

HOUSE OF LORDS

International Agreements Committee

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4th Report of Session 2021–22

**Scrutiny of international  
agreements: Protocol amending the  
Agreement between the Government  
of the United Kingdom of Great  
Britain and Northern Ireland and  
the Government of Japan for  
Co-operation in the Peaceful Uses  
of Nuclear Energy**

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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 Astor of Hever</u></a>	<a href="#"><u>Baroness Liddell of Coatdyke</u></a>
<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>
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<a href="#"><u>Lord Lansley</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>

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### *Committee staff*

The current staff of the Committee are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst) and Robert Cocks (Committee Operations Officer).

### *Contact details*

All correspondence should be addressed to the International Agreements Committee, Committee Office, House of Lords, London SW1A 0PW. Telephone 020 7219 4840. Email [HLIntlAgreements@parliament.uk](mailto:HLIntlAgreements@parliament.uk)

### *Twitter*

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## SUMMARY

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This report addresses the following Agreement, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG), and considered at the meeting of the Committee on 30 June 2021, which we report for information:

- Protocol amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy (CP 443, 2021)

# Scrutiny of international agreements: Protocol amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy

## CHAPTER 1: AGREEMENT REPORTED FOR INFORMATION

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Protocol amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy (CP 443, 2021)<sup>1</sup>

1. The Protocol amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy was laid on 7 June 2021, and the scrutiny period is scheduled to end on 13 July 2021. It was considered by the Committee on 30 June 2021.
2. Nuclear Cooperation Agreements (NCAs) set out the legal foundation for civil nuclear cooperation—including key non-proliferation commitments—and provide a framework for trade in nuclear materials and fuel.<sup>2</sup> Before the end of the post-Brexit transition period on 31 December 2020, the UK and Japan were party to two NCAs:
  - the 1998 UK-Japan NCA;<sup>3</sup> and

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1 Protocol amending the Agreement for Co-operation in the Peaceful Uses of Nuclear Energy, done at London on 16 December 2020, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan, CP 443, June 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/991687/CS\\_Japan\\_1.2021\\_Protocol\\_Amend\\_Agreement\\_Cooperation\\_Nuclear\\_Energy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991687/CS_Japan_1.2021_Protocol_Amend_Agreement_Cooperation_Nuclear_Energy.pdf) [accessed 15 June 2021]

2 Department for business, Energy and Industrial Strategy, *Nuclear Cooperation Agreements between the United Kingdom and International Partners: Implementation Guidelines for Nuclear Operator* : [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/916650/nuclear-cooperation-agreements-implementation-guidelines-for-nuclear-operators.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916650/nuclear-cooperation-agreements-implementation-guidelines-for-nuclear-operators.pdf) [accessed 15 June 2021]

3 Agreement for Co-operation in the Peaceful Uses of Nuclear Energy, done at Tokyo 25 February 1998, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan, Cm 4370, June 1999: <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69380> [accessed 1 July 2021]

- the 2007 Agreement between the Government of Japan and the European Atomic Energy Community (Euratom) for co-operation in the peaceful uses of nuclear energy (the Euratom-Japan NCA).<sup>4</sup>
3. The latter agreement ceased to apply to the UK at the end of the transition period. To maintain continuity of effect, the UK and Japan agreed to negotiate an Amending Protocol to incorporate the relevant parts of the Euratom-Japan agreement into the UK-Japan NCA.
  4. The Amending Protocol also covers:
    - how the UK-Japan NCA will operate under the post-Brexit safeguards regime established by the Nuclear Safeguards Act 2018;
    - additional provisions to reflect the text of more recent NCAs and international standards.

#### *Continuity with Euratom-Japan NCA*

5. The Euratom-Japan NCA contains certain provisions which are not currently included in the UK-Japan NCA, and which will be incorporated through the Amending Protocol. These include cessation measures and the return of any transferred material, nuclear material, equipment or technology, in the following circumstances:<sup>5</sup>
  - Japan detonates a nuclear device; or
  - the UK detonates a nuclear explosive device using any material, nuclear material (including that which is recovered or produced as a by-product), equipment or technology transferred from Japan.
6. Several other articles are also read across, including on research and development cooperation, the handling of nuclear material, the protection of commercial or industrial interests, the protection of intellectual property, and the exchange of information related to the Parties' management of materials and equipment.<sup>6</sup>

#### *Operation of the UK-Japan NCA under the post-Brexit UK nuclear safeguards regime*

7. The UK-Japan NCA regulates civil nuclear activity between the UK and Japan, and requires any materials transferred between the countries to be subject to nuclear safeguards. Nuclear safeguards allow the International Atomic Energy Agency (IAEA) to verify that states do not misuse civil nuclear materials and facilities to develop nuclear weapons.

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4 Agreement between the Government of Japan and the European Atomic Energy Community for co-operation in the peaceful uses of nuclear energy [OJ L 32/65](#) (6 February 2007). The UK left Euratom on 31 January 2020, but Euratom rules and arrangements continued to apply until the end of the transition period. See: Articles 79 to 85 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, (19 October 2019): <https://www.gov.uk/government/publications/new-withdrawal-agreement-and-political-declaration> [accessed 1 July 2021]

5 Article 12

6 Articles 7A, 7B, 7C, 7D, and Articles 10 to 15

8. Although not required by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT),<sup>7</sup> all five nuclear weapons states that are a party to the NPT (the UK, US, France, Russia and China) have adopted nuclear safeguarding measures.<sup>8</sup> Before Brexit, the UK's nuclear safeguards were governed by a trilateral agreement between the UK, Euratom and the IAEA,<sup>9</sup> which enabled the IAEA to inspect civil nuclear facilities in the UK while taking into account the Euratom inspection system.<sup>10</sup>
9. In preparation for Brexit, the UK established its own domestic nuclear safeguards regime through the Nuclear Safeguards Act 2018<sup>11</sup> and signed a new bilateral safeguards agreement with the IAEA.<sup>12</sup> At the end of the post-Brexit transition period, the trilateral agreement was terminated and replaced with a bilateral UK-IAEA agreement. The Amending Protocol substitutes any references to the trilateral agreement in the UK-Japan NCA with references to the new bilateral agreement.<sup>13</sup>
10. The Explanatory Memorandum (EM) published alongside the Amending Protocol<sup>14</sup> confirms that the UK will be able to fulfil its obligations under the domestic safeguards regime and the Amending Protocol through the Nuclear Safeguards Act 2018, the Nuclear Safeguards (EU Exit) Regulations 2019, and the Nuclear Safeguards Regulations 2021.<sup>15</sup>

*Additional provisions*

11. The Amending Protocol also updates the UK-Japan NCA to cover technology and to more closely reflect the text of recent NCAs and the Nuclear Suppliers

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7 Treaty on the Non-Proliferation of Nuclear Weapons (NPT): <https://www.un.org/disarmament/wmd/nuclear/npt/> [accessed 1 July 2021]

8 Office for Nuclear Regulation, 'IAEA Safeguards in the UK', (1 January 2021): <https://www.onr.org.uk/safeguards/iaea/uk.htm> [accessed 1 July 2021]

9 Agreement between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the Agency in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, 6 September 1976: <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc263.pdf> [accessed 1 July 2021]

10 Agreement between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the International Atomic Energy Agency for the application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (with protocol): <https://inis.iaea.org/search/searchsinglerecord.aspx?recordsFor=SingleRecord&RN=9350435> [accessed 1 July 2021]

11 [Nuclear Safeguards Act 2018](#)

12 The Agreement between the United Kingdom of Great Britain and Northern Ireland and the International Atomic Energy Agency for the Application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Protocol Additional to the said Agreement on June 7, 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/754735/MS\\_13.2018\\_VOA\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/754735/MS_13.2018_VOA_Agreement.pdf) [accessed 23 June 2021]

13 Article 3.2

14 Foreign, Commonwealth and Development Office, *Explanatory Memorandum on Protocol Amending the Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan for Co-operation in the Peaceful Uses of Nuclear Energy* (7 June 2021): <https://www.gov.uk/government/publications/ukjapan-protocol-amending-the-agreement-for-co-operation-in-the-peaceful-uses-of-nuclear-energy-with-agreed-minutes-cs-japan-no12021> [accessed 23 June 2021]

15 The Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) (Amendment) Regulations 2021 ([SI 2021/492](#)). This was laid before Parliament on 25 February 2021.

Group (NSG) Guidelines.<sup>16</sup> Article 11, for example, updates some key definitions to match those in the NSG Guidelines.<sup>17</sup>

*Entry into force*

12. The EM confirms that the Amending Protocol will enter into force on the exchange of diplomatic notes once all internal procedures have been completed.

*Territorial scope and consultation*

13. The Amending Protocol applies only to the UK and does not extend to the Crown Dependencies (CD) or Overseas Territories (OT). The EM explains that the CDs and OTs have been consulted and that they reserve the right to request that the Amending Protocol be extended to them in the future.<sup>18</sup>
14. The Government has not consulted the Devolved Administrations in the drafting of the Amending Protocol, as nuclear policy is a reserved matter.<sup>19</sup>
15. **We report the Protocol amending the UK-Japan Nuclear Cooperation Agreement to the House for information.**

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16 The Nuclear Suppliers Group (NSG) is a group of 48 states that export nuclear material and seek to contribute to the non-proliferation of nuclear weapons. The UK and Japan have been members since 1974. The NSG has two sets of Guidelines for nuclear exports and nuclear-related exports, which aim to ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons and explosive devices. The NSG Guidelines complement and are consistent with legally binding international agreements in nuclear non-proliferation. Nuclear Suppliers Group, 'About the NSG': <https://www.nuclearsuppliersgroup.org/en/about-nsg> [accessed 1 July 2021]

17 Definitions of the following terms are updated in line with NSG Guidelines: technology, development, production, use, equipment based on technology, and nuclear material recovered or produced as a by-product.

18 EM, p 4

19 *Ibid.*

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

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### International Agreements Committee Members and staff

Lord Astor of Hever

*No relevant interests*

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 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 Robert Cocks (Committee Operations Officer).

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>