Scrutiny of international agreements

Treaties considered on 23 July 2019

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The European Union Committee
The European Union Committee is appointed each session “to scrutinise documents deposited in the House by a Minister, and other matters relating to the European Union”.

In practice this means that the Select Committee, along with its Sub-Committees, scrutinises the UK Government’s policies and actions in respect of the EU; considers and seeks to influence the development of policies and draft laws proposed by the EU institutions; and more generally represents the House of Lords in its dealings with the EU institutions and other Member States.

On 14 January 2019 the Procedure Committee decided that the European Union Committee should, until the end of the 2017–19 session of Parliament, be responsible for scrutinising Brexit-related treaties or international agreements.

The six Sub-Committees are as follows:
- Energy and Environment Sub-Committee
- External Affairs Sub-Committee
- Financial Affairs Sub-Committee
- Home Affairs Sub-Committee
- Internal Market Sub-Committee
- Justice Sub-Committee

Membership
The Members of the European Union Select Committee are:

Lord Boswell of Aynho (Chair)  Lord Jay of Ewelme  Baroness Primarolo
Baroness Brown of Cambridge  Lord Kerr of Kinlochard  Lord Ricketts
Lord Cavendish of Furness  Earl of Kinnoull  Lord Sharkey
Baroness Coottie  Lord Lamont of Lerwick  Lord Teverson
Baroness Donaghy  Lord Morris of Aberavon  Baroness Verma
Lord Faulkner of Worcester  Baroness Neville-Rolfe  Lord Wood of Anfield
Baroness Hamwee

Further information


Committee staff
The current staff of the Committee are Christopher Johnson (Principal Clerk), Stuart Stoner (Clerk), Roberto Robles (Policy Analyst), Tim Mitchell (Legal Adviser), Alex Horne (Legal Adviser) and Samuel Lomas (Committee Assistant).

Contact details
Contact details for individual Sub-Committees are given on the website. General correspondence should be addressed to the Clerk of the European Union Committee, Committee Office, House of Lords, London, SW1A 0PW. Telephone 020 7219 5791. Email euclords@parliament.uk.

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SUMMARY

This is the European Union Committee’s fourteenth report on Brexit-related treaties, or international agreements, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (the CRAG Act).

This report addresses three agreements, all of which we have reported for information:

- Agreement between the United Kingdom of Great Britain and Northern Ireland and the Grand Duchy of Luxembourg on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other [CP141]

- Agreement between the United Kingdom of Great Britain and Northern Ireland and the Portuguese Republic Regarding the Participation in Local Elections of Nationals of Each State Resident in the Other’s Territory [CP 142]

- New and Amended schedules to the Revised Agreement on Government Procurement as a result of Australia’s accession [CP 145]
Agreement between the United Kingdom of Great Britain and Northern Ireland and the Grand Duchy of Luxembourg on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other (CP 141, 2019)¹

1. The UK-Luxembourg Agreement on Participation in Certain Elections (‘the Agreement’) was laid on 4 July 2019 and the scrutiny period is scheduled to end on 17 September.² It was considered by the EU Justice Sub-Committee at its meeting on 16 July 2019.

2. This is the second agreement we have considered relating to voting rights.³ As with the agreement with Spain, which we considered in April, the Agreement does not ‘roll over’ a prior EU international agreement. Instead it seeks to secure, by means of a bilateral agreement, certain voting rights currently enjoyed by citizens in both countries by virtue of EU law.⁴

3. The Agreement would entitle British nationals in Luxembourg and nationals of Luxembourg in the UK to continue to stand and vote in local elections after Brexit.⁵ The Explanatory Memorandum (EM) accompanying the Agreement notes that there are around 6,000 UK nationals living in Luxembourg (around 1 percent of the population).

4. Under Article 3 of the Agreement, in order to retain the right to vote and stand as a candidate in Luxembourg a UK national must have been legally resident in Luxembourg for “at least 5 years”, of which the last year prior to application for registration must have been uninterrupted. The EM notes that this is a legal requirement under Luxembourg law, based on a derogation under EU law, as “the proportion of non-nationals of voting age in Luxembourg exceeds 20 percent of the total number of citizens of voting age”.


2 This figure has been calculated on the basis of the recess dates announced on 20 June, according to which both Houses will return from the summer recess on 3 September 2019. If the Houses rise for a ‘conference recess’ at the end of the week beginning 9 September (as has been the case in recent years), the scrutiny period will be extended until after the two Houses return from that recess.


5 In relation to Luxembourg, the term “local elections” is defined in Article 1 of the Agreement as referring to “the election of communal councils”. In the UK, local elections are defined as “local government elections, mayoral elections and combined authority mayoral elections”.
The requirement on nationals of Luxembourg to entitle them to vote in the UK is less onerous—they must be legally resident in the UK.

5. The Agreement does not require implementation under domestic law as nationals of Luxembourg are already entitled to vote in local elections in the UK.6

6. We report the UK-Luxembourg Agreement on Participation in Certain Elections for information.

Agreement between the United Kingdom of Great Britain and Northern Ireland and the Portuguese Republic Regarding the Participation in Local Elections of Nationals of Each State Resident in the Other’s Territory (CP 142, 2019)7

7. The UK-Portugal Agreement on Participation in Local Elections (‘the Agreement’), was laid on 4 July 2019 and the scrutiny period is scheduled to end on 17 September (see above, footnote 2). It was considered by the EU Justice Sub-Committee at its meeting on 16 July 2019.

8. It is a bilateral agreement, which secures the right of UK nationals in Portugal and Portuguese nationals in the UK to stand and vote in local elections.8 The EM accompanying the Agreement notes that there are around 26,000 UK nationals living in Portugal. The EM does not give a figure for the number of Portuguese nationals resident in the UK, but the Office for National Statistics gives an estimate for the second half of 2018 of 224,000.9

9. As with the UK-Spain and UK-Luxembourg Agreements, the voting rights granted under the Agreement are not identical for nationals of each State. Portuguese nationals legally resident in the UK would have the right to vote and stand in local elections.10 However, to acquire the right to vote in local elections, UK nationals in Portugal would have to be legally resident for three years and be registered in the Portuguese Electoral Census in the parish listed on their residence permit. To acquire the right to stand in local elections, UK nationals must have been resident in Portugal for more than five years and not be ineligible to vote. These conditions are subject to transitional provisions contained in Article 5 of the Agreement, to the effect that those nationals who are already entitled to vote or stand in local elections immediately before the UK leaves the EU would retain that capacity.

10. The territory of Gibraltar and British Overseas Territories are outside the scope of the Agreement and therefore these citizens would not be entitled to

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6 Representation of the People Act 1983, section 4(3) and section 202 as amended
8 Article 2 of the Agreement defines local elections in Portugal as elections for “City Hall”, “Municipal Assembly”, and “Parish Assembly” elections. In the UK, local elections are defined as “local government elections, mayoral elections, and combined authority mayoral elections”.
10 Article 3
vote or stand in Portuguese local elections (and Portuguese nationals would not be entitled to vote in local elections in those territories).

11. As with the UK-Luxembourg Agreement, no legislation is required to implement the UK’s obligations under the Agreement, since Portuguese nationals are already entitled to vote in the UK.

12. **We report the Agreement between the UK and Portugal Regarding the Participation in Local Elections for information.**

New and Amended schedules to the Revised Agreement on Government Procurement as a result of Australia’s accession (CP 145, 2019)\(^\text{11}\)

13. The New and Amended Schedules of the Agreement on Government Procurement as a result of Australia’s accession (“the Amended Agreement”) were laid on 4 July 2019 and the scrutiny period is scheduled to end on 17 September (see above, footnote 2). The Amended Agreement was considered by the Internal Market Sub-Committee at its meeting on 18 July 2019.

14. The Agreement on Government Procurement (GPA) is a plurilateral WTO agreement under which the Parties open their public procurement markets to each other. It was first agreed in 1994, followed by an amended version—the Revised GPA—in 2012. The GPA is composed primarily of two parts: the text of the Agreement and the Parties’ market access schedules of commitments. The market access schedules set out the extent to which a Party’s procurement activities are covered by the GPA.

15. The Government laid the 1994 GPA and the Revised GPA before Parliament on 18 February 2019. In our treaty scrutiny report published on 12 March 2019,\(^\text{12}\) we explained that the UK currently participates in the GPA and Revised GPA as an EU Member State. The Government intends to deposit an instrument of accession so that the UK can become an independent Party to the GPA and the Revised GPA after Brexit. The UK’s accession will be based on schedules that are substantially the same to the coverage given by the UK under the EU’s schedules.

16. Cabinet Office officials have confirmed that in a ‘no deal’ scenario, the Government will deposit the instrument of accession no earlier than 30 days prior to the date of withdrawal.\(^\text{13}\) Under a ‘deal’ scenario, the UK would continue to be covered by the GPA according to EU schedules for the duration of the transition period.

17. Australia has recently acceded to the GPA and the Revised GPA, and consequential amendments have been made to the schedules of the EU, Liechtenstein, Switzerland, Iceland and Norway. The Explanatory Memorandum accompanying the Amended Agreement explains that the amendments to the EU’s schedules “reflect the level of market access the EU considers is provided to EU suppliers through Australia’s coverage schedules”.

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\(^\text{13}\) The GPA only enters into force for an acceding member 30 days after such an instrument is deposited.
To ensure continuity after Brexit, similar consequential amendments have been made to the UK’s schedules, which will apply once the UK accedes as an independent Party.

18. **We report the New and Amended Schedules of the Agreement on Government Procurement as a result of Australia’s accession for information.**
APPENDIX 1: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND SUB-COMMITTEE STAFF

Members of the European Union Select Committee

Lord Boswell of Aynho (Chair)
Baroness Brown of Cambridge
Lord Cavendish of Furness
Baroness Couttie
Baroness Donaghy
Lord Faulkner of Worcester
Baroness Hamwee
Lord Jay of Ewelme
Lord Kerr of Kinlochard
The Earl of Kinnoull
Lord Lamont of Lerwick
Lord Morris of Aberavon
Baroness Neville-Rolfe
Baroness Primarolo
Lord Ricketts
Lord Sharkey
Lord Teverson
Baroness Verma
Lord Wood of Anfield

Declarations of interest

Lord Boswell of Aynho (Chair)

In receipt of salary as Principal Deputy Chairman of Committees, House of Lords
Shareholdings as set out in the Register of Lords’ Interests
Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho Grounds, Banbury, with separate rentals from cottage and grazing
Land at Great Leighs, Essex (one-eighth holding, with balance held by family interests), from which rental income is received
House in Banbury owned jointly with wife, from which rental income is received
Lower Aynho Grounds Farm, Northants/Oxon; this property is owned personally by the Member and not the Partnership

Baroness Brown of Cambridge

Vice Chair of the Committee on Climate Change
Chair of the Adaptation Sub-Committee of the Committee on Climate Change
Chair of the Henry Royce Institute for Advanced Materials
Chair of STEM Learning Ltd
Non-Executive Director of the Offshore Renewable Energy Catapult
Chair of The Carbon Trust
Council member of Innovate UK

Lord Cavendish of Furness

Director, Burlington Slate Limited
Shareholder, Holker Holdings Limited
Shareholder, Cartmel Steeplechases (Holker) Limited
Shareholder, Holker Estates Co Limited
Shareholder, Holker Homes Limited
Shareholder, Burlington Slate Limited
Roose and Walney Sand and Gravel Company Limited (The) (Dormant)
Holker Estates Co Limited
Holker Holdings Limited
Cartmel Steeplechases (Holker) Limited
Corrie and Co Limited
Guides over the Kent and Levens Sands Limited
Beneficiary of a Family Trust which owns land in South Cumbria, including residential and business property
Owner of a flat in London SW1 from which rental income is received
Owner of woodlands based in South Cumbria

Baroness Couttie
No relevant interests declared

Baroness Donaghy
Former President of the Trades Union Congress

Lord Faulkner of Worcester
Chairman, Great Western Railway Advisory Board
Chairman, Alderney Gambling Control Commission
Her Majesty’s Government’s Trade Envoy to Taiwan

Baroness Hamwee
No relevant interests declared

Lord Jay of Ewelme
Trustee (Non-Executive Director), Thomson Reuters Founders Share Company
Vice Chairman, European Policy Forum Advisory Council
Member, Senior European Experts Group
Trustee, Magdalen College, Oxford Development Trust

Lord Kerr of Kinlochard
Chairman, Centre for European Reform
Deputy Chairman, Scottish Power PLC
Member, Scottish Government’s advisory Standing Council on Europe

The Earl of Kinnoull
Farming interests as principal and as charitable trustee, in receipt of agricultural subsidy
Chairman, Culture Perth and Kinross, in receipt of governmental subsidy
Chairman, United Kingdom Squirrel Accord, in receipt of governmental monies
Director, Horsecross Arts, in receipt of governmental subsidy
Shareholdings as set out in the register

Lord Lamont of Lerwick
Director, Jupiter European Opportunities Trust
Director, Compagnie Internationale de Participations Bancaires et Financieres (CIPAF)
Director, Chelverton UK Dividend Trust
Adviser, Halkin Investments
Adviser, Official Monetary and Financial Institutions Forum (OMFIF)
Adviser, Meinhardt Engineering Group, Singapore
Adviser, Stanhope Capital LLP

Lord Morris of Aberavon
No relevant interests declared
Baroness Neville-Rolfe
Former Commercial Secretary, HM Treasury
Former Minister of State for Energy and Intellectual Property
Chair, Assured Food Standards Ltd
Non-Executive Director, Capita Plc
Non-Executive Director, Secure Trust Bank
Governor, London Business School
Shareholdings as set out in the register
Trustee (Non-Executive Director), Thomson Reuters Founders Share Company

Baroness Primarolo
Non-executive director and chair, Thompson’s Solicitors
Chair, Remuneration Board, National Assembly for Wales

Lord Ricketts
Non-Executive Director, Group Engie, France
Strategic Adviser, Lockheed Martin UK
Charitable activities as set out in the Register of Interests

Lord Sharkey
No relevant interests

Lord Teverson
Trustee, Regen SW
In receipt of a pension from the European Parliament

Baroness Verma
No relevant interests declared

Lord Wood of Anfield
Chair of the United Nations Association (UNA-UK)

Dr Holger Hestermeyer, Shell Reader in International Dispute Resolution at King’s College London, is acting as Specialist Adviser supporting the Committee’s scrutiny of international agreements, and has declared no relevant interests.

Sub-Committee Members and staff

EU Energy and Environment Sub-Committee

Lord Teverson (Chair)
Lord Addington
Lord Arbuthnot of Edrom
Baroness Bryan of Partick
Baroness Byford
Lord Cameron of Dillington
Lord Kerr of Kinlochard
Baroness McIntosh of Pickering
Lord Maxton
The Duke of Montrose
The Earl of Stair
Lord Young of Norwood Green


The Sub-Committee staff are Jennifer Mills (Clerk), Paul Dowling (Policy Analyst) and Jodie Evans (Committee Assistant).
EU External Affairs Sub-Committee

Baroness Verma (Chair)
Lord Alderdice
Baroness Brown of Cambridge
Baroness Chalker of Wallasey
Lord Davies of Stamford
Lord Faulkner of Worcester
Baroness Finn
Lord Fraser of Corriegarth
Lord Oates
The Earl of Sandwich
Baroness Symons of Vernham Dean
Lord Wood of Anfield

For relevant interests see: https://www.parliament.uk/documents/lords-committees/eu-external-affairs-subcommittee/members-interests-2019.pdf

The Sub-Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Julia Ewert (Policy Analyst) and Mithula Parayoganathan (Committee Assistant).

EU Financial Affairs Sub-Committee

Lord Sharkey (Chair)
Lord Bruce of Bennachie
Lord Cavendish of Furness
Baroness Couttie
Lord Desai
Lord Giddens
Baroness Liddell of Coatdyke
Baroness Neville-Rolfe
Lord Thomas of Cwmgiedd
Viscount Trenchard
Lord Turnbull
Lord Vaux of Harrowden


The Sub-Committee staff are Matthew Manning (Clerk), Erik Tate (Policy Analyst) and Hadia Garwell (Committee Assistant).

EU Home Affairs Sub-Committee

Lord Jay of Ewelme (Chair)
Lord Best
Baroness Jolly
Lord Kirkhope of Harrogate
Lord McNally
Baroness Newlove
Lord O’Neill of Clackmannan
Baroness Primarolo
Lord Ricketts
Baroness Scott of Bybrook
Lord Soley
Lord Watts
For relevant interests see: https://www.parliament.uk/documents/lords-committees/eu-home-affairs-subcommittee/scrutiny-work/Scrutiny-interests.pdf

The Sub-Committee staff are Pippa Patterson (Clerk), Megan Jones (Policy Analyst) and George Stafford (Committee Assistant).

EU Internal Market Sub-Committee

Baroness Donaghy (Chair)
Lord Berkeley
Lord Carter of Coles
Lord Lamont of Lerwick
Lord Lansley
Lord Lilley
Lord Mountevans
Baroness Prashar
Lord Robathan
Lord Russell of Liverpool
Lord Shipley
Lord Vallance of Tummel
Lord Wigley


The Sub-Committee staff are Rosanna Barry (Clerk), Francesca D’Urzo (Policy Analyst) and Glenn Chapman (Committee Assistant).

EU Justice Sub-Committee

Lord Morris of Aberavon (Chair)
Lord Anderson of Ipswich
Lord Anderson of Swansea
Baroness Deech
Lord Dholakia
Lord Gold
Baroness Goudie
Baroness Hamwee
The Earl of Kinnoull
Lord Polak
Lord Rowlands
Lord Wasserman


The Sub-Committee staff are Alexandra McMillan (Clerk) and Amanda McGrath (Committee Assistant).

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-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/