Crown Dependencies and Gibraltar”.²³

45. **We welcome the provision of information from the Government about its consultation with the Devolved Administrations, Crown Dependencies and Gibraltar. However, we reiterate that the Government should also provide clear information as to whether any concerns have been raised, and, if so, how they have been addressed.**

Governance, amendments and dispute resolution

46. The UK-Canada Agreement largely replicates the institutions and bodies provided for in CETA, renaming them to reflect the new bilateral context. The Canada-UK Joint Committee is the main governance body established under the Agreement.
47. The CETA Joint Committee has made a series of recommendations since its first meeting in September 2018.²⁴ The Parliamentary Report states that “Decisions under CETA Committees with respect to the ICS [Investment Court System] will not apply to the TCA”,²⁵ but it is not clear whether other decisions or recommendations, if any, will apply to the UK-Canada Agreement. In particular, we call on the Government to clarify whether it will seek to replicate the CETA Joint Committee recommendations on gender, SMEs and climate.
48. The Parliamentary Report explains that, in addition to amendments agreed in writing by the Parties, “the Joint Committee may also decide to amend the annexes and protocols to the Agreements, which the Parties may subsequently approve”.²⁶ This reflects the language of Article 30.2 in CETA, which has been incorporated into the UK Agreement. Article 30.2 merely states that:

“The CETA Joint Committee may decide to amend the protocols and annexes of this Agreement. The Parties may approve the CETA Joint Committee’s decision in accordance with their respective internal requirements and procedures necessary for the entry into force of the amendment.”

49. The wording and consequence of this incorporated provision is unclear. It is not clear whether all changes by the Joint Committee must be confirmed by the Parties, and which changes would be subject to parliamentary scrutiny under the Constitutional Reform and Governance Act 2010 (CRAG).

23 Foreign, Commonwealth & Development Office, *Explanatory Memorandum on the Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Canada* (10 December 2020) paras 113–114: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942942/EM_CS_Canada_1.2020_Agreement_on_Trade_Continuity_UK_Canada.odt [accessed 28 January 2021]

24 European Commission, ‘CETA-Meetings and documents’: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1811> [accessed 27 January 2021]

25 Department for International Trade, *Continuing the UK’s trade relationship with Canada: parliamentary report*, (December 2020), para 119: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

26 Department for International Trade, *Continuing the UK’s trade relationship with Canada: parliamentary report*, (December 2020), para 50: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

Amendments to protocols and annexes may not be subject to scrutiny under CRAG, but the explanatory material is not clear on this point. **It is regrettable that, over a year since we first raised these issues, the explanatory materials accompanying agreements still do not specify what parts of an agreement can be amended without parliamentary scrutiny.**²⁷

50. **Section 25 of the Constitutional Reform and Governance Act 2010 sets out the definition of treaties which are covered by the Act. However, section 25(2) provides that the word “treaty” does not include “a regulation, rule, measure, decision or similar instrument made under a treaty (other than one that amends or replaces the treaty (in whole or in part)).” The Government has yet to provide us with a clear interpretation of this provision, nor has it agreed with us what it means in practice for parliamentary scrutiny.**
51. **In addition, the continued absence of a mechanism for the Government to highlight changes to treaties to Parliament causes a significant scrutiny gap. While we welcome the Government’s commitment to “working with departments to ensure that all amendments to treaties are published in the UK’s Treaty Series, including those that are not subject to CRAg”,²⁸ proposals for how this would operate in practice have yet to be put forward.**
52. **We have repeatedly raised the issue of amendments to international agreements, including the lack of clarity in the Government’s explanatory materials. We urge the Government to engage with us to reach an agreed interpretation on the relevant principles that should be applied to determine whether an amendment should be subject to parliamentary scrutiny.**
53. **We also recommend that the Government provide a formal mechanism for notifying Parliament of changes to international agreements where they are not subject to the requirements of CRAg. This could include regular publication of amendments in the UK’s Treaty Series, as previously suggested by the Government.**²⁹
54. The UK Agreement replicates the effects of CETA’s dispute settlement provisions *mutatis mutandis*. CETA provides for the resolution of disputes through consultation and mediation in the first instance, or the establishment of an arbitration panel.

Tariffs and other duties

55. Under CETA, most tariffs on goods were eliminated—with the phased elimination of tariffs on industrial goods and substantial elimination on agricultural products to be complete by 2024. The same tariff preferences and end-date for products subject to phased liberalisation have been transitioned in the UK Agreement.

27 European Union Committee, *Scrutiny of international agreements: lessons learned* (42nd Report, Session 2017–19, HL Paper 387)

28 Department for International Trade, *Government Response to the House of Lords International Agreements Sub-Committee Report: Treaty Scrutiny, Working Practices*, (25 September 2020): <https://committees.parliament.uk/publications/2742/documents/27116/default/> [accessed 28 January 2021]

29 *Ibid.*

56. CETA contains an Entry Price System (EPS), which applies to 28 types of fruits and vegetables. It ensures that during the European growing seasons, an additional duty is charged if incoming fruits and vegetables are below a pre-determined entry price. The Trade Continuity Agreement does not automatically establish such an EPS, but the UK reserves the right to establish and implement one in the future.
57. Similarly, CETA contains a reference to an import duty on specified cereals, which the UK retains the option to introduce, but has not automatically applied.

Tariff rate quotas

58. With the exception of the cheese tariff rate quotas (TRQs), TRQs under CETA have been transitioned and resized on the basis of UK and Canadian trade flows. The quotas cease to apply after three years, subject to an extension if the Parties agree. The UK Trade Policy Observatory (UKTPO) suggested that this could provide a “modest incentive” for both Parties to renegotiate a deal.
59. For cheese exports, the UK will have access until 31 December 2023 to an existing Canadian WTO quota reserved for the EU. The National Farmers Union (NFU), in written evidence, expressed concern about this change and pointed to potential practical problems resulting from the licence system provided for in the transitional arrangement, whereby the requirement for Canadian importers to hold the correct licences could create a practical obstacle for UK cheese exporters.³⁰ The Parliamentary Report acknowledges that “the impact of this change will depend on business decisions made by Canadian importers”.³¹
60. The NFU also noted that, by value, the Canadian market accounts for 2% of UK cheese exports, representing a valuable market for the UK dairy industry.³² It therefore believes that better market access for UK exports of cheese should be a “top priority for UK negotiators”³³ in the upcoming negotiations for an enhanced agreement. The Food and Drink Federation (FDF) described the arrangement as providing “little if any comfort for exporters”, and also looked ahead to “much improved outcomes for cheese market access”.³⁴ The Parliamentary Report makes clear that the UK will seek a bilateral TRQ on cheese through those negotiations.³⁵ An exchange of letters between the UK and Canada that has been designated as integral to the Trade Continuity Agreement also sets out that “Canada and the United

30 Written evidence from the National Farmers’ Union (CCA0001)

31 Department for International Trade, *Continuing the UK’s trade relationship with Canada: parliamentary report*, (December 2020), para 72: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

32 Written evidence from the National Farmers’ Union (CCA0001)

33 *Ibid.*

34 Written evidence from the Food and Drink Federation (CCA0004)

35 Department for International Trade, *Continuing the UK’s trade relationship with Canada: parliamentary report*, (December 2020), para 73: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943176/ccs1220696908-trade-agreement-canada-accessible.pdf [accessed 28 January 2021]

Kingdom shall endeavour to reach an agreement on cheese” as part of the negotiations for an enhanced agreement.³⁶

Rules of origin and cumulation

61. Like other roll-over trade agreements, the Trade Continuity Agreement includes an extended cumulation of origin, allowing the Parties to recognise EU materials and processing as originating in the UK or Canada in exports to one another. However, this arrangement is time-limited to three years and the Parties must consider whether it should be extended 30 months³⁷ after entry into force of the Agreement.³⁸
62. The NFU expressed concern about the absence of a trilateral or ‘diagonal’ approach to cumulation between the UK, Canada and the EU, which would have allowed UK content to count as EU content.³⁹ In particular, the NFU mentioned the importance of diagonal cumulation for UK flour millers, who regularly use Canadian wheat in their exports to the EU.⁴⁰ The viability of such approach, however, depended on the UK-EU future relationship negotiations—it is not currently provided for in the UK-EU Trade and Cooperation Agreement.
63. The Agreement also contains Origin Quotas for specific product lines, which allow a specified volume of a product to be exported under a more lenient rule of origin. They cover various textile and agri-food products, reflecting Origin Quotas included in the underlying agreement that have either been fully replicated or resized. As with the cumulation arrangement, the origin quotas are time-limited to three years and subject to review.

Geographical indications

64. The Agreement incorporates the EU-Canada Wine and Spirit Drinks Agreement (2003) and the Alcoholic Beverages Agreement (1989), retaining protections for Scotch Whisky, Irish Whiskey and Irish Cream.

Services

65. CETA’s services chapters have, subject to some technical changes, been replicated in full. The UK Trade Policy Observatory, however, explained that the services chapters provide a “relatively modest liberalisation”, and that “financial services and transport services remain relatively closed”.⁴¹ There is also no agreement on the mutual recognition of professional qualifications. This reflects the provisions in CETA, but given the growing importance of services in UK exports to Canada, this should be a focus area for UK negotiators seeking to agree an enhanced UK-Canada agreement.

36 The exchange of letters is available from Government of Canada, ‘WTO Cheese TRQ – UK Transitional Access to the European Union Reserve’: https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cuktca-accru/cheese_letter-lettre_fromage.aspx?lang=eng [accessed 28 January 2021]

37 Subject to an extension, if the Parties agree.

38 Agreement, done at Ottawa on 9 December 2020, between the United Kingdom of Great Britain and Northern Ireland and Canada on Trade Continuity, CP 351, 2020, Annex 30-D: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942941/CS_Canada_1.2020_Agreement_on_Trade_Continuity_UK_Canada.pdf [accessed 12 January 2020]

39 In addition to counting EU content as UK, as provided for in the Agreement.

40 Written evidence from the National Farmers’ Union (CCA0001)

41 Written evidence from the UK Trade Policy Observatory (CCA0003)

Investor-state dispute settlement

66. CETA provided for an investor-state dispute settlement—the Investment Court System—but the practical details have not been developed yet and it has not been put into operation. The Trade Continuity Agreement does not transition the Investment Court System, but commits the Parties to a comprehensive review within three years.
67. **The explanatory materials do not set out how investor-state disputes would be resolved until a review has been completed and an investor-state dispute settlement mechanism put in place. The Government should provide an assessment of the impact of the absence of such a mechanism and how any disputes would be dealt with in the interim. We would also welcome confirmation whether an investor-state dispute settlement mechanism would be part of the negotiations for an enhanced UK-Canada agreement, and if so, in what form, and how this would interact with the review commitment provided for in the Trade Continuity Agreement.**

Looking forward

68. As set out in paragraph 34, Article IV of the Trade Continuity Agreement commits both Parties to start negotiations for an enhanced UK-Canada FTA within one year of entry into force of the Agreement, to be completed within three years. This report has set out several areas that would benefit from a renegotiated outcome, including greater market access for cheese exports, further liberalisation of the services sector—particularly financial and transport services—and the mutual recognition of professional qualifications.
69. **We call on the Government to cover the liberalisation of the services sector, including financial and transport services, and the mutual recognition of professional qualifications in its negotiating objectives for an enhanced UK-Canada agreement under Article IV of the Trade Continuity Agreement. We further call on the Government to keep this Committee apprised of developments affecting these new negotiations.**
70. **We draw special attention to the Free Trade Agreement between the UK and Canada on the grounds that:**
- **It is politically important and gives rise to issues of public policy that the House may wish to debate prior to ratification.**

CHAPTER 2: AGREEMENT REPORTED FOR INFORMATION

Agreement, done at Cairo on 5 December 2020, establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Arab Republic of Egypt (CP 350, 2020)⁴²

71. The Association Agreement between the UK and Egypt (the Association Agreement) was laid on 14 December 2020, and the scrutiny period is scheduled to end on 4 February 2021. It was considered by the International Agreements Committee on 28 January 2021.
72. The precursor agreement to the UK-Egypt Association Agreement is the Euro-Mediterranean Agreement,⁴³ which entered into force 1 June 2004. The UK-Egypt Agreement seeks to ensure continuity of effect with the Euro-Mediterranean Agreement by incorporating it *mutatis mutandis* with only minor amendments.
73. The UK-Egypt Association Agreement includes provisions on:
 - tariffs, tariff rate quotas and rules of origin;
 - sanitary and phytosanitary measures;
 - trade in services;
 - intellectual property; and
 - government procurement.
74. It also incorporates the wider provisions of its precursor on human rights, setting these out as an essential element of the Agreement. In this context, we note that the UK Government has expressed concerns about human rights issues in Egypt in its 2019 Human Rights and Democracy Report and has designated Egypt as one of 30 human rights priority countries.⁴⁴ The human rights situation in Egypt should therefore be kept under review in relation to this Agreement.
75. The UK-Egypt Agreement has been provisionally applied from 1 January, pending the completion of full ratification procedures by the Parties.

42 Agreement, done at Cairo on 5 December 2020, establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Arab Republic of Egypt, CP 350, 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943572/CS_Egypt_1.2020_Agreement_establishing_an_Association_with_Egypt.pdf [accessed 12 January 2021]

43 Agreement, establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, [OJL 304](#), (30 September 2004:)

44 Foreign & Commonwealth Office, *The 2019 Human Rights and Democracy Report*, CP 273, July 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902494/FCO1414_FCO_AHRR_2019_-_accessible.pdf [accessed 28 January 2021]

The UK's trade relationship with Egypt

76. An overview of UK-Egypt trade is provided in Box 3.

Box 3: UK trade with Egypt

Egypt is the UK's 48th largest trading partner, accounting for 0.3% of total UK trade. In 2019, trade in goods and services between the UK and Egypt was worth £3.6 billion.

Trade in goods

The UK exports more goods to Egypt than it imports, with £1.5 billion worth of exports, compared to £0.9 billion of imports in 2019.

Top goods exports to Egypt include machinery and mechanical appliances, and iron and steel. Top goods imports include electrical machinery and equipment, and mineral fuels and oils.

Trade in services

In 2019, the UK exported more services than it imported from Egypt, exporting £826 million in services and importing £399 million.

Legal, accounting, management consulting, and financial services, collectively classed as "Other Business Services", were the largest UK service export. "Other Business Services" were also the largest service imported from Egypt.

77. HMRC has estimated that around 2,600 VAT-registered UK businesses exported goods to and 800 imported goods from Egypt in 2018. The Parliamentary Report explains that these figures are likely to be an underestimate, as they do not include UK companies providing services in Egypt.

Substantial divergences from the Euro-Mediterranean Agreement

78. The UK-Egypt Association Agreement includes the following notable changes from the underlying EU Agreement:
- Tariff-rate quotas have been resized to reflect the fact the UK is a smaller market for imports and exports than the EU.
 - The Agreement introduces an extended cumulation of origin, allowing both Parties to recognise content from the EU as originating in the UK or Egypt in exports to one another. This extended cumulation of origin, however, does not apply to UK goods or materials exported to the EU, which may subsequently be exported to Egypt. This is because the UK-EU Trade and Cooperation Agreement does not provide for UK content to be recognised as EU content in trade with common trade partners.
 - The precursor EU Agreement contains an Entry Price System (EPS), which applies to 15 types of fruit and vegetables from Egypt, ensuring that during the European growing seasons an additional duty is charged if fruits and vegetables imported are below a pre-determined entry price. The EPS is not being immediately applied by the UK Agreement, but the UK reserves the right to apply it in future.

79. **We report the Association Agreement between the UK and Egypt to the House for information.**

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

International Agreements Committee Members and staff

Lord Foster of Bath

No relevant interests

Lord Gold

Director, Gold Collins Associates Ltd

Principal, David Gold & Associates LLP

Lord Goldsmith (Chair)

Partner, Debevoise & Plimpton LLP

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power plc

Member, Scottish Government's Standing Council on Europe

Lord Lansley

Director, LOW Associates Ltd

Chair, UK-Japan 21st Century Group

Trustee, Radix

Baroness Liddell of Coatdyke

Adviser, PricewaterhouseCoopers

Association Member, Bupa

Chair, Annington Ltd

Honorary Vice President, Britain-Australia Society Education Trust

Trustee, Northcote Educational Trust

Lord Morris of Aberavon

No relevant interests

Lord Oates

Chair, Advisory Committee, Weber Shandwick UK

Non-Executive Director, Centre for Countering Digital Hate

Director, H&O Communications Ltd

Lord Risby

No relevant interests

Lord Robathan

No relevant interests

Earl of Sandwich

No relevant interests

Lord Watts

No relevant interests

The Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Moriyo Aiyeola (Second Clerk), Alexander Horne (Legal Adviser), Andrea Ninomiya (Policy Analyst), and George Stafford (Committee Assistant).

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>

APPENDIX 2: LIST OF WITNESSES

Evidence for the Singapore Agreement is published at <https://committees.parliament.uk/work/998/uksingapore-free-trade-agreement/publications/> and evidence for the Canada Agreement is published at <https://committees.parliament.uk/work/999/ukcanada-trade-continuity-agreement/publications/>.

Written evidence received by the Committee is listed below in alphabetical order.

Alphabetical list of all witnesses

Food and Drink Federation (FDF)	<u>CCA0004</u>
National Farmers' Union	<u>CCA0001</u>
Society of Motor Manufacturers and Traders (SMMT)	<u>CCA0002</u>
TheCityUK	<u>SFT0001</u>
UK Trade Policy Observatory (University of Sussex)	<u>CCA0003</u>