



HOUSE OF LORDS

International Agreements Committee

9th Report of Session 2019–21

**Scrutiny of
international
agreements:
Trade Continuity
Agreement with
Mexico**

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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>
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<u>Lord Lansley</u>	<u>Lord Sandwich</u>
<u>Baroness Liddell of Coatdyke</u>	<u>Lord Watts</u>

Declaration of interests

See Appendix 1.

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Committee staff

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

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SUMMARY

This is the International Agreements Committee's ninth report on treaties, or international agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG).¹

This report addresses the following Agreement, considered at the meeting of the Committee on 14 April 2021, which we report for information:

- Trade Continuity Agreement, done at Mexico City on 15 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States (CP 371, 2021)

1 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. 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: Trade Continuity Agreement with Mexico

AGREEMENT REPORTED FOR INFORMATION

Trade Continuity Agreement, done at Mexico City on 15 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States (CP 371, 2021)²

1. The Agreement on Trade Continuity between the UK and Mexico (the UK-Mexico Agreement) was laid on 26 February 2021, and the scrutiny period is scheduled to end on 19 April 2021. It was considered by the Committee on 14 April 2021.
2. The precursor agreement to the UK-Mexico Agreement is the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States of the one part, and the United Mexican State, of the other part (the EU-Mexico Agreement).³ This entered into force in 2000, with additional provisions on trade in goods and services coming into force through Joint Council Decisions shortly thereafter.⁴ The UK-Mexico Agreement seeks to replicate the trade provisions of that EU-Mexico Agreement, subject to some changes to reflect the new bilateral context.
3. In 2018, the EU and Mexico reached an agreement in principle on a deeper EU-Mexico Association Agreement and negotiations on a modernised trade pillar concluded on 28 April 2020.⁵ The new Association Agreement will, on completion of relevant procedures, replace the existing EU-Mexico Agreement. We note that the Agreement being rolled over by the UK is based on a soon-to-be obsolete agreement and is more limited in scope than the EU's new Association Agreement. As a result, the UK-Mexico Agreement is only designed to be temporary. Article 9 of the Agreement requires the Parties to start negotiations on a more comprehensive agreement “within one year of the date of entry into force”, and aim to complete them within three years.⁶ Some of the consequences of this approach and recommendations for the enhanced agreement are outlined at paragraphs 32 to 36 of this report.

2 Trade Continuity Agreement, done at Mexico City on 15 December 2020, between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States, CP 371, 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965130/CS_Mexico_1.2021_UK_Mexico_Trade_Continuity_Agreement.pdf [accessed 29 March 2021]

3 Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, [OJ L 276/45](#)

4 See Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000, ([OJ L 157/10](#), 30 June 2000) and Decision No 2/2001 of the EU-Mexico Joint Council of 27 February 2001 implementing Articles 6, 9, 12(2)(b) and 50 of the Economic Partnership, Political Coordination and Cooperation Agreement, ([OJ L 70/7](#), 12 March 2021).

5 European Commission, ‘In focus: EU-Mexico trade agreement’: https://ec.europa.eu/trade/policy/in-focus/eu-mexico-trade-agreement/index_en.htm [accessed 15 April 2021]

6 Article 9

4. The Agreement—like many other roll-over agreements—is a ‘short form agreement’, which incorporates by reference the relevant provisions of the underlying EU Agreement, with a few necessary modifications. 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 Mexico. More substantial changes are included in the annex to the Agreement.

The UK’s trade relationship with Mexico

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

Box 1: UK trade with Mexico

Mexico is the UK’s 42nd largest trading partner, accounting for 0.4% of total UK trade. In 2019, trade in goods and services between the UK and Mexico was worth £5.3 billion.

Trade in goods

UK goods imports and exports are evenly balanced, with £1.6 billion of exports and £1.6 billion of imports in 2019.

Top goods exports to Mexico include machinery and mechanical appliances, vehicles, and beverages, spirits and vinegar. Top goods imports were precious stones and metals, which the Parliamentary Report explains represented 45% of goods imported by value.⁷

Trade in services

In 2019, the UK exported £1 billion of services to Mexico and imported a similar amount by value from Mexico.

Insurance and pensions was the largest UK services export to Mexico, while the provision of travel services⁸ was the top services import from Mexico.

6. HMRC has estimated that around 3,800 VAT-registered UK businesses exported goods to and 1,300 imported goods from Mexico 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 Mexico.⁹

Institutional and general provisions

Entry into force and interim arrangements

7. The UK-Mexico Agreement will enter into force as soon as both Parties have confirmed in writing that they have completed their relevant domestic procedures.¹⁰

7 Foreign, Commonwealth and Development Office, *Continuing the United Kingdom’s trade relationship with Mexico: parliamentary report* (January 2021), para 17: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948977/ccs1220776510-uk-mexico-pr-accessible.pdf [accessed 6 April 2021]

8 Services consumed by travellers, including business travellers, such as accommodation, meals, and transport count as travel services imports.

9 Foreign, Commonwealth and Development Office, *Continuing the United Kingdom’s trade relationship with Mexico: parliamentary report* (January 2021), para 20: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948977/ccs1220776510-uk-mexico-pr-accessible.pdf [accessed 6 April 2021]

10 Article 12(3)(a)

8. To mitigate the impact of the UK-Mexico Agreement coming into force after the underlying EU Agreement ceased to apply to the UK on 1 January 2021, both Parties exchanged diplomatic notes agreeing to provisionally apply the preferential tariffs and rules of origin in the Agreement.¹¹
9. But while Mexican exports of goods have been benefiting from the preferential tariffs since 1 January, the Mexican Government has only agreed to apply preferences retrospectively once the Agreement has entered into force. This means that UK businesses exporting goods to Mexico between 1 January and the Agreement's entry into force are required to pay the WTO's most-favoured-nation tariff,¹² but will be able to claim a refund later on the difference between the tariff paid and the preferential tariff under the Agreement.
10. We regret that trade in services is not covered by the exchange of letters and is therefore being conducted on WTO terms, under the General Agreement on Trade in Services (GATS), until the Agreement is in force. The UK Government has acknowledged in its online guidance for businesses—though not in its Parliamentary Report—that Mexico may impose some trade restrictions on services.¹³ It has advised businesses providing services to Mexico to contact the regulatory body in Mexico and, if necessary, appoint a local lawyer.

Territorial application

11. The Agreement applies to the UK, with certain elements also applying to the Crown Dependencies and Gibraltar. The Parliamentary Report states that, generally, provisions on goods apply to the Crown Dependencies and non-goods provisions apply to Gibraltar.¹⁴

Consultation

12. 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 importance or concern”. We welcome the Minister's specific confirmation that “HMG has shared the stable text of the Agreement with the DAs, the Crown Dependencies and Gibraltar”.¹⁵

11 Letter from HM Ambassador to Mexico to Minister Graciela Márquez Colín on a bridging mechanism agreed between the UK and Mexico, dated 29 December 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/961159/bridging-mechanism-mexico.pdf [accessed 15 April 2021]

12 Under the most-favoured-principle WTO members cannot discriminate between other WTO members and impose different tariffs, unless they are part of a preferential trade agreement.

13 Department for International Trade, ‘Summary of the UK-Mexico Trade Continuity Agreement’ (31 December 2020): <https://www.gov.uk/guidance/summary-of-the-uk-mexico-trade-continuity-agreement#what-is-covered-until-the-tca-enters-into-force> [accessed 15 April 2021]

14 Foreign, Commonwealth and Development Office, *Continuing the United Kingdom's trade relationship with Mexico: parliamentary report* (January 2021), para 42: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948977/ccs1220776510-uk-mexico-pr-accessible.pdf [accessed 6 April 2021]

15 Department for International Trade, *Explanatory Memorandum on the Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States* (26 February 2021) para 12.4: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965131/EM_CS_Mexico_1.2021_UK_Mexico_Trade_Continuity_Agreement.odt [accessed 15 April 2021]

13. **We welcome the provision of information from the Government about its consultation with the Devolved Administrations, Crown Dependencies and Gibraltar. We repeat our previous recommendation that the Government’s EM should include information about any significant issues of concern raised by the Devolved Administrations (and others), or alternatively confirm that no significant concerns have been expressed.**

Governance and amendments

14. The Agreement, like the EU Agreement, establishes a Joint Council and a Joint Committee to make decisions and recommendations regarding the implementation and operation of the Agreement.¹⁶
15. The Parties can agree amendments to the Agreement in writing. In areas specifically provided for by the Agreement, the Joint Council (and in some cases the Joint Committee) may also make decisions that, in effect, amend the Agreement.
16. The EM confirms that, in the UK, amendments that are subject to a formal exchange of notes to confirm completion of internal procedures will engage the parliamentary scrutiny process set out in the Constitutional Reform and Governance Act 2010 (CRAG). However, it is unclear whether decisions by the Joint Council or the Joint Committee would engage CRAG.
17. **We call on the Government to confirm under what circumstances decisions by the Joint Council or Joint Committee would engage parliamentary scrutiny under the Constitutional Reform and Governance Act 2010. The Foreign, Commonwealth and Development Office has committed to tabling proposals about the identification and notification of all amendments, including those that will be subject to CRAG, and we look forward to receiving these in due course.**

Tariffs and other duties

18. The tariff preferences that applied under the underlying EU Agreement have been transitioned in the UK-Mexico Agreement.
19. The underlying EU Agreement contains an Entry Price System (EPS), which applies to 15 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 UK-Mexico Agreement does not automatically establish such an EPS, but the UK reserves the right to implement one in the future.
20. **We call on the Government to confirm the reasons for not introducing an EPS at the outset, and its assessment of the impact, if any, this approach will have on UK growers of fruits and vegetables previously covered by the EPS. We would also welcome clarification on the Government’s plans for considering whether to introduce an EPS under this and other relevant trade agreements, and what criteria it will apply.**

¹⁶ The Joint Council is the Agreement’s primary governance body. It is a ministerial level body responsible for the supervision of the Agreement. The Joint Committee provides assistance to the Joint Council and includes representatives of both Parties, usually at senior civil servant level.

Tariff rate quotas

21. Tariff rate quotas (TRQs) have been transitioned and resized on the basis of UK-Mexico trade flows using, where possible, three years' worth of trade data.
22. The inward TRQs for asparagus and bananas have been substantially resized. The Parliamentary Report explains that the full EU TRQ for asparagus was transitioned to account for Mexico exceeding the full quantity of its TRQ allocation in the EU Agreement.¹⁷ It suggests that UK growers of asparagus would not be disadvantaged, given the resized TRQ is substantially below the current level of imports and existing trade flows are unlikely to be affected.
23. The TRQ volume for bananas has been subject to a more significant increase—almost six-fold, from 2,100 tonnes in the EU Agreement to 12,000 tonnes under the UK Agreement. The Parliamentary Report notes that this increase will benefit consumers through access to cheaper bananas.¹⁸ The Parliamentary Report does not, however, provide any analysis of the impact the resized TRQ may have on other banana-exporting countries—including on price—and, in particular, Commonwealth members that are classed as low-income countries or are particularly dependent on banana exports.
24. **It is unclear from the explanatory materials accompanying the Agreement whether low-income or banana-dependent Commonwealth countries that export bananas to the UK could be adversely affected by Mexico's increased inward TRQ volume for bananas. We therefore call on the Government to provide its assessment of the impact that increasing the banana TRQ volume to 12,000 tonnes will have on growers and suppliers in those countries.**

Rules of origin and cumulation

25. Like other roll-over trade agreements, the Agreement includes an extended cumulation of origin, allowing the Parties to recognise EU materials as originating in the UK or Mexico in exports to one another. EU processing may also be recognised as originating in the UK if the materials are subsequently processed in the UK before being exported to Mexico. However, the extended cumulation arrangement is time-limited to three years and the Parties must consider whether it should be extended 30 months after entry into force of the Agreement.¹⁹
26. **We call on the Government to confirm that it will also seek to transition this extended cumulation of origin to the forthcoming enhanced UK-Mexico Agreement.**
27. The extended cumulation of origin does not apply to UK or Mexican content in goods exported to the EU. This is because the UK-EU Trade and Cooperation Agreement (TCA) does not provide for UK content to be

17 Foreign, Commonwealth and Development Office, *Continuing the United Kingdom's trade relationship with Mexico: parliamentary report* (January 2021), para 67: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948977/ccs1220776510-uk-mexico-pr-accessible.pdf [accessed 6 April 2021]

18 *Ibid.*

19 Annex, para 37. This extended cumulation of origin, however, does not apply to UK goods or materials exported to the EU, which may subsequently be exported to Mexico. 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.

recognised as EU content in trade with common trade partners, nor does it allow for the cumulation of third-party content in trade between the UK and EU.²⁰

Geographical indications

28. Although the Agreement does not itself contain provisions on geographical indications (GIs), an Agreement on the Mutual Recognition and Protection of Designations for Spirit Drinks was signed on 30 November 2020, and provides protections for three UK GIs (Irish Whiskey, Irish Cream and Scotch Whisky) and four Mexican GIs (Tequila, Mezcal, Sotol and Charanda).²¹

Trade in services

29. The services provisions in the underlying EU Agreement build on the WTO General Agreement on Trade in Services (GATS) and have largely been replicated. They provide access in several areas, including financial services, energy, telecommunications, and tourism. As we have noted, (see paragraph 10), the services provisions will only come into effect once the Agreement has fully entered into force.

Human rights and workers' rights

30. Civil society organisations have raised concerns about alleged human rights violations and unsanitary working conditions for Mexican farmworkers that have worsened under the COVID-19 pandemic.²² Alleged human rights violations include claims of torture, abuses against migrants, extrajudicial killings and attacks on journalists and human rights activists.²³ The Agreement incorporates the over-arching provisions of its precursor on human rights, setting these out as an essential element of the Agreement. In the case of a material breach, the Agreement may be suspended.
31. **We call on the Government to set out the process it plans to monitor human rights compliance, including where allegations of human rights violations are raised that could put Mexico in material breach of the 'essential element' provision in the Agreement.**

Looking forward

32. **Given the imbalance in the provisional trading arrangements pending full ratification and the exclusion of services (see paragraphs 9 and 10), we urge the Government to work to ensure the Agreement's swift ratification.**
33. As set out at paragraph 3, the Agreement commits both Parties to start negotiations for an enhanced UK-Mexico free trade agreement within one

20 Further information can be found in our letter to the EU Select Committee Chair on the UK-EU Trade and Cooperation Agreement, dated 25 February 2021: <https://committees.parliament.uk/publications/5006/documents/49950/default/>

21 Further information can be found in the European Union Committee's report, *Scrutiny of international agreements: Twentieth Report* (20th Report, Session 2019–21, HL Paper 212).

22 See, for example, 'Coronavirus protections lacking for Mexican farmworkers feeding the U.S.' Thomson Reuters Foundation (2 April 2020): <https://news.trust.org/item/20200402155421-4wc2k/> [accessed 15 April 2021] and 'Farmworkers in Mexico hit by competition, unsafe conditions' ABC News (15 May 2021): <https://abcnews.go.com/Health/wireStory/farmworkers-mexico-hit-competition-unsafe-conditions-70692772> [accessed 15 April 2021].

23 See, for example, Human Rights Watch, World Report 2021: <https://www.hrw.org/world-report/2021/country-chapters/mexico> [accessed 15 April 2021].

year of entry into force, with an aim to complete these negotiations within three years.

34. An enhanced agreement will be essential to securing the ongoing competitiveness of UK businesses in Mexico, particularly now that the EU and Mexico have reached an agreement in principle on an EU-Mexico Association Agreement. The enhanced EU-Mexico Agreement will remove many of the remaining customs duties, increase regulatory cooperation and lower non-tariff barriers for EU companies.
35. The Society of Motor Manufacturers and Traders (SMMT), giving evidence to us on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, emphasised the importance of seeking an enhanced agreement with Mexico:

“Mexico is a highly important market for the export of motor vehicles, parts and engines ... The modernised EU-Mexico deal, agreed in 2020, includes more liberal rules of origin and an automotive annex addressing sectoral regulatory issues, ensuring a larger number of EU automotive products will benefit from tariff-free treatment and lower non-tariff barriers. In the absence of agreeing favourable trading terms which match or improve upon the terms of the upgraded EU-Mexico agreement, EU-based competitors are likely to benefit from a significant competitive advantage.”²⁴

36. **The Government has committed to launching negotiations with Mexico within the next twelve months²⁵ and we welcome this public commitment. We call on the Government to keep us updated on developments affecting the negotiations for an enhanced agreement with Mexico. An Agreement providing for terms more closely matching those of the EU-Mexico Association Agreement would be highly desirable.**
37. **We report the Trade Continuity Agreement between the UK and Mexico to the House for information.**

24 Written evidence to the CPTPP inquiry from the Society of Motor Manufacturers and Traders (SMMT) ([CPT0015](#))

25 See letter from Angus Brendan MacNeil MP to Rt Hon. Elizabeth Truss MP on transparency and scrutiny of free trade agreements, dated 16 March 2021: <https://committees.parliament.uk/publications/5136/documents/50660/default/>

APPENDIX: 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), 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>