



HOUSE OF LORDS

International Agreements Committee

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7th Report of Session 2019–21

**Scrutiny of  
international  
agreements: Air  
Services Agreement  
with Norway**

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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:

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

### *Declaration of interests*

See Appendix 1.

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-interests/register-of-lords-interests>

### *Publications*

All publications of the Committee are available at:

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<http://www.parliament.uk/business/lords>

### *Committee staff*

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

### *Contact details*

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### *Twitter*

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

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## SUMMARY

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This is the International Agreements Committee's seventh 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 from April 2020 had responsibility for scrutinising all international agreements laid before Parliament under CRAG.<sup>1</sup>

This report addresses one Agreement, considered at the Committee's meeting on 17 March 2021, which we report for information:

- Agreement, done at Oslo on 16 December 2020, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway concerning Air Services (CP 384, 2021)

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<sup>1</sup> Previous reports on treaties considered by the International Agreements Sub-Committee can be found on the Treaty page of the Parliament website at: <https://treaties.parliament.uk/>

# Scrutiny of international agreements: Air Services Agreement with Norway

## AGREEMENT REPORTED FOR INFORMATION

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Agreement, done at Oslo on 16 December 2020, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway concerning Air Services (CP 384, 2021)<sup>2</sup>

1. The Air Services Agreement between the UK and Norway (the Agreement) was laid on 22 February 2021, and the scrutiny period is scheduled to end on 13 April 2021. It was considered by the Committee on 17 March 2021.
2. The Agreement replaces the air services arrangements between the UK and Norway under the Agreement on the European Economic Area (the EEA Agreement), which ceased to apply to the UK on 1 January.<sup>3</sup> The Government's Explanatory Memorandum (EM) notes that it provides "continuity of rights available to airlines of both sides for air services between the UK and Norway", although at paragraph 4 we note that, in respect of cabotage, this is not the case.<sup>4</sup> To benefit from the Agreement, in addition to meeting the relevant regulatory requirements, airlines must be majority-owned and effectively controlled by the UK, EU or EFTA<sup>5</sup> states, or by their nationals.
3. The Agreement provides for both Parties to operate unlimited scheduled services:
  - between the UK and Norway;
  - between the UK and Norway via intermediate points; and
  - between third countries and the UK or Norway.

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2 Agreement, done at Oslo on 16 December 2020, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway concerning Air Services, CP 384, 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963246/CS\\_Norway\\_1.2021\\_UK\\_Norway\\_Air\\_Services\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963246/CS_Norway_1.2021_UK_Norway_Air_Services_Agreement.pdf) [accessed 1 March 2021]

3 Agreement, done at Porto on 2 May 1992, between the European Communities, their Member States and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, 1992 [OJL/1](#) 3 January 1994

4 Foreign, Commonwealth and Development Office, *Explanatory Memorandum on the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway Concerning Air Services* (22 February 2021), p 1: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963247/EM\\_CS\\_Norway\\_1.2021\\_UK\\_Norway\\_Air\\_Services.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963247/EM_CS_Norway_1.2021_UK_Norway_Air_Services.odt) [accessed 18 March 2021]

5 The European Free Trade Association (EFTA) is the intergovernmental organisation of Iceland, Liechtenstein, Norway, and Switzerland. It was set up in 1960 for the promotion of free trade and economic integration between its members.

4. Airlines can also fly across the other Party's territory without landing, and make stops for non-traffic purposes<sup>6</sup> in the other Party's territory. Cabotage journeys are, however, explicitly excluded.<sup>7</sup> Norway participates in the European single market for aviation and is a Party to the European Common Aviation Area Agreement. Prior to the end of the transition, the UK and Norway would have enjoyed cabotage rights in each other's territories. This is no longer the case, marking a significant change from previous arrangements.
5. **We regret that the EM did not draw attention to the exclusion of cabotage journeys from the Agreement, and failed to explain that although some rights have been preserved, others have been lost. In fact, the reference in the EM to the Agreement providing "continuity of rights" is unhelpful and, potentially, misleading. We call on the Government to ensure that all future EMs on agreements seeking to preserve continuity with EU-negotiated agreements make clear where significant changes have been made. We would also welcome information on whether the exclusion of cabotage journeys reflects the UK Government's negotiating objectives for this particular agreement, and whether it was the subject of specific discussion with the UK air services industry.**
6. The Agreement also sets out terms and conditions on related matters, including fair competition,<sup>8</sup> pricing,<sup>9</sup> customs duties and charges,<sup>10</sup> entry clearance regulations,<sup>11</sup> aviation security,<sup>12</sup> safety,<sup>13</sup> code-sharing arrangements,<sup>14</sup> aircraft leasing,<sup>15</sup> and environmental protections.<sup>16</sup>

#### *Entry into force*

7. To avoid a gap in the provision of air services between the UK and Norway after the end of the transition period on 1 January, the UK and Norway signed a memorandum of understanding on 24 and 25 November 2020. This meant that the Agreement could be applied in practice from 1 January, pending the completion of ratification procedures.
8. The EM notes that no new legislation is required to implement the Agreement.<sup>17</sup>

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6 Non-traffic stops are landings for any purpose other than taking on or discharging passengers, baggage, cargo or mail. They are usually for the purposes of refuelling or maintenance.

7 See Article 3(3). Cabotage refers to the transport of cargo, mail or passengers solely within a single country by a foreign operator.

8 Article 6

9 Article 7

10 Article 8

11 Article 9

12 Article 11

13 Article 12

14 Article 13

15 Article 14

16 Article 20

17 Foreign, Commonwealth and Development Office, *Explanatory Memorandum on the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway Concerning Air Services* (22 February 2021), p 2: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963247/EM\\_CS\\_Norway\\_1.2021\\_UK\\_Norway\\_Air\\_Services.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963247/EM_CS_Norway_1.2021_UK_Norway_Air_Services.odt) [accessed 18 March 2021]

*Amendments*

9. Article 23 sets out that the Agreement can be amended by the Parties and that amendments will enter into force on exchange of diplomatic notes. The EM does not set out whether such amendments would be subject to parliamentary scrutiny under the Constitutional Reform and Governance Act 2010. Changes to the Annex of the Agreement—which covers the route schedule—can be made by written agreement between the Parties’ aeronautical authorities.
10. **We refer to our previous recommendation that the explanatory materials should spell out the types of amendments the Government expects to be subject to parliamentary scrutiny under CRAG, and await proposals from the Foreign, Commonwealth and Development Office on how amendments will be notified.**<sup>18</sup>

*Consultation and territorial scope*

11. The EM explains that the Agreement extends to the UK’s Crown Dependencies and Overseas Territories.
12. While air services are not a devolved matter, the EM acknowledges that the Agreement has an impact on the Devolved Administrations, “and the Devolved Administrations have been kept aware of the programme to transition EU-negotiated air services agreements”, as have the Crown Dependencies and Overseas Territories.<sup>19</sup> It is not clear from the EM whether they were consulted on this specific Agreement, and whether any significant concerns were raised.
13. The EM notes that regular consultations have taken place with the UK aviation industry on the roll-over of EU-negotiated air services agreements and that the industry was supportive of the UK-Norway Air Services Agreement for ensuring “long-term continuity of the legal basis of air services”.<sup>20</sup>
14. **We welcome the Government’s confirmation that it has engaged with the UK aviation industry, and that the industry supports this specific Agreement. We however refer to our previous recommendation that the Government’s EM should include information about any significant issues of concern raised by the Devolved Administrations, or alternatively confirm that no significant concerns have been expressed.**
15. **We report the Air Services Agreement between the UK and Norway to the House for information. In particular, we highlight our comments at paragraphs 5, 10 and 14.**

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

19 Foreign, Commonwealth and Development Office, *Explanatory Memorandum on the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway Concerning Air Services* (22 February 2021), p 3: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963247/EM\\_CS\\_Norway\\_1.2021\\_UK\\_Norway\\_Air\\_Services.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963247/EM_CS_Norway_1.2021_UK_Norway_Air_Services.odt) [accessed 18 March 2021]

20 *Ibid.*

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

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### 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 (Assistant 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: <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>