

# **International Agreements:** Implications for Wales

## Agreements considered on 4 March 2019

March 2019

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### Summary

The External Affairs and Additional Legislation Committee has adopted a procedure for considering the implications for Wales of international agreements signed by the UK Government.

Our focus is on identifying where agreements engage or affect areas of policy for which the Assembly and Welsh Ministers are responsible.

Where this is the case, we consider whether the agreement needs to be drawn to the attention of the Assembly as a whole, through a report, or simply noted in committee papers.

On 4 March 2019, we considered ten agreements. Of those ten, we agreed to report on three as we have concerns that



the Welsh Government was inadequately consulted on these agreements before they were signed by the UK Government.

## Introduction

1. On 4 March 2019, we considered ten international agreements that have been signed recently by the UK Government.
2. The agreements we considered were:
  - Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile ('the UK-Chile agreement').
  - Agreement establishing an Economic Partnership Agreement between the Eastern and Southern Africa States and the United Kingdom of Great Britain and Northern Ireland ('the ESA-UK agreement').
  - Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Denmark in respect of the Faroe Islands ('the UK-Faroe Islands Agreement').
  - UK/New Zealand: Agreement on Mutual Recognition in Relation to Conformity Assessment.
  - UK/Australia: Agreement on Mutual Recognition in Relation to Conformity Assessment, Certificates and Markings.
  - UK/Chile: Agreement on Trade in Organic Products.
  - Road Transport Agreement with Serbia.
  - Road Transport Agreement with Kazakhstan.
  - Road Transport Agreement with Switzerland.
  - Aviation Agreement with Switzerland.
3. We agreed to report on three of the agreements considered, to highlight concerns that have been raised around consultation with the devolved governments.
4. They are the:
  - UK-Chile association agreement;

- UK-ESA economic partnership agreement; and
- UK-Faroe Islands free trade agreement.

**5.** Our assessment and conclusions on these three agreements are provided in this report.

### **A note on this work**

**6.** We have only recently started our work on assessing the implications for Wales of UK international agreements.

**7.** Further details of the approach that we are taking will be published to our website in the near future.

**8.** In the meantime, please direct any questions to the Committee's Clerk at [SeneddEAAL@assembly.wales](mailto:SeneddEAAL@assembly.wales).

# 1. Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile ('the UK-Chile agreement')

## Background

1. The UK-Chile Association agreement is a **trade continuity agreement**.
2. The text of the agreements and associated explanatory materials published by the UK Government are [available online](#).
3. The agreement was laid before Parliament on 6 February and the Constitutional Reform and Governance Act 21-day period ends on 14 March.

## Legal assessment

Does the agreement engage the Assembly's competence?

**Yes, the agreement engages the Assembly's competence** as it covers Sanitary and Phytosanitary measures, including food standards and animal welfare standards, which could require implementation by the Assembly.

## Policy assessment

Are there policy implications for Wales?

**Yes, though they are relatively minor** as detailed under this section.

4. Chile is the UK's 65th largest trading partner, accounting for 0.1% of total UK trade. Total trade in goods and services between the UK and Chile was £1.8 billion in 2017. In 2017, UK exports to Chile were £0.9 billion, making it the UK's 61st largest export market (accounting for 0.2% of all UK exports). UK imports from Chile were £0.8 billion, making it the UK's 66th largest import source (accounting for 0.1% of all UK imports).
5. The main goods and services exported from the UK to Chile in 2017 include:

- Machinery and mechanical appliances - £230 million;
- Travel services - £119 million; and
- Vehicles other than railway or tramway stock - £93 million

**6.** The main goods and services imported from Chile into the UK in 2017 were:

- Edible fruit and nuts - £254 million;
- Beverages, spirits and vinegar - £180 million; and
- Machinery and mechanical appliances - £125 million

**7.** Trade between Wales and Chile is also relatively minor, with trade in goods between the two countries in 2017 being £13.9 million, representing 0.04% of all Welsh trade. Welsh exports of goods to Chile in 2017 were £5.2 million, whereas imports of goods from Chile were £8.7 million. The latest data available from 2015 shows that Welsh service exports to Chile are also at relatively low levels.

**8.** Tariffs on goods between the UK and Chile will remain the same as those in place under the EU-Chile agreement, with the exception of the size of tariff-rate quotas for certain products. The changes to tariff-rate quotas cover UK imports of meat (particularly poultry), fish and other food products. They also cover UK exports of cheese, fish, hake and salmon. These are based on evidence such as historical usage of the quotas, and trade flow data. The agreed annual increases in UK quota volume are aligned to the annual increases in quota volume in the EU-Chile agreement.

**9.** In terms of rules of origin, EU materials can be cumulated in UK and Chilean exports to one another. Furthermore, EU processing can be recognised in UK exports to Chile. These arrangements are subject to satisfying certain conditions set out in the agreement.

**10.** The University of Sussex's Trade Policy Observatory have set out analysis of most favoured nation clauses in each of the EU agreements that the UK wishes to 'roll over'. **There are no most favoured nation clauses in the agreement that would impact upon any of the UK's other free trade agreements.**

**11.** The EU-Chile trade agreement required a review of further liberalisation of trade in agricultural products three years after it came into force. The UK-Chile agreement modifies this in two ways – by reducing the period for trade review from three years to two years; and focusing the review on the administration and

usage of tariff-rate quotas. The UK and Chile have also added in a clause committing to discuss their trading relationship every two years.

**12. Minor, non-substantive changes have also been made to sanitary and phytosanitary provisions in the EU-Chile agreement.** Essentially, there is a provision which requires the UK to notify Chile of its competent authorities relating to sanitary and phytosanitary provisions when the UK-Chile Agreement enters into force.

**13.** In conclusion, trade in goods between Wales and Chile represented 0.04% of total Welsh trade in goods in 2017, and that Welsh service exports to Chile are also at a very low level. The main Chilean food and drink products imported by the UK are fruit and vegetables and beverages. The changes to this agreement are relatively minor, with some changes to tariff-rate quotas and other changes to sanitary and phytosanitary provisions, and to timescales for reviews of trade in agricultural products, tariff-rate quotas and the general trading relationship.

### Welsh Government view

**14.** The Minister for International Relations and Welsh Language, in her letter to the Committee dated 26 February 2019, describes an improved relationship between the Department of International Trade and the Welsh Government in relation to the preparation of the Trade Continuity Agreements.

**15.** However, in relation to the UK-Chile agreement, it would appear that the Welsh Government did not have access to the draft text of the agreement prior to signature.

### Other views

**16.** The House of Lords EU Committee has reported on this agreement, concluding that:

“We draw special attention to the UK-Chile Association Agreement, on the grounds that:

- It is politically and legally important, and gives rise to issues of public policy that the House may wish to debate prior to ratification; and
- Further consultation would be appropriate, including with the devolved administrations.”

**17.** The report also states that “[w]e have received information from the Welsh and Scottish Governments suggesting that they regard the level of consultation as inadequate”.

## Conclusions

We conclude that **no further action is required in relation to this agreement.**

However, in reporting our work to the Assembly, we note the conclusions of the House of Lords EU Committee in relation to this agreement and support its call for further consultation with the devolved administrations.

We share the EU Committee’s concern that the draft text of the agreement was not shared with the Welsh Government prior to signing. It is of paramount importance that the Welsh Government has the opportunity to consider the text of agreements so that it is able to meaningfully contribute to the development and eventual implementation of agreements.

We hope that the UK Government shares the text of future agreements with the Welsh Government prior to signature.

In addition, we believe it important that Welsh authorities are included in the “competent authorities” for sanitary and phytosanitary provisions, to be notified to Chile.

## 2. Agreement establishing an Economic Partnership Agreement between the Eastern and Southern Africa States and the United Kingdom of Great Britain and Northern Ireland ('the ESA-UK agreement')

### Background

1. The ESA-UK Economic Partnership Agreement is a **trade continuity agreement**. It includes Madagascar, Mauritius, Seychelles, Zimbabwe, Comoros, and Zambia as parties to the agreement.
2. The text of the agreements and associated explanatory materials published by the UK Government are [available online](#).
3. The agreement was laid before Parliament on 6 February and the CRAG Act 21-day period ends on 14 March.

### Legal assessment

Does the agreement engage the Assembly's competence?

**Yes, the agreement engages the Assembly's competence** as it covers food products, which could require implementation by the Assembly.

The Agreement contains a clause on expansion – i.e. a clause listing areas for future negotiations to expand the agreement. These include the devolved policy areas of sanitary and phytosanitary measures and agriculture.

### Policy assessment

Are there policy implications for Wales?

Yes, though they are relatively minor as detailed under this section.

4. Economic partnership agreements (EPAs) are development-focused trade agreements that aim to promote increased trade and investment. They contribute to sustainable growth and poverty reduction in developing countries. In the

Eastern and Southern Africa-UK EPA, the UK commits to providing immediate duty-free quota-free access to goods from Eastern and Southern African states. In exchange, these states commit to more gradual tariff liberalisation. However, sensitive products are excluded from full liberalisation.

**5.** Total trade in goods and services between the UK and Madagascar, Mauritius, Seychelles and Zimbabwe ('the region') was £1.5 billion in 2017, around 0.1% of UK total trade. The main goods exported from the UK to Eastern and Southern Africa in 2017 include:

- Electrical machinery and equipment - £31 million;
- Machinery and mechanical appliances - £28 million; and
- Vehicles other than railway or tramway stock - £27 million

**6.** The main goods imported from Eastern and Southern Africa into the UK in 2017 were:

- Preparations of meat and fish - £111 million;
- Apparel and clothing (knitted) - £86 million; and
- Precious metals and stones - £62 million

**7.** Trade between Wales and Eastern and Southern Africa is also relatively minor, with trade in goods being £5.8 million in 2017, representing 0.02% of all Welsh trade. Welsh exports of goods to Eastern and Southern Africa in 2017 were £1.1 million, whereas imports of goods from Eastern and Southern Africa were £4.7 million. The latest available data from 2015 shows that Welsh service exports to Eastern and Southern Africa are also at relatively low levels.

**8.** The UK-Eastern and Southern Africa agreement allows for EU content and processing to be cumulated in exports to one another. The cumulation arrangements are set out in detail in the Title II (Definition of the concept of 'originating products') of the Rules of Origin Protocol and subject to satisfying the conditions specified in the agreement.

**9.** Derogations contained in the Rules of Origin part of trade agreements also allow a volume of specific product lines to be exported under a more lenient rule of origin, if agreed by a Committee established by the agreement. The automatic derogation quotas in the existing EPA were agreed between the EU and ESA. They include inbound (ESA to EU) quotas for specific products, in this case canned

tuna and tuna loins, and were agreed upon in relation to the size of the EU and ESA markets.

**10.** To maintain the market access offered under the original quotas for canned tuna and tuna loins, the UK has amended agreed automatic derogation quotas with ESA to reflect the bilateral trade flows observed in recent years and the fact that the UK is a smaller market than the EU28. This provides continuity of market access opportunities for exporters from ESA and allow quotas to accommodate the bilateral trade flows observed in recent years.

**11.** Where possible, automatic derogation quotas have been re-sized based on 3-years of usage data (i.e. for canned tuna). In order to preserve future market access opportunities for UK and ESA businesses, it was also agreed to use a proxy based on trade flow data where usage data showed historic trade was very low (i.e. for tuna loins).

**12.** Commitments on tariffs for both the UK and ESA countries have been transitioned without changes. This means that tariff preferences applied by the UK to goods from Madagascar, Mauritius, Seychelles and Zimbabwe will remain the same as those applied by the EU under the existing agreement, and likewise those countries will continue to apply the same preferences to goods from the UK that they are currently applying to goods from the EU. Given that the agreement provides quota-free access to goods from Eastern and Southern African states, there have been no changes to tariff-rate quotas in the EPA.

**13.** The UK-ESA EPA replicates the clause in the existing EPA with the EU which lists areas for future negotiations to expand the agreement. These include trade in services, technical barriers to trade, sanitary and phytosanitary measures, procurement, agriculture and intellectual property rights.

**14.** The University of Sussex's Trade Policy Observatory has set out analysis of most favoured nation clauses in each of the EU agreements that the UK wishes to 'roll over'. **There are asymmetric most favoured nation clauses in the EPA between the UK and Eastern and Southern Africa.** These are similar to clauses in other trade agreements with countries the Africa, the Caribbean and the Pacific (APC countries). These agreements contain asymmetric MFN clauses with respect to customs duties on goods. Unlike their GATT equivalents, they are extended to also cover preferences granted by either party in future trade agreements, meaning that if the UK agrees better terms with another country or bloc than with the ESA, it will have to extend those better terms to the ESA countries.

**15.** In summary, trade between Wales and the ESA countries represented 0.02% of total Welsh trade in goods in 2017, and that Welsh service exports to these countries are also at a very low level. **The changes to this agreement are relatively minor**, for example resizing derogation quotas according to usage data to maintain market access for the ESA countries.

### Welsh Government view

**16.** The Minister for International Relations and Welsh Language, in her letter to the Committee dated 26 February 2019, describes an improved relationship between the Department of International Trade and the Welsh Government in relation to the preparation of the Trade Continuity Agreements.

**17.** However, in relation to the ESA-UK agreement, it would appear that the Welsh Government did not have access to the draft text of the agreement prior to signature.

### Other views

**18.** The House of Lords EU Committee has reported on this agreement, concluding that:

“We draw special attention to the UK-ESA Economic Partnership Agreement, on the grounds that:

- It is politically and legally important, and gives rise to issues of public policy that the House may wish to debate prior to ratification;
- The explanatory material laid in support provides insufficient information on the agreement’s policy objective and on how it will be implemented; and
- Further consultation would be appropriate, including with the devolved administrations.”

**19.** The report also states that “[w]e have received information from the Welsh and Scottish Governments suggesting that they regard the level of consultation as inadequate”.

## Conclusions

We conclude that **no further action is required in relation to this agreement.**

However, in reporting our work to the Assembly, we note the conclusions of the House of Lords EU Committee in relation to this agreement and support its call for further consultation with the devolved administrations.

We share the EU Committee's concern that the draft text of the agreement was not shared with the Welsh Government prior to signing. It is of paramount importance that the Welsh Government has the opportunity to consider the text of agreements so that it is able to meaningfully contribute to the development and eventual implementation of agreements.

We hope that the UK Government shares the text of future agreements with the Welsh Government prior to signature.

We note that the UK Government's Report to the UK Parliament on the Agreement states (para 59) that the timetable for these negotiations will be jointly agreed within six months of entry into force of the Agreement (this 6-month timetable is a new provision in the ESA agreement, which does not have direct precedent in the existing Economic Partnership Agreement).

There appears to be an opportunity here for the Welsh Government to make representations about both having a place at the table in those negotiations, and about Wales's interests in them.

### 3. Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Denmark in respect of the Faroe Islands ('the UK-Faroe Islands Agreement')

#### Background

1. The UK-Faroe Islands Agreement is a **trade continuity agreement**.
2. The text of the agreements and associated explanatory materials published by the UK Government **are available online**.
3. The agreement was laid before Parliament on 6 February and the CRAG Act 21-day period ends on 14 March.

#### Legal assessment

Does the agreement engage the Assembly's competence?
Yes, the agreement engages the Assembly's competence as it covers the import of food and animal feed, which could require implementation by the Assembly  It also deals with animal health, in the veterinary protocol.

#### Policy assessment

Are there policy implications for Wales?
Yes, though they are relatively minor as detailed under this section.

4. The Faroe Islands opted to remain outside the then European Economic Community when Denmark joined it in 1973. As such it is treated as a third country, and has a Free Trade Agreement with the EU as well as a bilateral fisheries agreement.

5. Total trade in goods and services between the UK and the Faroe Islands was £236 million in 2017, less than 0.1% of UK total trade. The UK exported £6 million

of goods and services to the Faroe Islands in 2017, while it imported £230 million from the Faroe Islands. The vast majority of this trade was UK imports of fish and crustaceans (£201.7 million).

**6.** Data for trade in goods and services between Wales and the Faroe Islands are not available from the published datasets due to the low volume of trade between these two sub-state areas.

**7.** Tariffs on goods between the UK and the Faroe Islands will remain the same as those in place under the EU-Faroe Islands agreement, with the exception of the size of tariff-rate quotas for certain products. The changes to tariff-rate quotas cover UK imports of live fish, preserved fish, crustaceans, molluscs, fish feed and sheep and goat meat (the quota for this is only 3 tonnes). These are based on evidence such as historical usage of the quotas, and trade flow data. The agreed annual increases in UK quota volume are aligned to the annual increases in quota volume in the EU-Chile agreement.

**8.** In terms of rules of origin, EU materials can be cumulated in exports from the UK and Faroe Islands to one another. Furthermore, EU processing can be recognised in UK exports to the Faroe Islands. These arrangements are subject to satisfying certain conditions set out in the agreement.

**9.** As the UK has not yet committed to maintaining its veterinary standards at EU levels until its future relationship with the EU is determined, under the terms of the Faroe Islands' agreement with the EU it is not able to recognise UK's veterinary standards as being equal to EU standards. The UK and Faroe Islands' agreement has incorporated the Veterinary Protocol provisions set out in the EU-Faroe Islands agreement, but left out any reference to harmonisation with EU standards.

**10.** The University of Sussex's Trade Policy Observatory has set out analysis of most favoured nation clauses in each of the EU agreements that the UK wishes to 'roll over'. **The Faroe Islands has limited most favoured nation clauses in its agreement with the EU.** These reiterate the most favoured nation clauses in the WTO's General Agreement on Trade in Services. The obligations apply to chapters on the right of establishment and supply of services, but do not apply to preferences granted in other trade agreements.

**11.** In summary, trade between the UK and the Faroe Islands countries represented less than 0.1% of total UK trade in goods and services in 2017. **The changes to this agreement are relatively minor**, for example changes to tariff-rate quotas based on historical use of quotas and trade flow data.

## Welsh Government view

**12.** The Minister for International Relations and Welsh Language, in her letter to the Committee dated 26 February 2019, describes an improved relationship between the Department of International Trade and the Welsh Government in relation to the preparation of the Trade Continuity Agreements.

## Other views

**13.** The House of Lords EU Committee has reported on this agreement, concluding that:

“We draw special attention to the Free Trade Agreement between the United Kingdom and the Faroe Islands, on the grounds that:

- It is politically important, and gives rise to issues of public policy that the House may wish to debate prior to ratification;
- The explanatory material laid in support provides insufficient information on the agreement’s policy objective and on how it will be implemented; and
- Further consultation would be appropriate, including with the devolved administrations.”

## Conclusions

We conclude that **no further action is required in relation to this agreement.**

However, in reporting our work to the Assembly, we note the conclusions of the House of Lords EU Committee in relation to this agreement and support its call for further consultation with the devolved administrations.

We share the EU Committee’s concern that the draft text of the agreement was not shared with the Welsh Government prior to signing. It is of paramount importance that the Welsh Government has the opportunity to consider the text of agreements so that it is able to meaningfully contribute to the development and eventual implementation of agreements.

We hope that the UK Government shares the text of future agreements with the Welsh Government prior to signature.