

HOUSE OF LORDS

International Agreements Committee

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9th Report of Session 2021–22

**Scrutiny of international  
agreements: Treaties on the  
Readmission of Persons (Albania),  
Employment by Members of  
Diplomatic Households (Portugal),  
Social Security Coordination  
(Switzerland), and a Maritime  
Boundary (Anguilla and Antigua  
and Barbuda)**

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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.

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See Appendix 1.

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## SUMMARY

This report addresses the following four Agreements, 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 3 November 2021, which we report for information:

- Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons (CP 521, 2021)
- Agreement between the United Kingdom of Great Britain and Northern Ireland and Portuguese Republic regarding the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts (CP 522, 2021)
- The Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (CP 530, 2021)
- Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda establishing a Maritime Boundary between Anguilla and Antigua and Barbuda (CP 526, 2021)

# Scrutiny of international agreements: Treaties on the Readmission of Persons (Albania), Employment by Members of Diplomatic Households (Portugal), Social Security Coordination (Switzerland), and a Maritime Boundary (Anguilla and Antigua and Barbuda)

## CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

### **Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons (CP 521, 2021)<sup>1</sup>**

1. The Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons (the UK-Albania Readmission Agreement) was laid on 14 September 2021, and the scrutiny period is scheduled to end on 18 November 2021. It was considered by the Committee on 3 November 2021.
2. The Agreement will create a duty on Albania to readmit, at the UK's request, Albanian citizens, persons with the right of abode in Albania and third-party nationals who have a verified connection to Albania where they are found to be in violation of immigration rules in the UK. The UK will have a similar reciprocal duty to readmit British citizens, persons with the right of abode in the UK and third-party nationals who have a verified connection to the UK, who are found to be in violation of Albania's immigration rules.
3. The aim of the Agreement is not to specify who may or may not have a right to remain in the UK or in Albania, but to provide an agreed mechanism for the return of individuals.<sup>2</sup>

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1 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons, CP 521, July 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1016871/CS\\_Albania\\_2.2021\\_Agreement\\_UK\\_Albania\\_Readmission\\_Persons.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016871/CS_Albania_2.2021_Agreement_UK_Albania_Readmission_Persons.pdf) [accessed 4 November 2021]

2 Home Office, Explanatory Memorandum on the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons, July 2021, para 4.1: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1016710/EM\\_CS\\_Albania\\_2.2021\\_Agreement\\_UK\\_Albania\\_Readmission\\_Persons.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016710/EM_CS_Albania_2.2021_Agreement_UK_Albania_Readmission_Persons.odt) [accessed 4 November 2021]. Slightly different procedures apply for the return of third-party nationals compared to the return of citizens and people who have right of abode.

4. When the UK was a member of the EU, it participated in 14 of the EU's 18 Readmissions Agreements (EURAs) with non-EU countries, including one with Albania.<sup>3</sup> The other EU Readmissions Agreements in which the UK participated were with Pakistan, Georgia, Serbia, Turkey, Sri Lanka, Ukraine, Russia, Moldova, Bosnia-Herzegovina, Montenegro, Macedonia, Macao and Hong Kong. As the UK ceased to be covered by EURAs at the end of the post-Brexit transition period on 31 December 2020, the Government is seeking to put in place agreements to replace the EURAs it previously relied on for making returns.<sup>4</sup> The UK-Albania Agreement is the first such agreement to be transitioned, and the Government is in discussion with other countries about transitioning other EURAs into bilateral agreements.<sup>5</sup>

#### *Governance and amendments*

5. The Parties may set up a Committee of Experts to assist in applying and interpreting the Agreement.<sup>6</sup> The Committee can propose amendments and additions to the Agreement, but it is up to the Parties whether or not they choose to accept them.<sup>7</sup>
6. Amendments must be made in writing and will enter into force once both Parties have completed their internal procedures, or on a date agreed by the Parties.<sup>8</sup> The Government does not specify in the Explanatory Memorandum (EM) published alongside the Agreement whether such amendments would be subject to scrutiny under the Constitutional Reform and Governance Act 2010 (CRAG).
7. **We call on the Government to review its quality assurance processes to ensure that all EMs address whether amendments will be subject to scrutiny under CRAG, in line with existing Government guidance.**<sup>9</sup>
8. The Parties must review data-sharing arrangements under the Agreement.<sup>10</sup> The first review must be held between one and five years after the Agreement's entry into force. Subsequent reviews would take place by mutual agreement.

#### *Entry into force*

9. The Agreement will enter into force once both Parties have notified each other that they have completed their domestic legal procedures.<sup>11</sup> The EM states that the Agreement "will be implemented in UK domestic law in line with the current Immigration Rules".<sup>12</sup> It is not clear from this, however, how implementation will be achieved and whether further domestic legislation will be required.

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3 Written answer by Lord Greenhalgh, [HLWA1460](#), Session 2021–22. See also: European Commission, 'Return and readmission': [https://ec.europa.eu/home-affairs/policies/migration-and-asylum/irregular-migration-and-return/return-and-readmission\\_en](https://ec.europa.eu/home-affairs/policies/migration-and-asylum/irregular-migration-and-return/return-and-readmission_en) [accessed 4 November 2021]

4 EM, para 3.2

5 Written answer by Lord Greenhalgh, [HLWA1462](#), Session 2021–22

6 Article 17 of the Agreement and Article XII of the Protocol to the Agreement

7 *Ibid.*

8 Article 25

9 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024663/Treaties\\_and\\_MOUs\\_Guidance\\_Oct\\_2021.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt) [accessed 4 November 2021]

10 Article XI of the Protocol to the Agreement

11 Article 24

12 EM, para 5.1

10. **We call on the Government to review its quality assurance processes to ensure that all EMs include details of any relevant existing domestic legislation and any legislation required to be enacted (or other measures) before the Treaty can enter into force, in line with existing Government guidance.**<sup>13</sup>

*Territorial scope and consultation*

11. The Agreement applies to the UK and Gibraltar. This reflects the territorial application of the EURA with Albania when it applied to the UK.<sup>14</sup> The EM also explains that the Crown Dependencies were invited to have the Agreement extended to them. Although they have not requested to be covered by the Agreement at this time, ratification can be extended to them at a later date.<sup>15</sup>
12. Government guidance on EMs states that EMs should include a section on consultation, summarising the nature of consultation undertaken with devolved administrations, Crown Dependencies and Overseas Territories, and other stakeholders.<sup>16</sup> The guidance provides suggested wording to be used depending on whether a treaty covers subject matter that is:
- devolved;
  - reserved but with implications for the devolved administrations; or
  - fully reserved with no implications for the devolved administrations.
13. The EM for this Agreement does not mention the devolved administrations. Although covering a reserved policy area, the EM should have said so explicitly and noted that, consequently, the devolved administrations were not consulted (or have noted it if in fact they were). In its report on the Agreement, the Legislation, Justice and Constitution Committee of the Senedd noted that the omission means that “no information is available regarding the devolved administrations, including whether they were consulted in the drafting of this agreement and the UK Government’s views on competence”.<sup>17</sup>
14. **We call on the Government to review its quality assurance processes to ensure that all EMs include the specified wording on consultation with the devolved administrations, in line with existing Government guidance.**<sup>18</sup>

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13 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024663/Treaties\\_and\\_MOUs\\_Guidance\\_Oct\\_2021.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt) [accessed 4 November 2021]

14 EM, para 6

15 EM, para 10.1

16 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024663/Treaties\\_and\\_MOUs\\_Guidance\\_Oct\\_2021.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt) [accessed 4 November 2021]

17 Welsh Parliament Legislation, Justice and Constitution Committee, ‘International Agreements Considered on 4 October 2021’, October 2021, p 3: <https://senedd.wales/media/clhn3pav/cr-ld14601-e.pdf> [accessed 4 November 2021]

18 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024663/Treaties\\_and\\_MOUs\\_Guidance\\_Oct\\_2021.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt) [accessed 4 November 2021]

15. **We report the Agreement between the UK and Albania on the Readmission of Persons to the House for information. In particular, we highlight our comments at paragraphs 7, 10 and 14.**

**Agreement between the United Kingdom of Great Britain and Northern Ireland and Portuguese Republic regarding the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts (CP 522, 2021)<sup>19</sup>**

16. The Agreement between the United Kingdom of Great Britain and Northern Ireland and Portuguese Republic regarding the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts (the UK-Portugal Agreement on the Employment by Members of Diplomatic Households) was laid on 14 September 2021, and the scrutiny period is scheduled to end on 18 November 2021. It was considered by the Committee on 3 November 2021.
17. The Agreement would allow the dependants (for example spouses or children) of diplomatic staff posted to the UK or Portugal to work outside their embassy, consulate or mission, while also maintaining their diplomatic status under international law.<sup>20</sup> Dependents will not, however, enjoy immunity from civil and administrative jurisdiction in either country and will be subject to the tax and social security regime of the receiving state, in respect of their work. Article 5 provides that the sending state will waive the immunity of the dependent from the criminal jurisdiction of the receiving state in respect of acts carried out in the course of their work, except in special instances, and will give serious consideration to waiving their immunity from serving a sentence.
18. The Explanatory Memorandum published alongside the treaty explains that now the UK has left the EU, Portugal requires this type of Agreement.<sup>21</sup>
19. **It is unclear from the EM whether the UK Government envisages signing similar diplomatic agreements with other EU member states. We call on the Government to confirm whether there are other such agreements planned.**

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19 Agreement between the United Kingdom of Great Britain and Northern Ireland and Portuguese Republic regarding the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts, CP 522, June 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1016867/CS\\_Portugal\\_CS\\_1.2021\\_Agreement\\_UK\\_Portugal\\_Employment\\_Family\\_Diplomatic.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016867/CS_Portugal_CS_1.2021_Agreement_UK_Portugal_Employment_Family_Diplomatic.pdf) [accessed 4 November 2021]

20 Foreign, Commonwealth and Development Office, Explanatory Memorandum on the Agreement between the United Kingdom of Great Britain and Northern Ireland and Portuguese Republic regarding the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts, 14 September 2021, paras 3.1 and 4.1: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1017246/EM\\_CS\\_Portugal\\_1.2021\\_UK\\_Portugal\\_Domestic\\_Spouse\\_Employment\\_Agreement.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1017246/EM_CS_Portugal_1.2021_UK_Portugal_Domestic_Spouse_Employment_Agreement.odt) [accessed 4 November 2021]

21 *Ibid.*



*Governance and amendments*

20. The Agreement may be amended by mutual written consent of the Parties.<sup>22</sup> The EM confirms that amendments would be subject to parliamentary scrutiny under the Constitutional Reform and Governance Act 2010.<sup>23</sup>

*Entry into force*

21. The Agreement will enter into force on the day after both Parties have given notice that all their internal procedures have been completed. No new legislation is required in the UK to implement the Agreement.<sup>24</sup>

*Territorial scope and consultation*

22. The Agreement applies to metropolitan UK only, which means it does not extend to the Crown Dependencies or the Overseas Territories.<sup>25</sup> The EM states that the Agreement relates to foreign affairs and employment policy within the Foreign, Commonwealth and Development Office and the civil service, which is a fully reserved matter, with no implications for the devolved administrations.<sup>26</sup> The Government has therefore not consulted the devolved administrations on the drafting of this Agreement.
23. **We report the Agreement between the UK and Portugal on the Employment of Members of the Family Forming Part of the Household of Members of Diplomatic Missions and Consular Posts to the House for information. In particular, we highlight our comments at paragraph 19.**

**The Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (CP 530, 2021)<sup>27</sup>**

24. The Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (the Social Security Convention) was laid on 29 September 2021, and the scrutiny period is scheduled to end on 22 November 2021. It was considered by the Committee on 3 November 2021.
25. The UK has concluded a suite of bilateral agreements with Switzerland since 2018. These include agreements on trade, air services, road transport, insurance, citizen's rights, services mobility, labour mobility, police co-operation and the mutual recognition of authorised economic operator programmes.
26. This Agreement is designed (1) to protect the social security benefits of qualifying individuals holding British, Swiss or EU nationality who move between the United Kingdom, Gibraltar, and Switzerland, and (2) to ensure they are not liable for contributions in the UK and Switzerland at

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22 Article 11

23 EM, para 4.1

24 EM, para 5.1

25 EM, para 6.1

26 EM, para 10.1

27 Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, CP 530, September 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1021441/CS\\_Swiss\\_4.2021\\_UK\\_Swiss\\_Social\\_Security\\_Coordination.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1021441/CS_Swiss_4.2021_UK_Swiss_Social_Security_Coordination.pdf) [accessed 4 November 2021]

the same time.<sup>28</sup> The Explanatory Memorandum (EM) published alongside the Social Security Convention makes clear that benefits include “access to cash benefits in scope of the Convention, reciprocal healthcare cover in the UK and Switzerland, and an uprated state pension”.<sup>29</sup> Article 6(4)(b) of the Convention excludes “social and medical assistance” from the entitlement to reciprocal healthcare. Government officials have confirmed that this is limited to treatment as part of social care only, and not to regular healthcare.

27. The new Social Security Convention replaces the 1968 Convention on Social Security between the United Kingdom and Switzerland.<sup>30</sup> Until the end of the post-Brexit transition period on 31 December 2020, individuals had also benefited from provisions under the 1999 Free Movement of Persons Agreement between the European Community and its Member States and the Swiss Confederation (FMOPA), and Regulations (EC) 883/2004 and (EC) 987/2009 on social security coordination.<sup>31</sup>
28. In addition, in February 2019 the UK concluded a Citizens’ Rights Agreement with Switzerland, which the EM confirms is not affected by the new Social Security Convention. Consequently, people who were residing and/or working in the UK or Switzerland by 31 December 2020 will continue to have life-long social security coordination rights under the Citizens’ Rights Agreement provided they are, and remain, in scope.
29. The professional services and audit specialist, Deloitte, has suggested that the new Social Security Convention is “welcome news” and that it “largely corresponds” to the coordination of social security systems in the EU-UK Trade and Cooperation Agreement, “based on the principles of EU social security affiliation coordination rules, which Switzerland applies under the Agreement on the Free Movement of Persons”.<sup>32</sup>

### *Governance and amendments*

30. Article 69 of the Social Security Convention requires the Parties to establish a Joint Administrative Committee (JAC), with a co-chair from each Party. It will meet at least once a year, unless the co-chairs decide otherwise. Any disputes over the Convention are to be submitted to the JAC in the first instance. If the JAC is unable to resolve the matter, the dispute can be submitted to an independent panel for arbitration.

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28 The details of the persons covered are set out at Article 2 of the Social Security Convention. Article 6 sets out the branches of social security which are covered by the Convention, as well as those which are excluded.

29 EM, para 2.1. Note that references to the UK are deemed to include references to Gibraltar throughout the Agreement.

30 Save in respect of the Crown Dependencies.

31 The UK had agreed a separate transitional social security agreement with Switzerland. Details of this can be found at Foreign and Commonwealth Office, ‘UK/Switzerland: Transitional Agreement on Social Security for a Temporary Period following the Withdrawal of the UK [CS Switzerland No.7/2019]’, 20 December 2019: <https://www.gov.uk/government/publications/ukswitzerland-transitional-agreement-on-social-security-for-a-temporary-period-following-the-withdrawal-of-the-uk-cs-switzerland-no72019> [accessed 4 November 2021] and European Union Committee, *Scrutiny of international agreements: Treaties considered on 29 January 2020* (3rd Report, Session 2019–21, HL Paper 12)

32 Deloitte, ‘Brexit: A new social security agreement between Switzerland and the United Kingdom is approved by the Swiss government’, 13 August 2021: <https://blogs.deloitte.ch/tax/2021/08/brexit-a-new-social-security-agreement-between-switzerland-and-the-united-kingdom-is-approved-by-the.html> [accessed 4 November 2021]

31. The Agreement does not include an explicit amendment provision, nor does the EM set out which, if any, amendments would be subject to parliamentary scrutiny. Government officials have confirmed that as the Convention does not contain a provision on amendments, the Parties are subject to the default rules under Article 39 of the Vienna Convention on the Law of Treaties. They explained that whether an amendment would be subject to CRAG would depend on whether such an amendment would require ratification or not.
32. **We call on the Government to review its quality assurance processes to ensure that all EMs address whether amendments will be subject to scrutiny under CRAG, in line with existing Government guidance.**<sup>33</sup>
33. **We have repeatedly raised the issue of amendments to international agreements, including the lack of clarity in the Government’s explanatory materials. We reiterate our recommendation that the FCDO should publish clear guidelines on how it decides whether particular treaties and treaty amendments should be subject to ratification (and therefore laid for parliamentary scrutiny under CRAG).**
34. Article 74 provides that the Convention can be terminated with 12 months’ notice. In such circumstances, certain rights to cash benefits would be retained by individuals. The Convention also requires the Parties to discuss consequential and transitional arrangements during the notice period.

*Entry into force and implementation*

35. The Convention on Social Security will enter into force on the first day of the third month after both Parties have notified each other that they have completed their domestic legal procedures.<sup>34</sup> Government officials have confirmed that the Agreement is now being provisionally applied.<sup>35</sup>
36. The EM notes that in the UK, the Convention will be implemented by several Orders in Council made under the Social Security Administration Act 1992,<sup>36</sup> as well as certain Regulations made by the Department for Work and Pensions, the Department for Health and the devolved administrations. The administration of reciprocal healthcare measures will be implemented under the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 and the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019.

*Territorial scope and consultation*

37. The Convention applies to the UK, Gibraltar and Switzerland. Article 77 of the Convention provides that the earlier 1968 Convention will continue to apply to the Crown Dependencies.
38. The EM sets out in some detail the consultation which has taken place between the devolved administrations (including with health officials), the

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33 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024663/Treaties\\_and\\_MOUs\\_Guidance\\_Oct\\_2021.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt) [accessed 4 November 2021]

34 Article 72

35 EM, para 11.2

36 See, for example, The Social Security (Switzerland) Order 2021 ([SI 2021/1088](#))

Crown Dependencies and the Government of Gibraltar. It also sets out which parts of the Convention cover subject matters that are either devolved or have implications for the devolved administrations.

39. **We report the Convention on Social Security between the UK and Switzerland to the House for information. In particular, we highlight our comments at paragraphs 32 and 33.**

**Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda establishing a Maritime Boundary between Anguilla and Antigua and Barbuda (CP 526, 2021)<sup>37</sup>**

40. The Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda establishing a Maritime Boundary between Anguilla and Antigua and Barbuda (the Maritime Boundary Agreement) was laid on 16 September 2021, and the scrutiny period is scheduled to end on 22 November 2021. It was considered by the Committee on 3 November 2021.
41. As an Overseas Territory, Anguilla is recognised internationally as a territory for whose international relations the United Kingdom is responsible. As such, it cannot sign up to international agreements in its own right (unless specifically empowered to do so by the UK). The UK has therefore negotiated the Boundary Agreement with Antigua and Barbuda on its behalf.
42. Maritime boundaries are important, particularly for small island states, because they provide exclusive access to natural and fishery resources. They also give states jurisdiction to implement environmental protections within their boundaries.
43. The Explanatory Memorandum (EM) published alongside the Boundary Agreement explains that the treaty “achieves certainty over the boundary and helps to maintain good relations with Antigua and Barbuda”.<sup>38</sup> It has regard to the 1982 UN Convention on the Law of the Sea (UNCLOS), which the EM explains “sets out the rules and principles for maritime boundary delimitation between opposite and adjacent coastal states”.<sup>39</sup>
44. Despite the rules and principles established by UNCLOS, disputes between adjacent or opposing coastal states are not uncommon. This is because the process of delineating maritime space is not straightforward, and states have developed different ways of drawing boundaries at sea and interpreting UNCLOS.
45. The principle of equidistance is often (but not always) relied upon to draw a maritime boundary. It involves a boundary that is a median line at an equal distance at every point from each state’s shoreline. This principle has been

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37 Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda establishing a Maritime Boundary between Anguilla and Antigua and Barbuda, CP 526, September 2021: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1017304/CS\\_Ant\\_and\\_Barb\\_1.2021\\_Treaty\\_UK\\_Antigua\\_Barbuda\\_Anguilla\\_Maritime\\_Boundary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1017304/CS_Ant_and_Barb_1.2021_Treaty_UK_Antigua_Barbuda_Anguilla_Maritime_Boundary.pdf) [accessed 4 November 2021]

38 EM, para 2.1

39 EM, para 3.1

followed with this Maritime Boundary Agreement. The Agreement notes that such approach provides “an equitable solution”.<sup>40</sup>

46. The Agreement also makes provision for amendments by written agreement of the Parties, although it does not set out a process for doing so, and the EM is silent on whether such amendments would be subject to parliamentary scrutiny.<sup>41</sup> Disputes are to be settled by consultation and negotiation, in accordance with international law.<sup>42</sup>

*Implementation and entry into force*

47. The UK is responsible under international law for ensuring that a treaty’s obligations can be fulfilled by the relevant Overseas Territory, “If they cannot, the UK bears ultimate responsibility”.<sup>43</sup> The EM confirms that the government of Anguilla was not only “involved at all stages of negotiation of the Treaty”, but also that once the Governor of Anguilla has made a proclamation about the new maritime boundary and specified Anguilla’s revised fisheries zone, no further domestic steps are required.<sup>44</sup>
48. The Agreement will enter into force 30 days after both Parties have submitted their notification of completion of the relevant ratification procedures.
49. **We report the Anguilla and Antigua and Barbuda Maritime Boundary Agreement to the House for information.**

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40 Article 1. The equity principle is another principle that has been relied upon in the drawing of international boundaries and adjudication of international disputes by the International Court of Justice.

41 Article 4

42 Article 3

43 Foreign, Commonwealth and Development Office, *Extension of treaties to Overseas Territories*, March 2013, p 2: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/308103/Extension\\_to\\_OTs\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/308103/Extension_to_OTs_guidance.pdf) [accessed 4 November 2021]

44 EM, paras 5.1 and 10.2

## 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 (until 3 November 2021)

*No relevant interests*

Lord Gold

*Director, Gold Collins Associates Ltd*

*Principal, David Gold & Associates LLP*

Baroness Hayter of Kentish Town

*No relevant interests*

Lord Kerr of Kinlochard

*Chairman, Centre for European Reform*

*Deputy Chairman, Scottish Power plc*

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).

The Committee is grateful for the support provided by Nicola Newson (Senior Library Clerk).

### Specialist Adviser

Alex Horne acted as Specialist Adviser to the Committee and declared the following interests:

*Counsel, Hackett & Dabbs LLP; Visiting Professor at Durham University; and Special Adviser, United Nations Development Programme (Pacific Region).*

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>