

International agreements

Agreements considered on
4 December 2023

January 2024



1. Background

1. The Legislation, Justice and Constitution Committee is responsible for the scrutiny of non-trade international agreements in the sixth Senedd.
2. International agreements signed by the UK Government can cover matters within devolved competence or matters which have important policy implications for Wales.
3. The Committee considers the impact on Wales of international agreements laid in the UK Parliament under the process established by the Constitutional Reform and Governance Act 2010 (CRaG Act 2010). It provides an initial 21-day scrutiny period.
4. Our consideration of an international agreement takes into account:
 - whether it engages the Senedd's competence; and/or
 - whether there are potential policy implications for Wales.
5. On 4 December 2023,¹ we considered 5 international agreements that had recently been laid in the UK Parliament:
 - Conservation and Sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction ("BBNJ treaty")
 - UK-Portugal Mutual Recognition for the Purpose of Driving and Exchange of Licences
 - UK-Belgium Gainful Occupation of Certain Family Members of the Personnel of the Diplomatic Missions and Consular Posts
 - UK-Georgia Air Services Agreement
 - Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects

¹ Legislation, Justice and Constitution Committee, 4 December 2023

6. We agreed to take further action in relation to three of the agreements. Details on each of the agreements and our respective actions are set out below.

7. We also considered and noted correspondence regarding international agreements that we have considered previously.

2. Agreements requiring further action

Conservation and Sustainable use of Marine Biological Diversity of Areas Beyond National Jurisdiction (“BBNJ treaty”)

- 8.** This international agreement was laid in the UK Parliament on 20 September 2023. Its scrutiny deadline, as required by the CRaG Act 2010, was 30 November 2023.
- 9.** This agreement provides for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (the “high seas”), through effective implementation of the relevant provisions of the United Nations Convention on the Law of the Sea and international cooperation.
- 10.** The agreement contains a number of features to support biodiversity, including a mechanism to establish Area Based Management Tools (ABMTs) and new obligations to share the benefits of research into, and utilisation of, Marine Genetic Resources (MGRs).
- 11.** The Explanatory Memorandum notes that public funding will be required for various activities, including to support the institutions established by the agreement, to support annual contributions by developed countries under the MGRs provisions, and for UK officials to attend periodic meetings.²
- 12.** In relation to implementation, the Explanatory Memorandum notes that:
- “The Foreign, Commonwealth and Development Office is working closely with Defra and other UK Government departments and the Devolved Administrations to consider legislative measures necessary to comply with the new obligations under the Agreement. While further due diligence work continues with Departments on necessary measures to implement the Agreement, it is assessed that this will require primary legislation.”³*
- 13.** Although foreign affairs and international relations is a reserved matter, as provided by paragraph 10 of Schedule 7A to the *Government of Wales Act 2006*

² UK Government, *Explanatory Memorandum: Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction*, October 2023, paragraph 7

³ Explanatory Memorandum, paragraph 5

(the 2006 Act), observing and implementing international agreements in devolved areas is not reserved.

14. The Explanatory Memorandum also states that:

“This Treaty relates to fisheries, marine, and environmental policy which are matters devolved to Scotland, Northern Ireland and Wales.”⁴

15. In relation to intergovernmental engagement, the Explanatory Memorandum confirms that the devolved governments were:

- updated before each negotiating round;
- consulted once negotiations were concluded;
- received the draft text and summary of the agreement in advance of signature;
- asked to consider what the implications of the agreement will be for them, including whether an obligation needs to be implemented through devolved processes and legislation, or can be implemented by UK legislation; and were
- asked to consider which UK Government departments they will need to work closely with, how public and private entities can be made aware of and can implement obligations under the agreement, and key contacts for work going forward.⁵

16. We agreed to write to the Welsh Government to request:

- its view of the process of updating and consulting the devolved governments on the agreement’s development;
- an update on legislation required to implement the agreement; and
- information on any intergovernmental work taking place, or due to take place, to implement the agreement, as well as confirmation of which existing intergovernmental structures are being utilised.

⁴ Explanatory Memorandum, paragraph 10

⁵ Explanatory Memorandum, paragraph 10

17. We also agreed to draw the agreement to the attention of the Climate Change, Environment and Infrastructure Committee and share with it the Welsh Government's response, once received.

UK-Portugal Mutual Recognition for the Purpose of Driving and Exchange of Licences

18. This international agreement was laid in the UK Parliament on 16 October 2023. Its scrutiny deadline, as required by the CRaG Act 2010, was 30 November 2023.

19. This agreement provides for reciprocal mutual recognition of driving licences for the purpose of driving and exchanging licences in the UK and Portugal. The agreement extends to Gibraltar.

20. The mutual recognition of driving licences was previously provided for by European Union law when the UK was a Member State. Although the UK is party to United Nations Conventions, which govern the mutual recognition of driving licences, these cover temporary visits only, and do not cover residency.

21. Temporary arrangements allowed UK drivers to use their UK driving licences in Portugal until they expired, however, this arrangement ended on 31 December 2023.

22. The Explanatory Memorandum confirms that this bilateral agreement will allow UK license holders who are already resident in Portugal, or who become resident in future, the right to exchange their UK driving licence without the need to take further practical or theory driving tests (and vice versa).⁶

23. The Explanatory Memorandum also notes that no legislation is required to implement this agreement.⁷

24. The UK Government confirms that it engaged with the devolved governments and shared a draft text of the agreement in advance of it being agreed. The comments received by the devolved governments were "considered and reflected in the Government's approach".⁸ We note that this approach

⁶ UK Government, Explanatory Memorandum: UK/Portugal: Agreement on Mutual Recognition for the Purpose of Driving and Exchange of Driving Licences, October 2023, paragraph 3.6

⁷ Explanatory Memorandum, paragraph 5.1

⁸ Explanatory Memorandum, paragraph 10.3

reflects the engagement undertaken by the UK Government in relation to similar agreements with Italy and Spain, which we have previously considered.

25. This agreement concerns driver licensing, which is a reserved matter, as provided by paragraph 106 of Schedule 7A to the 2006 Act.

26. We agreed to draw the agreement to the attention of the Equality and Social Justice Committee, to inform its monitoring of the rights of European citizens living in Wales after Brexit.

UK-Belgium Gainful Occupation of Certain Family Members of the Personnel of the Diplomatic Missions and Consular Posts

27. This international agreement was laid in the UK Parliament on 23 November 2023. Its scrutiny deadline, as required by the CRAg Act 2010, is 17 January 2024.

28. The aim of this agreement is to allow family members (spouses, partners or children) of those employed by the UK in diplomatic missions, consular posts or international organisations to undertake gainful occupation outside the mission in Belgium (and vice versa).

29. Without the agreement, British diplomatic family members would not be able to undertake gainful occupation outside the diplomatic mission while maintaining their diplomatic status. Therefore, the agreement will ease staff mobility to UK Missions in Belgium, by better accommodating the needs of diplomats and their families.

30. The Explanatory Memorandum confirms that no legislation is required to implement this agreement.⁹

31. Foreign affairs and employment policy within the Foreign, Commonwealth and Development Office ("FCDO") and the civil service are reserved matters, as provided by paragraphs 5 and 10 of Schedule 7A to the 2006 Act. The subject matter of employment is also specifically reserved by Section H1 of Schedule 7A, subject to limited exceptions.

32. However, diplomatic and consular relations are covered by a 2012 Devolution Memorandum of Understanding between the UK Government, the

⁹ UK Government, Explanatory Memorandum: UK/Belgium: Agreement on the Gainful Occupation of Certain Family Members of the Personnel of the Diplomatic Missions and Consular Posts, November 2023, paragraph 5

Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee.¹⁰

33. The Explanatory Memorandum also states that:

“The policy content of this Agreement relates to foreign affairs, relating to employment rights in the receiving State. These relate fully to a reserved matter, with potential implications for the Devolved Administrations. The UK Government has consulted the Devolved Administrations on the drafting of this Agreement and has informed the Devolved Administrations of progress throughout the process.”¹¹

34. We therefore consider that this agreement could apply to Welsh Government’s representatives who work within Welsh Government overseas offices that are afforded diplomatic status. The Welsh Government’s overseas office in Brussels is one of its 21 international offices across 12 countries.¹²

35. We note that the UK Government approach to consultation in relation to this agreement differs from that taken in respect of a previous similar agreement concluded between the UK and Portugal, where the Explanatory Memorandum stated that there were no implications for the devolved governments, and they were not consulted.

36. As the agreement may affect the Welsh Government’s representatives in its Brussels office, we agreed to draw the agreement to the attention of the Culture, Communications, Welsh Language, Sport and International Relations Committee.

¹⁰ UK Government, Devolution: memorandum of understanding and supplementary agreement, September 2012

¹¹ Explanatory Memorandum, paragraph 10

¹² Welsh Government, International offices

3. Agreements noted for information

UK-Georgia Air Services Agreement

37. This international agreement was laid on 15 November 2023. Its scrutiny deadline, as required by the CReG Act 2010, was 10 January 2024.

38. This agreement provides for the continuity of air services between the UK and Georgia post-Brexit, including unlimited scheduled services, safety, aviation security, customs duties and charges and other matters.

39. The Explanatory Memorandum confirms that no new legislation is required to implement this agreement.¹³

40. The agreement relates to reserved matters, including aviation, which is a reserved matter as provided by paragraph 125 of Schedule 7A to the 2006 Act.

41. The Explanatory Memorandum notes that while the agreement does not relate to a devolved matter,

“... it impacts upon air services between the Devolved Administrations and Georgia, and the Devolved Administrations have been kept aware of the programme to transition EU negotiated air services agreements and no concerns were raised.”¹⁴

42. The agreement will impact on air services between Wales and Georgia. As such, we agreed to note the agreement for information, whilst welcoming the approach taken by the UK Government to keep the Welsh Government aware of the programme to transition EU-negotiated air services agreements as part of its considerations of the Welsh Government’s role and involvement in UK international agreements.

¹³ UK Government, Explanatory Memorandum: UK/Georgia: Agreement concerning Air Services, November 2023, paragraph 5.1

¹⁴ Explanatory Memorandum, paragraph 10.1

Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects

43. This international agreement was laid in the UK Parliament on 14 November 2023. Its scrutiny deadline, as required by the CRaG Act 2010, was 9 January 2024.

44. This Protocol (Protocol V) is one of five protocols within the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW), which regulate different types of conventional weapon.

45. The UK is already a party to Protocols I-IV (Protocol I on Non-Detectable Fragments; Protocol II on Mines, Booby Traps and Other Devices; Protocol III on Incendiary Weapons; Protocol IV on Blinding Laser Weapons).

46. Protocol V concerns post-conflict humanitarian problems caused by explosive remnants of war and addresses post-conflict measures which aim to minimize the occurrence, effects and the risk of explosive remnants of war. It places duties on its parties to bear responsibility with respect to explosive remnants of war in territory under their control, for example, to mark, clear, remove or destroy explosive remnants of war.

47. The Explanatory Memorandum does not refer to any consultation with the devolved governments, stating only that “the policy content of this Treaty relates fully to reserved matters.”¹⁵

48. As this agreement relates to reserved matters, including the control of weapons, as provided by paragraph 188 of Schedule 7A to the 2006 and defence, as provided by paragraph 11 of Schedule 7A of the 2006 Act, we agreed to note this agreement for information only.

¹⁵ UK Government, Explanatory Memorandum: Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (Protocol V), November 2023, paragraph 10

4. Correspondence relating to agreements previously considered

UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination

49. Following our meeting on 11 September 2023¹⁶, we agreed to write to the Welsh Government¹⁷ to request more information on its engagement with the UK Government in relation to the UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination, as well as the steps that the Welsh Government will take to ensure that the agreement is implemented in areas within devolved competence.

50. This Convention provides for continued social security coordination between the UK (excluding Gibraltar and the Crown Dependencies) and Iceland, Liechtenstein and/or Norway post-Brexit.

51. On 16 October 2023, the Minister for Health and Social Services responded¹⁸, confirming that the Welsh Government was consulted, and commented on, the content of both this agreement and the previous, similar UK-Switzerland Convention. The Minister also states that the UK Government has provided updates on progress on the negotiation of the Convention by UK Government, including assessments of potential impacts and updates on timings.

52. The Minister confirms that this Convention will be brought into force before the end of 2023 with regard to Iceland and Liechtenstein, and in early 2024 with regard to Norway.

53. The Minister also confirms that, ahead of the Convention coming into force, the Welsh Government will amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 to add Iceland and Liechtenstein to the countries covered by those Regulations. The amending regulations, which were

¹⁶ Legislation, Justice and Constitution Committee, 11 September 2023

¹⁷ Letter to the First Minister from the Legislation, Justice and Constitution Committee, 29 September 2023

¹⁸ Letter from the Minister for Health and Social Services to the Legislation, Justice and Constitution Committee, 16 October 2023

laid on 8 December 2023, were accompanied by an impact assessment including the expected impact to the NHS in Wales of the Convention.¹⁹

54. The Minister concludes that:

“All relevant Welsh Government guidance documents and NHS websites will also be updated to reflect the new arrangements with the three countries. Welsh Government officials have informed the Local Health Boards of the signing and provisions of the Convention and will further update once the coming into force date is known.”²⁰

55. We considered and noted this response at our meeting on 23 October 2023²¹.

Protocol amending the International Convention on the Conservation of Atlantic Tunas (ICCAT) (“Palma Protocol”)

56. Following our meeting on 11 September 2023²² we agreed to write to the Welsh Government in relation to the to the Palma Protocol, which amends the scope of the International Convention for the Conservation of Atlantic Tunas to cover sharks and other elasmobranchs that are oceanic, pelagic, and highly migratory found in the Atlantic Ocean.

57. On 29 September 2023, we wrote to the First Minister²³ requesting further information on matters including the intergovernmental engagement which took place in relation to the Protocol and the internal arrangements that are in place to monitor, observe and implement recommendations of the Protocol’s Commission in devolved areas.

58. In his response, the First Minister states that the Protocol was subject to discussions at official level prior to legal advice received that concluded the amendments “to be of minimal or no concern to the UK”.²⁴

¹⁹ Senedd Cymru, [SL\(6\)429 – The National Health Service \(Charges to Overseas Visitors\) \(Amendment\) \(No. 3\) \(Wales\) Regulations 2023](#)

²⁰ Letter from the Minister for Health and Social Services to the Legislation, Justice and Constitution Committee, 16 October 2023

²¹ [Legislation, Justice and Constitution Committee](#), 23 October 2023

²² LJC Committee, 11 September 2023

²³ [Letter to the First Minister from the Legislation, Justice and Constitution Committee](#), 29 September 2023

²⁴ [Letter from the First Minister to the Legislation, Justice and Constitution Committee](#), 23 October 2023

59. The First Minister confirms that:

“As a contracting party to ICCAT, the UK is obliged to enact legislation to give effect to the domestic operation of the Convention. Certain sections of EU legislation were saved upon the exit of the UK from the EU in this regard. Officials in our Fisheries Division are responsible for monitoring, observing and implementing such regulations.”²⁵

60. The First Minister also confirms that there is no immediate action for the Welsh Government to take to implement the Protocol.

61. We considered and noted this response at our meeting on 6 November 2023.²⁶

²⁵ Letter from the First Minister to the Legislation, Justice and Constitution Committee, 23 October 2023

²⁶ Legislation, Justice and Constitution Committee, 6 November 2023
