

International Agreements

Agreements considered on 4 October
2021

October 2021



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 will consider 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 October 2021 we considered three international agreements that have recently been laid in the UK Parliament.¹
6. The agreements we considered were:
 - UK/Albania: Readmission of Persons;
 - UK/Portugal: Agreement regarding the Employment of Members of the Family forming part of the Household of Diplomatic Missions;
 - UK/Antigua & Barbuda: establishing a Maritime Boundary between Anguilla and Antigua and Barbuda
7. We agreed to note the agreements for information. Further details on each of the agreements are set out below.

¹ Legislation, Justice and Constitution Committee, 4 October 2021

2. Agreements noted for information

UK/Albania: Readmission of Persons

8. This international agreement was laid in the UK Parliament on 14 September 2021. Its scrutiny deadline, as required by the CRaG Act 2010, is 18 November 2021.

9. The aim of this agreement is to provide an agreed mechanism for the return of individuals in violation of immigration laws, policies and procedures. The agreement is a result of the UK's withdrawal from the European Union (EU).

10. The section on devolution ordinarily included in Explanatory Memoranda to international agreements is missing from this agreement. Therefore, no information is available regarding the devolved administrations, including whether they were consulted in the drafting of this agreement and the UK Government's view on competence.

11. The agreement relates to immigration laws, policies and procedures. This is a reserved matter, as provided by paragraph 29 of Schedule 7A to the Government of Wales Act 2006 (the 2006 Act).

12. We noted the agreement for information and that information related to devolution, which is ordinarily included as standard, is missing.

13. We agreed to draw this matter to the attention of the First Minister and to the International Agreements Committee in the House of Lords.

UK/Portugal: Agreement regarding the Employment of Members of the Family forming part of the Household of Diplomatic Missions

14. This international agreement was laid in the UK Parliament on 14 September 2021. Its scrutiny deadline, as required by the CRaG 2010, is 18 November 2021.

15. The aim of this agreement is to allow dependents (for example spouses or children) of those employed in diplomatic missions, consular posts or international organisations by the sending State (the UK or Portugal) to undertake gainful occupation outside the Embassy/post in the receiving State (the UK or Portugal).

16. The Explanatory Memorandum states that the policy content of this Treaty relates to foreign affairs and employment policy within the Foreign, Commonwealth and Development Office (FCDO) and the civil service, which relates fully to a reserved matter, with no implications

for the devolved administrations. The devolved administrations were not consulted on the drafting of this agreement.

17. Foreign affairs and employment policy within the FCDO and the civil service are reserved matters, as provided by paragraphs 5 and 10 of Schedule 7A of the 2006 Act. The subject matter of employment is also reserved, subject to limited exceptions.

18. However, diplomatic and consular relations are covered by a 2012 **Devolution Memorandum of Understanding** between the UK Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee.

19. This agreement could apply to Welsh Government's representatives who work within Welsh Government overseas offices that are afforded diplomatic status. However, the Welsh Government does not have its own international office in Portugal.

20. We noted this agreement for information only and agreed to consider future similar agreements on a case-by-case basis.

UK/Antigua & Barbuda: establishing a Maritime Boundary between Anguilla and Antigua and Barbuda

21. This international agreement was laid in the UK Parliament on 16 September 2021. Its scrutiny deadline, as required by the CRaG Act 2010, is 19 November 2021.

22. The aim of this agreement is to establish a maritime boundary between Anguilla and Antigua and Barbuda and help maintain good relations with Antigua and Barbuda. Negotiations also resulted in agreement with France in respect of St Martin and St Barthélemy.

23. The **Explanatory Memorandum** states that the policy content of this agreement relates to the delimitation of the maritime zone of an Overseas Territory which is a fully reserved matter with no implications for the Devolved Administrations. As such, the UK Government did not consult the Devolved Administrations on its drafting.

24. The delimitation of maritime zones in one of the UK's Overseas Territories is a reserved matter as provided by paragraph 10 of Schedule 7A of the 2006 Act.

25. We noted this agreement for information only.

3. Correspondence relating to agreements previously considered

26. Following our meeting on 13 September 2021 we agreed to write to the Welsh Government to seek its assessment of the implications of four agreements between the UK and Estonia, Latvia, Belgium and Italy on the protection of classified information, for Wales and its contractors, including whether the Welsh Government agrees with the UK Government's conclusion that the agreements have 'no implications for the devolved administrations'.

27. The First Minister responded on 4 October 2021. On the implications for Wales and its contractors, the response states that:

- the substantive provisions are high level and would likely require implementing arrangements in relation to specific exchanges;
- the agreements are subject to national laws and regulations and we should be mindful whether they conflict with the same. The Welsh Government is of the view that the agreements do not conflict with UK data protection legislation;
- as the Welsh Ministers are required to take into account international obligations when making decisions, they could face Judicial Review or action from the Secretary of State for failing to do so.

28. The response also confirms that the Welsh Government had no expectation of being consulted on these agreements as they are high level and relate to reserved matters, stating that:

"if the agreements would have an impact on devolved matters, the Welsh Government would have a legitimate interest in those parts of the negotiations and therefore an expectation to be consulted."

29. We considered this response at our meeting on 11 October 2021.