

EXPLANATORY MEMORANDUM ON THE PARTNERSHIP AND CO-OPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF IRAQ, OF THE OTHER PART

Title of Treaty

Partnership and Co-operation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part

Command Paper Number: **8753**

Subject Matter

1. The document covered by this Explanatory Memorandum is a Partnership and Cooperation Agreement (PCA) between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part. The Agreement provides a legal framework for further engagement and co-operation between the EU and Iraq across a broad range of areas, including political dialogue, trade, energy, transport, investment, human rights, education, science and technology, justice, migration and asylum.
2. The Agreement was signed in Brussels on 11 May 2012, by the High Representative of the European Union for Foreign Affairs and Security Policy Baroness Ashton and the Foreign Minister of the Republic of Iraq, Hoshyar Zebari. The UK and other Member States signed it at the same time.
3. The European Parliament gave its consent to the Agreement on 17 January 2013. As it is a mixed agreement, i.e. some of its elements come under Member State competence and some under EU competence, it must be approved by all Member States as well as by the European Union itself. Iraq must likewise approve the Agreement. The Czech Republic, Estonia, Spain, Lithuania, Latvia, Portugal and the Netherlands have already ratified it. The EU and Iraq may provisionally apply Article 2 and Titles II, III and V of the Agreement following the completion of the necessary procedures. These aspects of the Agreement have been provisionally applied since 1 August 2012.
4. The purpose of this paper is to set out the nature and scope of the proposed Agreement and to outline the policy context and potential implications.
5. The Agreement covers five areas: political dialogue and co-operation in the field of foreign and security policy; trade and investments; areas of co-operation; justice, freedom and security; and institutional, general and final provisions. The provisions in each of these areas are outlined in the following paragraphs:

Nature of the Agreement

Political dialogue and co-operation in the field of foreign and security policy

6. The Agreement provides for the establishment of a regular political dialogue at ministerial and senior official level, taking place on an annual basis, and covering all subjects of common interest. It also commits the Parties to co-operation on counter-terrorism, counter-proliferation of WMD, prevention and eradication of the illicit trade in small arms and light weapons, and prosecution for the most serious crimes of concern to the international community.
7. The primary political effects will be to strengthen the EU-Iraq relationship, contribute to the development of a partnership and increase their mutual understanding and solidarity.

Trade and investments

8. The main effects of the Agreement will be to enhance trade and investment between the EU and Iraq, through the Parties according each other most-favoured nation treatment, the liberalisation of trade in services and establishment, the creation of a more favourable climate for private investment, the liberalisation of current payments and capital movements between the Parties, the opening of public procurement markets and transparent, competitive and open tendering. The Agreement commits Iraq to implementing legislation to ensure intellectual property protection to the highest international standards.

Areas of co-operation

9. The Agreement states that Iraq will receive grants to accelerate its economic and political transformation, within the framework of EU development co-operation.
10. The EU and Iraq will also co-operate on social and human development; education, training and youth; employment and social development; dialogue with civil society; human rights; industrial and SME policy; investment; industrial standards and conformity assessment; agriculture, forestry and rural development; energy; transport; the environment; telecommunications; science and technology; customs and taxes; statistics; macro-economic stability and public finances; development of the private sector; tourism; and financial services.

Justice, Freedom and Security

11. The primary effects of the Agreement will be to develop co-operation in this area, in particular on the functioning of law enforcement and justice institutions; the protection of personal data; combating organised crime and corruption; combating money laundering and terrorist financing; and

combating illicit drugs. The Parties also agree to promote co-operation in the field of culture, and to promote activities aimed at strengthening relations with Iraq, its neighbours and other countries in the region. Furthermore, the Agreement provides for the development of civil judicial co-operation, and the establishment of a dialogue on all migration-related issues. The Parties agree to conclude a readmissions agreement.

Institutional, General and Final Provisions

12. The Agreement establishes a Co-operation Council to supervise its implementation, to meet at ministerial level once a year. It also establishes a Co-operation Committee, to assist the Council in its duties, as well as a Parliamentary Co-operation Committee where Members of the Iraqi Parliament and European Parliament can meet and exchange views. The Agreement is concluded for ten years, and shall be renewed on a yearly basis unless one of the Parties renounces it.

Ministerial Responsibility

13. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common Foreign and Security Policy. The Secretary of State for Business, Innovation and Skills has primary responsibility for trade policy and also has an interest. Given the wide scope of the Agreement, a number of other departments have an interest, including but not limited to the Home Office, DEFRA, MoJ, and DECC.

Policy Considerations

14. Closer EU engagement and partnership with Iraq is in the UK's interests, as it will allow us to leverage EU resources and influence in our own efforts to develop Iraq's stability and prosperity and enable it to play a constructive role in the region. The PCA is the centrepiece for European involvement with Iraq, and underlines the EU's determination to play a significant role in Iraq's transition. It provides a solid basis on which to build constructive and wide-ranging engagement that will enable Iraq to fully realise its potential, and will be the main vehicle for EU support to Iraq and further enhancement of EU-Iraq relations.
15. The trade elements of the PCA based on WTO principles should encourage greater trade between EU Member States and Iraq, by removing barriers and contributing to a more transparent business environment for investors and exporters/importers.
16. Closer EU engagement with Iraq on energy is particularly important for UK and EU long-term interests. Iraq's vast hydrocarbons reserves mean it has the potential to make a key contribution to UK and European energy security through the export of Iraqi natural gas and oil. This, alongside increased trade, will have a positive impact on our Prosperity agenda.

Financial Implications

17. The PCA does not commit the UK to any expenditure beyond its existing contributions to EU budgets.

Reservations and Declarations

18. None.

Implementation

19. The PCA will enter into force on the first day of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose. Article 2, Titles II, III and V of the PCA can be provisionally applied as between the EU and Iraq. No new legislation is required to enable the United Kingdom to implement the PCA. However, an order must be made under section 1(3) of the European Communities Act 1972, specifying the Agreement as an EU Treaty for the purposes of the European Communities Act 1972.

Consultation

20. Council Decisions (CDs) on signature (and provisional application), and conclusion were deposited for parliamentary scrutiny in November 2010. There was then some debate in Brussels about the appropriate legal bases and the elements of the Agreement which should be provisionally applied. As a result, a revised version of the CD on signature was deposited in March 2011. The House of Lords EU Select Committee cleared the documents on 5 May 2011. The House of Commons European Scrutiny Committee did not clear them due to concerns over the UK's JHA opt-in and the citation of a Title V legal base.
21. On 5 December 2012, the Commons Scrutiny Committee cleared the CDs on signature from scrutiny, noting that there had been a scrutiny override, and that the Agreement had been signed. They requested deposit of the revised CD on conclusion, which had been published in July 2012; this was cleared by the Lords on 5 February 2013 and by the Commons on 19 June 2013.
22. The relevant Whitehall departments were consulted during negotiations on the text of the PCA, and gave their approval to the final draft. The FCO has continued to engage and consult with them throughout the process of signature and conclusion of the Agreement. This EM has been cleared across Whitehall by the relevant Government Departments.

A handwritten signature in black ink, appearing to read 'D. Lidington', with a long horizontal stroke extending to the right.

The Rt Hon David Lidington MP
Minister for Europe
Foreign and Commonwealth Office

