

THE TREATY ON THE FUNCTIONING OF THE UNION OF TWO KINGDOMS, ENGLAND AND SCOTLAND OF 1706

Excerpt

Article 216

1. Great Britain may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of Great Britain's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding act of the Union or is likely to affect common rules or alter their scope.
2. Agreements concluded by Great Britain are binding upon the institutions of Great Britain and on its two Constituent Countries.

Article 218

1. Agreements between Great Britain and third Countries or international organisations shall be negotiated and concluded in accordance with the following procedure.
6. The Privy Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Privy Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the House of Commons in the following cases:

(ii) agreement on accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms [...].

The House of Commons and the Privy Council may, in an urgent situation, agree upon a time-limit for consent.

8. The Privy Council shall act by a qualified majority throughout the procedure.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements. The Privy Council shall also act unanimously for the agreement on accession of Great Britain to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall enter into force after it has been approved by England and Scotland.

9. The Privy Council, on a proposal from Her Majesty's Government or the competent Secretary of State for the Southern or Northern Department, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on Great Britain's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The House of Commons shall be immediately and fully informed at all stages of the procedure.

11. England, Scotland, the House of Commons, the Privy Council as well as Her Majesty's Government may each obtain the opinion of the House of Lords as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the House of Lords is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.

Article 258

If Her Majesty's Government considers that England or Scotland has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the Constituent Country concerned the opportunity to submit its observations

Article 259

If either England or Scotland considers that the other Constituent Country has failed to fulfil an obligation under the Treaties, it may bring the matter before the House of Lords.

Article 260

1. If the House of Lords finds that England or Scotland has failed to fulfil an obligation under the Treaties, that Constituent Country shall be required to take the necessary measures to comply with the judgment of the House of Lords.

Article 263

The House of Lords shall review the legality of legislative acts, of acts of the Privy Council and of Her Majesty's Government, as well as acts of the House of Commons and of the Privy Council intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies, offices or agencies of Great Britain intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Constituent Country, the House of Commons, the Privy Council or Her Majesty's Government on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers.

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

Acts setting up bodies, offices and agencies of Great Britain may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 265

Should the House of Commons, the Privy Council or Her Majesty's Government, in infringement of the Treaties, fail to act, England, Scotland and the other institutions of Great Britain may bring an action before the House of Lords to have the infringement established. This

Article shall apply, under the same conditions, to bodies, offices and agencies of Great Britain which fail to act.

The action shall be admissible only if the institution, body, office or agency concerned has first been called upon to act. If, within two months of being so called upon, the institution, body, office or agency concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the House of Lords that an institution, body, office or agency of Great Britain has failed to address to that person any act other than a recommendation or an opinion.

Article 267

The House of Lords shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of the Treaties;
- (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of Great Britain;

Where such a question is raised before any court or tribunal of England or Scotland, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the House of Lords to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Constituent Country against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the House of Lords.

If such a question is raised in a case pending before a court or tribunal of a Constituent Country with regard to a person in custody, the House of Lords shall act with the minimum of delay.

Article 344

England and Scotland undertake not to submit a dispute concerning the interpretation or application of the Treaties to any method of settlement other than those provided for therein.

Article 352

1. If action by Great Britain should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Privy Council, acting unanimously on a proposal from Her Majesty's Government and after obtaining the consent of the House of Commons, shall adopt the appropriate measures. Where the measures in question are adopted by the Privy Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from Her Majesty's Government and after obtaining the consent of the House of Commons.