



HOUSE OF LORDS

European Affairs Committee

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3rd Report of Session 2021-22

**Free Trade Agreement between  
Iceland, the Principality of  
Liechtenstein and the Kingdom  
of Norway and the United  
Kingdom of Great Britain and  
Northern Ireland**

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The European Affairs Committee was appointed to consider matters relating to the United Kingdom's relationship with the European Union and the European Economic Area, including the implementation and governance structures of any agreements between the United Kingdom and the European Union; to consider European Union documents deposited in the House by a minister; and to support the House as appropriate in interparliamentary cooperation with the European Parliament and the Member States of the European Union.

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### *Committee Staff*

The current staff of the Sub-Committee are Nick Boorer (Clerk), Dominic Walsh (Policy Analyst), Tim Mitchell (Legal Adviser), and Samuel Lomas (Committee Operations Officer).

### *Contact Details*

General correspondence should be addressed to the Clerk of the European Affairs Committee, Committee Office, House of Lords, London, SW1A 0PW. Telephone 020 7219 6083. Email [hleuroaffairs@parliament.uk](mailto:hleuroaffairs@parliament.uk).

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## SUMMARY

This report addresses the following Agreement, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG), which we draw to the special attention of the House:

- Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland (CP 496, 2021).

# Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland

## Background

1. The Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland ('the Free Trade Agreement') was published on 16 July 2021 and laid before Parliament with effect from 19 July.<sup>1</sup> The scrutiny period prescribed under the Constitutional Reform and Governance Act 2010 (CRAG) is due to expire on 26 October 2021.
2. The Free Trade Agreement has been scrutinised by the European Affairs Committee (EAC) rather than the International Agreements Committee, which normally reports on treaties laid under CRAG: the close economic integration between the European Economic Area (EEA) and the EU means that the EAC is tasked with considering matters relating to the United Kingdom's relationship with both blocs. But in reporting on the Free Trade Agreement we have sought to maintain consistency with the reports on international agreements published since 2019 by both the International Agreements Committee and its predecessor, the International Agreements Sub-Committee of the European Union Committee.
3. We have drawn the Free Trade Agreement to the special attention of the House, 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. Our Chair will table a motion to debate the Agreement, and our expectation, in line with previous Government undertakings given to the International Agreements Committee, is that the debate will take place before the expiry of the CRAG scrutiny period on 26 October 2021.

## Recent history of UK-Norway-Iceland trade agreements

4. As a Member State of the European Union, the UK was also part of the European Economic Area, or EEA. Under the EEA Agreement, which entered into force on 1 January 1994, the EU Member States, Norway, Iceland and Liechtenstein all participate in the Single Market, within which

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<sup>1</sup> Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

the ‘four freedoms’—the free movement of goods, services, persons and capital—apply.<sup>2</sup>

5. What distinguishes the position within the EEA of Norway and Iceland,<sup>3</sup> compared with EU Member States, is that they are not subject to the EU’s ‘common external tariff’, which applies uniform tariffs, quotas and other controls to all goods entering the EU Customs Union. This means that there is a customs border between them and the EU. To benefit from preferential treatment under the EEA Agreement, goods traded across this border have to originate within the EEA, and the EEA Agreement provides for rules of origin that determine how far a product must be produced or processed within the EEA in order to qualify as an EEA product.<sup>4</sup> On the other side of the coin, Norway and Iceland are free to conduct their own independent trade policy, including negotiating free trade agreements with third countries.
6. As the UK was a Party to the EEA Agreement only by virtue of being an EU Member State, UK withdrawal from the EU also entailed, as a necessary consequence, simultaneous withdrawal from the EEA. This raised the risk of a ‘hard’ UK exit from the EEA—the abrupt imposition of tariffs and other controls on goods traded between the UK, Norway and Iceland. To mitigate this risk the three states in 2019 concluded an agreement to preserve tariff-free trade in goods, in the event that the UK and the EU failed to ratify a Withdrawal Agreement.<sup>5</sup> That Agreement, which the European Union Committee reported for the special attention of the House,<sup>6</sup> was designed to enter into force only in the event of a ‘no deal’ Brexit, and therefore lapsed when the UK-EU Withdrawal Agreement came into force on 31 January 2020. Instead, the Withdrawal Agreement established a transition period, during which existing EU agreements (including the EEA Agreement) continued to apply to the UK.
7. The transition period pushed back the date on which the existing terms of UK trade with Norway and Iceland would end, from 31 January to 31 December 2020. But the risk of a disruptive hard exit remained, and in December 2020 the Parties therefore concluded a further agreement on trade in goods,

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2 For an overview of the ‘Four Freedoms’ see HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: the Single Market* (July 2013): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227069/2901084\\_SingleMarket\\_acc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/227069/2901084_SingleMarket_acc.pdf) [accessed 2 September 2021]. In reality, though, the four freedoms have evolved at different speeds, and the Single Market in services is less developed (and subject to more national reservations) than that in goods.

3 The focus in this report is on Norway and Iceland. Liechtenstein belongs to a customs union with Switzerland (which is part of the European Free Trade Area, but not part of either the EU or the EEA), and UK-Liechtenstein goods trade is therefore governed by the separate agreement between the UK and Switzerland. Liechtenstein is party only to the services elements of the present agreement.

4 BFTA, Free Movement of Goods (August 2014): <https://www.efta.int/media/publications/fact-sheets/EEA-factsheets/GoodsFactSheet.pdf> [accessed 2 September 2021]

5 Agreement between the United Kingdom of Great Britain and Northern Ireland, Iceland and the Kingdom of Norway on Trade in Goods, CP 89, 12 April 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/795291/MS\\_17.2019\\_Iceland\\_Norway\\_Trade.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795291/MS_17.2019_Iceland_Norway_Trade.pdf) [accessed 2 September 2021]

6 European Union Committee, *Scrutiny of international agreements: treaties considered on 14 May 2019* (40th Report, Session 2017–19, HL Paper 362)

similar to that concluded in 2019, to ensure continuity.<sup>7</sup> This agreement, reported for information by the International Agreements Committee, came into force at the end of the transition period. It was explicitly temporary, and the Government stated in the Parliamentary Report published alongside the agreement that “negotiations towards an ambitious and comprehensive agreement” had begun in summer 2020, and were “on track” to be completed in 2021.

8. The latest Free Trade Agreement, when it is ratified later this year, will deliver the Government’s objective, not only superseding the existing agreement on trade in goods, but introducing new provisions on trade in services. It also represents something of a milestone: the first time the UK has successfully concluded a genuinely new, post-Brexit free trade agreement.<sup>8</sup>

### Scrutiny commitments for new trade agreements

9. Although this agreement is substantially a new trade agreement, the Government has not adopted the approach to parliamentary scrutiny it is applying to other new free trade agreements, such as the forthcoming free trade agreement with Australia.
10. Government commitments on scrutiny of new trade agreements have developed iteratively, and various mechanisms have been used to communicate them: debates in the Chamber, written parliamentary statements and correspondence with the House of Lords International Agreements Committee and the International Trade Committee in the Commons. The Government has committed to:
  - (1) publishing a public consultation and outline approach, including negotiating objectives at the start of the negotiations;
  - (2) giving Parliament an opportunity to scrutinise those documents;
  - (3) providing updates to Parliament and the relevant committees at the conclusion of each negotiating round;
  - (4) providing public and private briefings to the relevant committees on request with Ministers and Chief Negotiators; and
  - (5) giving the committees access to the agreement a reasonable time before it is formally laid in Parliament.
11. This has not happened in respect of the agreement with Norway, Iceland and Liechtenstein. We note the publication of a Parliamentary Report made available alongside other explanatory materials accompanying the agreement. Parliamentary Reports featured alongside all post-Brexit

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7 Agreement on Trade in Goods between the United Kingdom of Great Britain and Northern Ireland, Iceland and the Kingdom of Norway, CP 328, 16 December 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/944837/MS\\_8.2020\\_Agreement\\_Trade\\_in\\_Goods\\_between\\_the\\_UK\\_Norway\\_Iceland.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944837/MS_8.2020_Agreement_Trade_in_Goods_between_the_UK_Norway_Iceland.pdf) [accessed 2 September 2021]. For analysis of this agreement see International Agreements Committee, *Scrutiny of international agreements: Economic Partnership Agreement with Kenya, Trade in Goods Agreement with Norway and Iceland, and Free Trade Agreement with Vietnam* (2nd Report, Session 2019–21, HL Paper 221)

8 The Government suggested that the UK-Japan Comprehensive Economic Partnership Agreement was also a new agreement, but the House of Lords International Agreements Committee, in its report on the agreement, described it as a “continuity-plus” agreement. See International Agreements Committee, *Scrutiny of international agreements: UK-Japan Comprehensive Economic Partnership Agreement* (16th Report, Session 2019–21, HL Paper 175), Summary

continuity agreements, providing an explanation for any departures from the underlying EU agreement. However, in this instance, the Parliamentary Report has been published online in a hard-to-read landscape format, and does little to further the reader's understanding of the final agreement. The rationale for its production is unclear.

### Trade between the UK, Norway, Iceland and Liechtenstein

12. The Impact Assessment<sup>9</sup> published alongside the Free Trade Agreement outlines the extent of UK trade with Norway, Iceland and Liechtenstein. It has been produced in a new and in some respects less informative format than previous documents of this type, so some of the figures cited below are drawn from other sources, including the Parliamentary Report published alongside the December 2019 Agreement. Except where stated, figures relate to 2019, the last representative, complete year before the Covid-19 pandemic.
13. Total trade between the United Kingdom and Norway, Iceland, and Liechtenstein is valued at some £27.1 billion. Norway is the UK's 12th largest trading partner, accounting for some 2.5% of total UK trade; Iceland is the UK's 67th largest trading partner (0.1%). Trade with Liechtenstein has fluctuated in recent years, but given Liechtenstein's size the level is consistently tiny: in 2020 Liechtenstein was the UK's 116th largest trading partner (less than 0.1%).<sup>10</sup>
14. Just over three quarters of trade between the Parties is in goods: in total the UK imported goods worth £16.7 billion from Norway, Iceland and Liechtenstein in 2019, and exported goods worth £4.4 billion. In services, UK exports amounted to £4 billion, and imports £2 billion.
15. UK goods imports are dominated by mineral fuels and oils: imports of Norwegian crude oil and gas alone amount to £8.9 billion and £4.1 billion respectively, making up more than three quarters of goods imports and almost half of all trade between the Parties. The next largest sector for imports is fish and crustaceans, with a value of £408 million. As for UK exports, these are predominantly manufactured goods, led by machinery and mechanical appliances (£838 million), with vehicles, aircraft, electrical machinery and optical, photographic and medical equipment as other important categories.
16. In services, 'other business services' is the largest sector for both UK exports (£1.362 billion) and imports (£388 million). Travel (£701 million) and financial services (£502 million) are other major exports.
17. The Impact Assessment includes helpful maps illustrating the extent of UK trade with Iceland and Norway by nation and region. These demonstrate particularly high levels of imports into Scotland and the Yorkshire/Humber region (presumably including the bulk of oil and gas imports), as well as significant exports from Scotland and the North East.

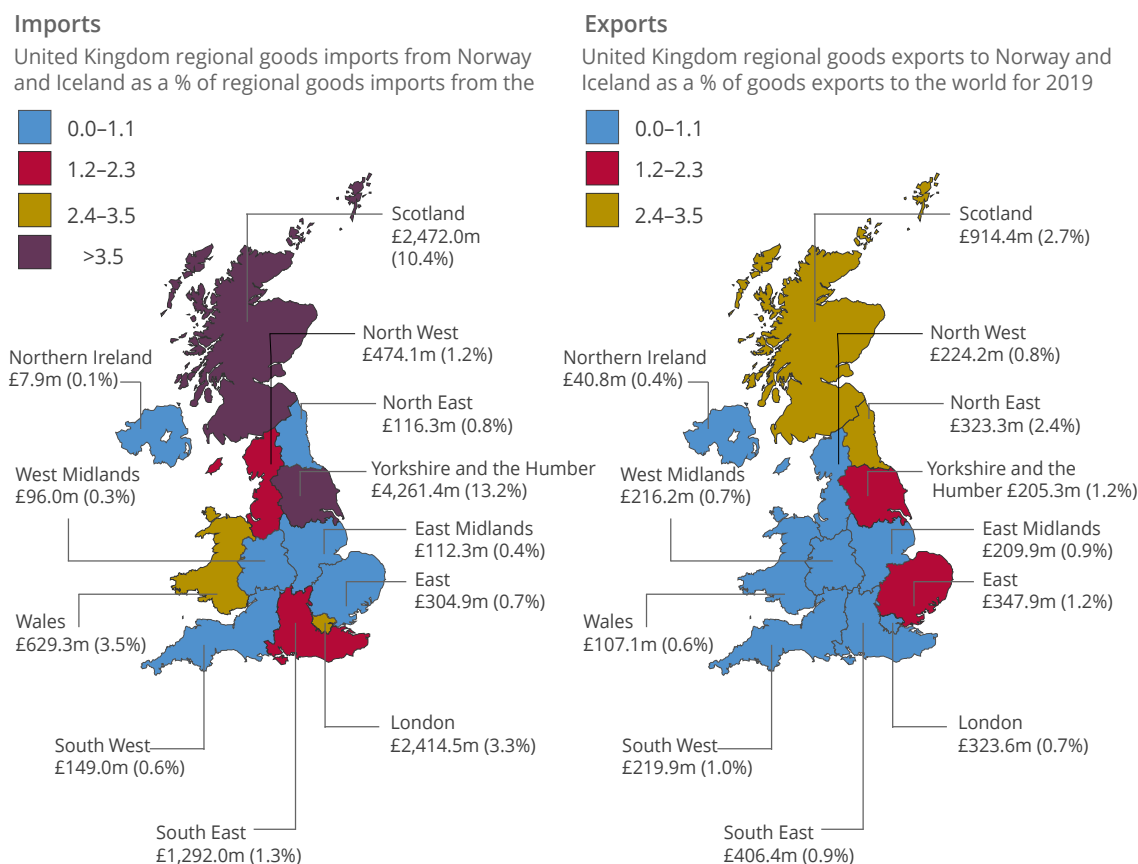
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9 Department for International Trade, *Free Trade Agreement between the United Kingdom and Norway, Iceland, and Liechtenstein: Impact assessment* (July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf) [accessed 2 September 2021]

10 No aggregated figures for UK-Liechtenstein trade are given in the Impact Assessment, so this figure is taken from Department for International Trade, *Trade and Investment Factsheets* (July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/998621/liechtenstein-trade-and-investment-factsheet-2021-07-07.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/998621/liechtenstein-trade-and-investment-factsheet-2021-07-07.pdf) [accessed 2 September 2021]



**Figure 1: United Kingdom goods exported to and imported from Iceland and Norway by nation and region**



Source: Department for International Trade, *Free Trade Agreement between the United Kingdom and Norway, Iceland, and Liechtenstein: Impact assessment (July 2021)*: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf) [accessed 2 September 2021]

## Institutional and general provisions

### *Entry into force*

18. Article 17.5 provides that once the UK and any one of the other Parties to the Free Trade Agreement have certified that they have completed their respective internal requirements and procedures, the Agreement will enter into force on the first day of the following month, in respect of those Parties only. It will then enter into force with respect to other EEA states on the first day of the month following their certification that they in turn have completed their internal processes.
19. Additional time is allowed for the implementation of the provisions relating to mutual recognition of professional qualifications: the Parties have undertaken to use their “best endeavours” to put them into effect within 24 months of the date of entry into force of the Agreement.<sup>11</sup>

<sup>11</sup> Article 12.4, Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

### *Territorial application*

20. The Explanatory Memorandum (EM) accompanying the Agreement states that it applies to the United Kingdom, but that provisions relating to goods also extend to the Crown Dependencies (the Isle of Man, the Bailiwick of Jersey and the Bailiwick of Guernsey). The Agreement includes a mechanism that will allow for further extension to the Crown Dependencies and Overseas Territories, and Joint Declarations set out the Parties' intention to discuss such extension as soon as possible.<sup>12</sup> The EM adds that "DIT is working with the Crown Dependencies and Overseas Territories, including Gibraltar, to identify when and in which areas such extension will be possible".

### *Interaction with the Protocol on Ireland/Northern Ireland*

21. Although the Agreement applies to the United Kingdom, the operation of the Protocol on Ireland/Northern Ireland means that it will apply differently in Northern Ireland, compared to the rest of the UK. None of the Government's explanatory materials—EM, Parliamentary Report or Impact Assessment—makes any reference to the interaction between the Free Trade Agreement and the Protocol. But officials of the Northern Ireland Department for Economy drew attention to an exchange of letters between the UK Government, Iceland and Norway, noting that:

- Goods entering NI at risk of entering the EU would pay EU duties;
- If those EU duties are higher than those agreed under the Free Trade Agreement, importers will be able to use any waiver or reimbursement schemes put in place by the Government;
- Provisions within the Free Trade Agreement relating to Sanitary and Phyto-Sanitary (SPS) measures, technical barriers to trade and geographical indicators will not have effect in NI where they "adversely affect the functioning of the Protocol".

In summary, NI officials noted that "there remain considerable complexities around how Northern Ireland will fully benefit from UK FTAs", adding that the UK Government would "need to consider impacts on transparency around WTO notifications and potential trade dispute risks arising from the potential inability to fully comply with FTA measures for NI, where these conflict with measures in the Protocol".

### *Consultation*

22. The Explanatory Memorandum outlines Government engagement with a range of business and civil society groups. It also notes that HM Government is responsible for negotiating trade agreements on behalf of the UK as a whole, but recognises the interaction of such agreements with areas of devolved competence and the interest of the Devolved Administrations. It continues:

"DIT works closely with the DAs to help inform and develop policy that best reflects this. DIT shares Parliamentary reports, Explanatory Memoranda and text in full once it is stable on individual agreements

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<sup>12</sup> Department for International Trade, *UK-Norway, Iceland and Liechtenstein FTA: joint declaration on culture and entertainment* (16 July 2021): <https://www.gov.uk/government/publications/uk-norway-iceland-and-liechtenstein-free-trade-agreement-joint-declarations> [accessed 16 July 2021]

with the DAs. DIT also welcomes their views as progress is made, in particular for areas covering devolved competence”.

The EM then states that DIT ministers have “held regular discussions with their DA counterparts”, and have “shared text in areas of devolved competence”. Finally, it highlights the Government’s continuing engagement with the Crown Dependencies.

23. Officials from the Northern Ireland Department for Economy “welcomed the opportunity provided by the Department for International Trade (DIT) to comment on approaches taken during the recent FTA negotiations”, though acknowledged that given the relatively low level of trade between NI, Norway and Iceland, their input had been limited. They added that “much of the detailed text was not seen for the first time until close to the official Agreement in Principle was announced, meaning limited time for due consideration of the issues”.

24. The Scottish Government, by means of a letter to our Chair from the Minister for Business, Trade, Tourism and Enterprise, Ivan McKee MSP, took a different view: “We have consistently made the case for a full role for the Scottish Government in all stages of trade negotiations. As the attached note sets out, that did not happen in this case, with the result that we were not involved in any of the crucial detail relating to tariffs and goods market access.” The note referenced in Mr McKee’s letter developed this point:

“The UK Department for International Trade (DIT) originally treated the negotiations with Norway, Iceland and Liechtenstein as part of the Continuity Negotiations and Co-ordination Programme, which meant that devolved administrations had no involvement in the process other than receiving updates on progress. The Scottish Government made clear to DIT that this was not acceptable.

“In February 2021, we were advised that DIT would share more information on the negotiations, including offering the opportunity to comment on texts where they related to devolved competence. However this still fell short of the level of engagement that we have called for, as it meant that we were not consulted on significant aspects of the negotiations, such as the UK goods market access offers and negotiating positions.”<sup>13</sup>

25. Northern Ireland officials, while highlighting the complex interaction of the Free Trade Agreement with the Protocol on Ireland/Northern Ireland (see paragraph 20), confirmed that “no concerns have been raised on trade matters”. Although we did not receive a submission from the Welsh Government, officials of the Senedd highlighted correspondence from Welsh Ministers emphasising the importance of consultation, particularly on new FTAs affecting Welsh economic interests. Ivan McKee MSP, in the note attached to his letter, set out the Scottish Government’s priorities for the Free Trade Agreement, concluding that “no trade agreement is able to provide the full range of benefits that Scotland enjoyed as a member of the European Single Market”. He also identified a number of concerns related to both goods and services trade, as well as digital trade.

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<sup>13</sup> Letter from Ivan McKee MSP, Minister for Business, Trade, Tourism and Enterprise, Scottish Government, 6 September 2021: <https://committees.parliament.uk/publications/7446/documents/77893/default/> [accessed 27 September 2021]

### *Governance and dispute resolution*

26. The Parties will establish a Joint Committee, comprising “senior representatives of each Party”, whose primary function will be “to supervise and review the implementation and operation of this Agreement”.<sup>14</sup> The Joint Committee will also oversee the “further development” of the Agreement, reviewing the options for “further removal of barriers to trade”. It has a specific remit to “oversee and monitor the implementation of objectives relating to advancing women’s economic empowerment” (for which see paragraph 47). The Joint Committee will meet every year, or in urgent cases at the request of any of the Parties.
27. The Joint Committee will be empowered to adopt interpretations of the Agreement, and to “recommend to the Parties any amendments to this Agreement or adopt decisions to amend this Agreement, as provided for in this Agreement”. The EM notes that “the Joint Committee’s decisions on amendments may engage the parliamentary scrutiny process under CRAG”. The explanatory materials do not, however, define which types of Joint Committee amendments are likely to be subject to scrutiny under CRAG.
28. The Parties also have a separate power to “agree, in writing, to amend this Agreement”.<sup>15</sup> The EM confirms that such amendments, not provided for in the Agreement itself, would engage the parliamentary scrutiny process under CRAG.
29. Chapter 16 of the Agreement sets out the arrangements for dispute settlement. This is conducted on a state-to-state basis, and the emphasis is on consensus, wherever possible: “The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement and shall make every attempt through cooperation and consultations to reach a mutually satisfactory solution”.<sup>16</sup> But where a Party considers that a measure is inconsistent with the Agreement, it may request “consultations” in the Joint Committee. Only if these formal consultations fail to deliver a resolution, may the Party concerned set out the details of its complain in writing, and request the establishment of an Arbitration Panel, made up of three arbitrators.<sup>17</sup> The decisions of the Panel “shall be final and binding on the parties to the dispute”.<sup>18</sup>

### **The impact of the Free Trade Agreement**

#### *Overview*

30. Although the Free Trade Agreement is, as we have noted, the UK’s first new post-Brexit FTA, it is impossible to overlook the fact that a key objective is to preserve the legacy of close economic integration arising from the UK’s membership of the EU and EEA. That objective was implicit in the continuity agreement adopted in 2020, which the present agreement will supersede, and it is once again acknowledged in the various Government publications

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14 Article 15.1, Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

15 Article 17.2, *Ibid.*

16 Article 16.4, *Ibid.*

17 Article 16.6, *Ibid.*

18 Article 16.11.9, *Ibid.*

accompanying the Agreement. The Impact Assessment, for instance, describes the first objective of the Agreement as to “establish an ambitious, broad-ranging trade arrangement that reflects the United Kingdom’s recent trading relationship with Norway, Iceland, and Liechtenstein as far as possible”.

31. The Free Trade Agreement is thus in part an exercise in damage limitation: it seeks to avoid the imposition of new barriers to trade, rather than to remove existing barriers. As a necessary consequence its impact, if measured in terms of increased trade, is likely to be modest. If measured in terms of the avoidance of increased barriers to UK-EEA trade, which would arise if trade had to be conducted permanently on World Trade Organization terms, that beneficial impact is likely to be much greater—though difficult to quantify.

### *Trade in goods*

#### *Tariffs and Tariff Rate Quotas*

32. The Government’s Impact Assessment does not provide an estimate of the likely impact of the Free Trade Agreement upon trade with Norway and Iceland. Instead, it highlights the strength of the existing trading relationship: “The United Kingdom has secured a free trade agreement that could help enhance a trading relationship worth £27.1 billion [in] 2019.”
33. On tariffs, the Government anticipates only “incremental impacts”, and where it does identify gains they are modest: “Total annual tariff reductions on United Kingdom exports to Norway could be £4.1 to 8.1 million. Whilst the total annual tariff reductions on United Kingdom import duties from Norway could be between £1.3 and 2.9 million.” Such low figures reflect the long history of mostly tariff-free trade between the Parties, deriving from the UK’s former EU membership. A key objective in negotiating the Free Trade Agreement was to protect the status quo, and this has been largely achieved.
34. Tariff Rate Quotas (TRQs) allow a specified quantity of a particular product to be imported at a lower rate than the normal tariff levied on the product—essentially they establish a two-tier tariff regime. The Impact Assessment states that the Free Trade Agreement both creates new TRQs for specific products, and expands existing TRQs. Examples include “25 new or expanded outward TRQs ... ensuring zero tariffs for approximately £1 million worth of trade”. Products affected included certain meats (pork, sausages and poultry), along with eggs and specific types of cheese, which, in addition to the 299-tonne duty-free quota available to UK cheeses generally, will benefit from “an improved out of quota tariff rate”.<sup>19</sup> Inwards TRQs have been introduced for Norwegian products including cut flowers and whey.
35. The Free Trade Agreement also promises benefits to the fisheries sector, one of the few sectors subject to tariffs when the UK was still a member of the EU and the EEA. Tariffs on the import into the UK of shrimps and prawns are removed, delivering savings of between £1 million and £2.7 million

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19 The cheeses affected are West Country Farmhouse Cheddar, Orkney Scottish Island Cheddar, Traditional Welsh Caerphilly, and Yorkshire Wensleydale. It is not clear why these cheeses have been selected, but the Impact Assessment notes that they “will have special access to the Norwegian market alongside a handful of European cheeses like Gruyere and Parmesan”. See Department for International Trade, *Free Trade Agreement between the United Kingdom and Norway, Iceland, and Liechtenstein: Impact assessment* (July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf) [accessed 2 September 2021]

annually. While benefiting businesses in Norway, this should also reduce costs for the UK fish processing industry (employing around 18,000 people across the UK, almost three-quarters based in Scotland, East Yorkshire and northern Lincolnshire), and ultimately for consumers. On the other hand, Norway has agreed to cut certain tariffs for imports of UK fish feed from 10.5% to zero, thereby achieving annual savings of some £4.1 million.<sup>20</sup>

### *Rules of origin*

36. Attached to the Free Trade Agreement is an Annex on Rules of Origin. This provides that if businesses in the UK import raw materials from Norway or Iceland, process them and use them in the manufacture of another product, and then re-export that product to Norway or Iceland, it will be deemed to have originated in the UK, thus benefiting from a zero tariff. The same rules will apply, *mutatis mutandis*, to goods manufactured in Norway or Iceland incorporating materials of UK origin. To benefit from these rules, goods must be subject to “sufficient working or processing”, the conditions for which are set out in Appendix 2 of the Annex.
37. The Annex also provides for materials from the EU and other “defined countries”<sup>21</sup> to be ‘cumulated’ by businesses in the UK, Norway or Iceland for the purposes of assessing their origin. The Joint Committee established under the Agreement will be able, in future, to add other countries to this list.
38. These provisions, though, fall short of full ‘diagonal cumulation’: that is to say, while the UK, Norway and Iceland will cumulate EU content, the EU (by means of the UK-EU Trade and Cooperation Agreement) has not reciprocated. As a result, Norwegian or Icelandic raw materials incorporated above a certain threshold into goods exported from the UK to the EU will be treated by the EU as ‘third country’ content, and thus subject to tariffs. The impact upon supply chains is still unclear, but as the European Union Committee noted in March 2021, diagonal cumulation was a UK ask in the negotiations but was rejected by the EU. The Committee urged the Government to “continue to make the case for full diagonal cumulation and push for related amendments when the TCA’s provisions are reviewed”.<sup>22</sup>

### *Trade in services*

39. The main impacts of the Free Trade Agreement, according to the Impact Assessment, “are expected to be concentrated across services sectors”. Noting that the existing (December 2020) Agreement on Trade in Goods does not contain provisions on trade in services, it states that the Free Trade

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20 The Free Trade Agreement does not address access to fisheries or the allocation of quotas in UK, Norwegian and Icelandic waters. These issues were covered in respect of Norway, in the Framework Agreement on Fisheries, done at London on 30 September 2020, between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway (CP 308): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/927151/CS\\_Norway\\_1.2020\\_UK\\_Norway\\_Framework\\_Agreement\\_on\\_Fisheries.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927151/CS_Norway_1.2020_UK_Norway_Framework_Agreement_on_Fisheries.pdf) [accessed 9 September 2021]. This was reported for special attention by the European Union Committee, *Scrutiny of international agreements: UK-US Spaceports Agreement; and UK Fisheries Framework Agreements with Norway and the Faroe Islands* (17th Report, Session 2019 – 21, HL Paper 181)

21 These are listed in Appendix 3 to the Annex: the list comprises all EU Member States and all countries/territories that are party to the pan-Euro-Mediterranean (PEM) system of cumulation.

22 European Union Committee, *Beyond Brexit: trade in goods* (24th Report, Session 2019–21, HL Paper 249), para 80

Agreement “delivers more opportunities across services and investment and a range of other areas including digital, procurement and telecoms”.

40. The Law Society, in a written submission, told us that the Free Trade Agreement came “nowhere close to replicating the level of market access members had ... prior to Brexit”. That level of integration is of course no longer available to the UK, now that it has left the EU, and the Law Society also identified a number of useful facilitations of services trade, such as the provisions on the mutual recognition of professional qualifications, where the Agreement requires that “the host jurisdiction shall accord treatment no less favourable [to those qualified in another Party] than it does to its own regulated professions”.<sup>23</sup> As noted above, the Agreement allows the Parties up to 24 months following the Agreement’s entry into force to give effect to these provisions—the Government states that it expects to use powers created under the Professional Qualifications Bill, currently before the House of Lords.<sup>24</sup>
41. The provisions on mobility of persons<sup>25</sup> are particularly significant, given the close inter-connection between trade in services and the movement of persons either to provide or consume those services. The Impact Assessment makes no explicit reference to this interconnectedness, covering the new provisions on mobility of persons in the chapter on “Sectoral impacts”. This notes that, though data for Iceland and Liechtenstein are unavailable, in 2019 there were “110,000 business visits to Norway by United Kingdom residents”. The Parliamentary Report offers only selected highlights (for instance, “British musicians and performers will be able to perform and tour in Norway and Iceland without a permit”) rather than a considered analysis.
42. The Agreement focuses on what the WTO defines as ‘Mode 4’, namely where “natural persons who are either service suppliers (such as independent professionals) or who work for a service supplier and who are present in another WTO member to supply a service”.<sup>26</sup> The Impact Assessment notes that 16.5% of all services trade between the UK, Norway, Iceland and Liechtenstein in 2019, valued at just under £1 billion, fell under Mode 4.<sup>27</sup>

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23 Letter from the Law Society, 6 September 2021: <https://committees.parliament.uk/publications/7447/documents/77895/default/> [accessed 27 September 2021]

24 Foreign, Commonwealth and Development Office, *Explanatory Memorandum: Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland (CP 496)* (16 July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002999/MS\\_3.2021\\_Free\\_Trade\\_Iceland\\_Liechtenstein\\_Norway\\_and\\_UK.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002999/MS_3.2021_Free_Trade_Iceland_Liechtenstein_Norway_and_UK.odt) [accessed 2 September 2021], para 5.20

25 Covered in Section 3.4 of the Agreement, “Entry and temporary stay of natural persons”, Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

26 World Trade Organization, Movement of natural persons: [https://www.wto.org/english/tratop\\_e/serv\\_e/movement\\_persons\\_e/movement\\_persons\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/movement_persons_e/movement_persons_e.htm) [accessed 30 August 2021]

27 In WTO terms, services trade falls under one of four ‘modes’. Of these, Mode 1.

### Box 1: Modes of supply of services

There are four main ways in which services are internationally traded. They are defined as the ‘Four Modes of Supply’ by the World Trade Organization (WTO) under its General Agreement on Trade in Services (GATS), which provides the basis for global rules on services trade:

- Mode 1 (Cross-border services) does not involve the movement of people. An example would be a call-centre in India providing services to a UK-based company.
- Mode 2 (Consumption of services) covers services which are consumed by the resident of one territory who consumes services while in another territory. An example would be a British tourist visiting Norway and consuming services while there. As noted above (paragraph 12), travel is a major component of UK trade with Norway, Iceland and Liechtenstein.
- Mode 3 (Commercial presence) refers to trade involving a business resident in one country which controls an enterprise resident in another, such as a subsidiary. For example, UK-based retailers setting up branches in Norway. It does not necessarily involve the movement of persons, though as the Government’s Impact Assessment notes, it may be “difficult ... to establish commercial presence under Mode 3 if moving staff between different locations is burdensome, complicated and difficult”.
- Mode 4 (Presence of natural person) involves the movement of a service professional (such as a lawyer or management consultant) to another territory temporarily to deliver their service directly to a consumer.

43. The Free Trade Agreement allows persons to move between the Parties for business purposes, without the need for a work permit and without checks such as economic means tests, for up to 90 days in a 180-day period in the case of Norway and Liechtenstein, and for up to 90 days in a calendar year in the case of Iceland. This covers short-term business visitors (including touring musicians and others in the creative services sector) and those establishing enterprises, such as branches or subsidiaries. Similar provisions cover intra-corporate transferees, and include partners and dependent children, who will also have the right to work. The Parties have also agreed not to impose means tests or limitations on the numbers of contractual services suppliers and independent professionals. There are overarching provisions committing the Parties to transparency in the operation of the new system, which, as the Law Society noted, go further than the comparable provisions in the TCA.
44. As for the impact of the Agreement upon trade in services, the Government is cautious, stating merely that it “will secure continued market access across a broad range of sectors, including professional and business services, financial services, and transport services, and could support new and continued foreign direct investment”.<sup>28</sup>

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28 Department for International Trade, *Free Trade Agreement between the United Kingdom and Norway, Iceland, and Liechtenstein: Impact assessment* (July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf) [accessed 2 September 2021], Box 1, p 10



## Cross-cutting issues

### *Implementation costs*

45. The Government states that there may be one-off implementation and familiarisation costs to firms from reading and understanding the provisions of the Free Trade Agreement. Although there could be on-going compliance costs for firms seeking to take advantage of the preferential tariffs afforded by the Agreement, the Government does not expect to see “any significant additional costs associated with rules of origin”.

### *Small and Medium-Sized Enterprises*

46. Chapter 10 of the Free Trade Agreement seeks to enhance the ability of Small and Medium-Sized Enterprises (SMEs) to take advantage of the Agreement. This is done by means of commitments to information-sharing, including an obligation on all Parties to publish online not just the Agreement itself, but a summary and other information useful to SMEs. The Parties are also required to designate SME contact points, whose job it will be to take account of the needs of SMEs, exchange information and consider ways to increase opportunities for SMEs. These contact points will have the right to raise any matters affecting SMEs directly with the Joint Committee that will oversee the Agreement.<sup>29</sup>

### *Sustainable development*

47. Chapter 13 of the Free Trade Agreement addresses Trade and Sustainable Development, committing the Parties to “promote sustainable development which encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing components”.<sup>30</sup> Although there is a comparable commitment to sustainable development in the UK-EU Trade and Cooperation Agreement,<sup>31</sup> the provisions of the latest Agreement place a new emphasis on some issues, two of which are touched on below.
48. Section 13.3 addresses women’s economic empowerment and trade. It reflects commitments made in the Joint Declaration on Trade and Women’s Economic Empowerment on the occasion of the WTO Ministerial Conference in Buenos Aires in December 2017, and reiterates all Parties’ recognition of the importance of incorporating a gender perspective in the promotion of economic development, and of enhancing opportunities for women. Article 13.8 enables the Parties to undertake cooperative activities to support these objectives, including sharing best practice across a range of policy areas.
49. The prominence given to women’s economic empowerment is striking, given the lack of any comparable commitment in the UK-EU Trade and Cooperation Agreement. The Parliamentary Report places considerable

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29 Article 10.4, Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

30 Article 13.1.2, *Ibid.*

31 Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one Part, and the United Kingdom of Great Britain and Northern Ireland, of the other Part (24 December 2020): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/948119/EU-UK\\_Trade\\_and\\_Cooperation\\_Agreement\\_24.12.2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948119/EU-UK_Trade_and_Cooperation_Agreement_24.12.2020.pdf) [accessed 2 September 2021], Title XI

emphasis on the provisions, though the Impact Assessment is cautious in describing their practical effect: “A number of cooperation activities have been agreed relating to women’s economic empowerment which could lead to improved outcomes for women in trade over time.”

50. For reasons that are not specified, none of the Parties to the Agreement is to have recourse to the provisions on dispute settlement in relation to the section on women’s economic empowerment.<sup>32</sup>
51. Article 13.22 of the Agreement relates to climate change, highlighting the Parties’ commitment to achieve the objectives contained in the United Nations Framework Convention on Climate Change of 1992 and the Paris Agreement of 2015. It reaffirms all Parties’ “respective climate change commitments”, including their objectives “to achieve net zero emissions or to become a low-emission society in accordance with their law”. The Impact Assessment offers the following commentary:

“There is no evidence to suggest that the Agreement will encumber the United Kingdom’s ability to reach its legally-binding emissions targets. Although some provisions may potentially increase trade and output, any increases are not expected to be significant given the scale of liberalisation across goods and services as well as the longstanding trading relationship between the United Kingdom and these countries.”<sup>33</sup>

52. There are also undertakings to develop further cooperation across a range of environmental issues, including to develop “the cost-effective deployment of renewable energy, including offshore energy and in particular offshore wind generation in the North Sea”.<sup>34</sup> These undertakings are particularly welcome given the extensive UK-Norway trade in oil and gas, and the potential for the two countries to cooperate in developing alternative, renewable energy sources in the North Sea.

### Conclusions

53. **We welcome the Government’s successful conclusion of negotiations on a Free Trade Agreement with Norway, Iceland and Liechtenstein, and we congratulate all parties on the speed with which agreement was reached.**
54. **Although this is a substantially new agreement, it has not been subject to the same levels of transparency as other new trade agreements, such as the forthcoming one with Australia. We call on the Government to ensure that it applies its commitments to parliamentary scrutiny in a consistent manner to all new trade agreements.**
55. **The materials published alongside the Free Trade Agreement appear to have been produced in haste, and are in new and in some cases**

32 Article 13.19, Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, CP 496, 16 July 2021: <https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern> [accessed 2 September 2021]

33 Department for International Trade, *Free Trade Agreement between the United Kingdom and Norway, Iceland, and Liechtenstein: Impact assessment* (July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002867/UK-Norway-Iceland-and-Liechtenstein-Impact-Assessment-final.pdf) [accessed 2 September 2021], Annex E, p 31

34 Article 13.22.3(d), *Ibid.*

unhelpful formats. We invite the Department for International Trade to confirm whether, notwithstanding previous statements by ministers, it is their intention to publish Parliamentary Reports alongside new trade agreements. If it is, the Department should bear in mind that Parliamentary Reports are intended to facilitate effective parliamentary scrutiny, and should be prepared with that objective in mind.

56. **The UK already has high levels of trade in goods with Norway and Iceland, reflecting many years of close economic integration. As a result, the aim of the Free Trade Agreement is as much to safeguard existing trade, by avoiding the imposition of new barriers such as tariffs or quotas, as it is about creating new opportunities. Its impact upon trade in goods will be incremental, but could be significant, particularly in the long term.**
57. **We welcome the inclusion of provisions on services trade, though we note that as for trade in goods, the Agreement builds on already close integration. The arrangements for mobility of persons are welcome, though we note that they are more restrictive than those that applied while the UK was an EU Member State. It remains to be seen what impact these provisions will have upon trade in services**
58. **We note the complex interaction between the Free Trade Agreement and the Protocol on Ireland/Northern Ireland, and we are surprised that no reference is made to this issue in any of the materials published by the Government alongside the Agreement.**
59. **We welcome the provisions on women's economic empowerment and on climate change, and the shared commitment of all Parties to the Agreement to deepen their cooperation on these issues.**
60. **In conclusion, we draw special attention to the Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, 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.**

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Baroness Couttie  
 Lord Faulkner of Worcester  
 Lord Foulkes of Cumnock  
 Lord Hannay of Chiswick  
 Lord Jay of Ewelme  
 Baroness Jolly  
 The Earl of Kinnoull  
 Lord Lamont of Lerwick  
 Lord Liddle  
 Lord Purvis of Tweed  
 Viscount Trenchard  
 Lord Tugendhat  
 Lord Wood of Anfield

### Declarations of Interest

Baroness Couttie  
*Non-Executive Director at Mitie  
 Commissioner with the Guernsey Financial Services Commission  
 Vice-President of the Local Government Association*

Lord Faulkner of Worcester  
*Vice-chair of the British-Norwegian all-party parliamentary group*

Lord Foulkes of Cumnock  
*No relevant interests to declare*

Lord Hannay of Chiswick  
*Member of the Advisory Board of the Centre for European Reform  
 Chair of the Senior European Experts Group*

Lord Jay of Ewelme  
*No relevant interests to declare*

Baroness Jolly  
*No relevant interests*

The Earl of Kinnoull  
*No relevant interests to declare*

Lord Lamont of Lerwick  
*No relevant interests to declare*

Lord Liddle  
*No relevant interests to declare*

Lord Purvis of Tweed  
*No relevant interests*

Viscount Trenchard  
*No relevant interests to declare*

Lord Tugendhat  
*No relevant interests to declare*

Lord Wood of Anfield  
*No relevant interests to declare*

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/>