



HOUSE OF LORDS

European Union Committee

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45th Report of Session 2017–19

# **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:

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

### *Further information*

Publications, press notices, details of membership, forthcoming meetings and other information is available at <http://www.parliament.uk/hleu>.

General information about the House of Lords and its Committees is available at <http://www.parliament.uk/business/lords>.

### *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](mailto:euclords@parliament.uk).

### *Twitter*

You can follow the Committee on Twitter: [@LordsEUCom](https://twitter.com/LordsEUCom).

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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]

# Scrutiny of international agreements: treaties considered on 23 July 2019

## CHAPTER 1: AGREEMENTS REPORTED FOR INFORMATION

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### 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)<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>
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.<sup>5</sup> 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

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1 UK/Luxembourg: Agreement on the Participation in Certain Elections of Nationals of Each Country Resident in the Territory of the Other , CP 141, 2019: <https://www.gov.uk/government/publications/cs-luxembourg-no12019-ukluxembourg-agreement-on-the-participation-in-certain-elections-of-nationals-of-each-country-resident-in-the-territory-o> [accessed 16 July 2019]

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.

3 See European Union Committee, *Scrutiny of International Agreements: Treaties considered on 3 April 2019* (36th Report, Session 2017–19, HL Paper 337), for details of the Agreement between the UK and Spain on the Participation of in Certain Elections of Nationals of Each Country Resident in the Territory of the Other, CP 71, 2019.

4 Treaty on the Functioning of the European Union, [OJ C 326](#) (26 October 2012), pp 47–390, Article 22 and Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals [OJ L 368](#) (31 December 1994), pp 38–47

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”.

age”. 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.<sup>6</sup>
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)<sup>7</sup>**

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.<sup>8</sup> 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.<sup>9</sup>
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.<sup>10</sup> 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](#)

7 UK/Portugal: 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: <https://www.gov.uk/government/publications/cs-portugal-no12019-ukportugal-agreement-regarding-the-participation-in-local-elections-of-nationals-of-each-state-resident-in-the-others-terri> [accessed 19 July 2019]

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”.

9 Office for National Statistics, ‘Population of the UK by country of birth and nationality’, Table 2.6: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality> [accessed 18 July 2019]

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)<sup>11</sup>**

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,<sup>12</sup> 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.<sup>13</sup> 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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11 New and Amended Schedules to the Revised Agreement on Government Procurement as a result of Australia's accession, CP 145, 2019: <https://www.gov.uk/government/publications/ms-no242019-new-and-amended-schedules-to-the-revised-agreement-on-government-procurement-as-a-result-of-australias-accession> [accessed 23 July 2019]

12 European Union Committee, *Scrutiny of international agreements: Treaties considered on 12 March 2019* (33rd Report, Session 2017–19, HL Paper 315)

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

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### Members of the European Union Select Committee

Lord Boswell of Aynho (Chair)  
 Baroness Brown of Cambridge  
 Lord Cavendish of Furness  
 Baroness Coultie  
 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

For relevant interests see: [https://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/scrutiny-2017-19/DoI\\_Scrutiny\\_2017-19.pdf](https://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/scrutiny-2017-19/DoI_Scrutiny_2017-19.pdf)

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

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-financial-affairs-subcommittee/declarations-of-interests-session-2017-19/Interests-2017-19.pdf>

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

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-internal-market-subcommittee/Declarations-of-Interests-for-Scrutiny-work-2017-19.pdf>

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

For relevant interests see: <https://www.parliament.uk/documents/lords-committees/eu-justice-subcommittee/Scrutiny-Interests/declarations-of-interest-for-scrutiny-work-2017-19.pdf>

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/>