

International agreements

Agreements considered on
5 February 2024

February 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 5 February 2024,¹ we considered three international agreements that had recently been laid in the UK Parliament:
 - [UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage](#)
 - [Amendment to the Agreement Establishing the European Bank for Reconstruction and Development](#)
 - [UK/Philippines: Treaty on the Transfer of Sentenced Persons](#)
6. We agreed to take further action in relation to one of these agreements. Details on each of the agreements, and our respective actions, are set out below.
7. We also considered the House of Commons Public Administration and Constitutional Affairs Committee's report on its inquiry, '[Parliamentary Scrutiny of International Agreements in the 21st century](#)', to which the Committee submitted written evidence.

¹ [Legislation, Justice and Constitution Committee](#), 5 February 2024

2. Agreements requiring further action

UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage

- 8.** This international agreement was laid in the UK Parliament on 11 January 2024. Its scrutiny deadline, as required by the CRaG Act 2010, is 22 February 2024.
- 9.** The purpose of this agreement is to safeguard, ensure respect, and raise awareness of, the importance of intangible cultural heritage, for which it provides the following definition:

“The practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity.”²

- 10.** The Convention also lists five categories of such heritage:
- oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
 - performing arts;
 - social practices, rituals and festive events;
 - knowledge and practices concerning nature and the universe; and
 - traditional craftsmanship.³

² [Convention for the Safeguarding of the Intangible Cultural Heritage](#), Article 2, paragraph 1

³ [Convention for the Safeguarding of the Intangible Cultural Heritage](#), Article 2, paragraph 2

- 11.** In ratifying the treaty, the UK Government aims to signal a commitment to giving intangible cultural heritage greater recognition domestically and provide an opportunity for greater international engagement.⁴
- 12.** The Explanatory Memorandum to the agreement states that the UK Government intends to create compatible inventories for each of the four nations of the UK, which will reflect the distinctive traditions and cultural heritage of each. It proposes to then collate these into the national Inventory of Intangible Heritage in the UK. The UK Government is also proposing that the public and organisations will be able to submit items for consideration by approval panels, which will include community and public body representation. It is proposed that there will be panels for each nation.⁵
- 13.** The Explanatory Memorandum states that the agreement does not require any change to existing domestic legislation, nor any legislation to be enacted.⁶
- 14.** The Explanatory Memorandum notes that the UK Government has also launched a public consultation to inform the initial stages of the agreement's implementation,⁷ with the survey developed and agreed with the devolved governments.⁸
- 15.** Although international relations is a reserved matter, the implementation of international agreements in devolved areas is a devolved matter.
- 16.** The Explanatory Memorandum confirms that this agreement relates to culture and heritage, which are devolved matters. The public consultation on the implementation of the agreement also refers to creating additional categories for the purpose of the agreement, including traditional games and sports, which are also devolved matters.⁹
- 17.** As the agreement relates to devolved matters, the Explanatory Memorandum states that the UK Government consulted the devolved

⁴ [UK Government, Explanatory Memorandum: Convention for the Safeguarding of the Intangible Cultural Heritage](#), January 2024, paragraph 2.3

⁵ UK Government, [Explanatory Memorandum: Convention for the Safeguarding of the Intangible Cultural Heritage](#), January 2024, paragraph 4.2

⁶ Explanatory Memorandum, paragraph 5

⁷ UK Government, [Consultation: 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage](#), December 2023

⁸ Explanatory Memorandum, paragraph 10

⁹ Explanatory Memorandum, paragraph 10

governments on the drafting of the agreement and shared the relevant draft text in advance of signature.¹⁰

18. Whilst the UK Government acknowledges in the Explanatory Memorandum that the agreement concerns matters devolved to Wales, it confirms that the UK Government's Department for Culture, Media and Sport "would lead on the implementation of this process, working with the devolved administrations, which will oversee their inventories".¹¹

19. As the agreement is within devolved competence, we would normally take further steps to obtain more information from the Welsh Government. However, the Culture, Communications, Welsh Language, Sport and International Relations Committee has drawn our attention to its correspondence to the Welsh Government, in which it requests further information in relation to this agreement¹².

20. We therefore agreed to:

- share our analysis of the agreement with the Culture, Communications, Welsh Language, Sport and International Relations Committee and;
- return to this agreement in future following that Committee's further consideration of it and any response received from Welsh Government.

¹⁰ Explanatory Memorandum, paragraph 10

¹¹ Explanatory Memorandum, paragraph 3

¹² Letter from the Culture, Communications, Welsh Language, Sport and International Relations Committee to the First Minister of Wales, 12 February 2024

3. Agreements noted for information

Amendment to the Agreement Establishing the European Bank for Reconstruction and Development

21. This international agreement was laid on 14 December 2023. Its scrutiny deadline, as required by the CRaG Act 2010, was 8 February 2024.

22. The UK is a founding member of the European Bank for Reconstruction and Development (EBRD), a multilateral development bank established in 1991 after the fall of the Soviet Union. It has since expanded to 38 countries in Central Asia, the Caucasus and the Southern and Eastern Mediterranean where its operations aim to foster transition to open-market economies and promote private sector growth.

23. The purpose of this agreement is to amend the agreement establishing the EBRD to extend the geographic scope of its operations to sub-Saharan Africa and Iraq, to remove capital limits on ordinary operations and to entrust the Board of Directors to maintain appropriate limits.

24. The Explanatory Memorandum to the agreement explains that, by expanding operations to sub-Saharan Africa and Iraq, the EBRD will likely begin to lend to these countries, with an envisaged start date of 2025.¹³

25. The Explanatory Memorandum confirms that the agreement's matters are fully reserved and that there are no implications for the devolved governments. As such, the devolved governments were not consulted in relation to the agreement.¹⁴

26. As this international agreement relates to matters that are not devolved to the Senedd, namely financial services and banking, we agreed to note this agreement for information only.

UK/Philippines: Treaty on the Transfer of Sentenced Persons

27. This international agreement was laid on 22 January 2024. Its scrutiny deadline, as required by the CRaG Act 2010, is 1 March 2024.

¹³ [UK Government, Explanatory Memorandum: Amendment to the Agreement Establishing the European Bank for Reconstruction and Development \(EBRD\)](#), December 2023

¹⁴ Explanatory Memorandum, paragraph 10

- 28.** This agreement allows for the transfer of sentenced British nationals from the Philippines to the UK and for the transfer of sentenced Filipino nationals from the UK to the Philippines, where the sentenced person requests the transfer.
- 29.** The Explanatory Memorandum to the agreement confirms that no new legislation is required to enable the United Kingdom to implement the agreement.¹⁵
- 30.** The agreement does not relate to matters devolved to Wales, as it relates to the transfer of prisoners. Prisons and the management of persons charged with, or convicted of, offences are reserved matters which fall under the heading Justice in Schedule 7A to the *Government of Wales Act 2006*.
- 31.** The Explanatory Memorandum acknowledges that the agreement covers a subject matter that is reserved, but notes that it has implications for the devolved governments where they transfer prisoners under the agreement.¹⁶
- 32.** The relevant draft text was shared with the governments of Scotland and Northern Ireland in advance of it being signed. However, as justice is not devolved to Wales, the Explanatory Memorandum confirms that the text was referred to the Welsh Government for information only.¹⁷
- 33.** We agreed to note the agreement for information only.

¹⁵ [UK Government, Explanatory Memorandum: UK/Philippines: Treaty on the Transfer of Sentenced Persons](#), January 2024

¹⁶ Explanatory Memorandum, paragraph 10.2

¹⁷ Explanatory Memorandum, paragraph 10.2

4. House of Commons Public Administration and Constitutional Affairs Committee report: Parliamentary Scrutiny of International Agreements in the 21st century

- 34.** In 2021, the House of Commons Public Administration and Constitutional Affairs Committee (“PACAC”) launched an inquiry, ‘The Scrutiny of International Treaties and other international agreements in the 21st century’¹⁸.
- 35.** The inquiry considered how treaties and other international arrangements (such as Memorandums of Understanding) could be effectively scrutinised in the UK, now that the UK has left the EU.
- 36.** We submitted written evidence to the inquiry in June 2021¹⁹.
- 37.** On 22 November 2022, Huw Irranca-Davies MS, the Chair of this Committee, provided oral evidence to the inquiry, setting out key issues identified in the course of our scrutiny of international agreements.
- 38.** PACAC published its report on the inquiry on 23 January 2024²⁰.
- 39.** In its report, PACAC referred to the oral evidence provided by the Chair, in which he confirmed that in the absence of a formal role in the treaty scrutiny process, the Senedd has established a system to monitor and scrutinise all treaties that impact on devolved competence.
- 40.** The Chair also advised that the most significant barrier to the scrutiny in areas of devolved competence is a lack of information being shared at the intergovernmental level. The Chair also confirmed that the devolved legislatures required notice of upcoming agreements and sufficient time to carry out scrutiny and share their views, in order to contribute fully to the scrutiny process.
- 41.** The report concludes that:

¹⁸ [House of Commons Public Administration and Constitutional Affairs Committee: The Scrutiny of International Treaties and other international agreements in the 21st century](#)

¹⁹ [Legislation, Justice and Constitution Committee: Written evidence](#), June 2021

²⁰ [House of Commons Public Administration and Constitutional Affairs Committee: Parliamentary Scrutiny of International Agreements in the 21st century](#), January 2024

“While the legal authority and responsibility for international agreements rests with the UK Government, devolved governments and legislatures will necessarily have a legitimate interest where agreements intersect with areas of devolved competence.”²¹

42. The report acknowledges the importance of the devolved legislatures’ scrutiny of international agreements which involve areas of devolved competence, and makes a number of recommendations on the scrutiny of international agreements relevant to devolved legislatures, including that enabling time for scrutiny by devolved legislatures should be factored in when setting the scrutiny period for treaties.

43. We welcome the Committee’s recommendations.

²¹ House of Commons Public Administration and Constitutional Affairs Committee: Parliamentary Scrutiny of International Agreements in the 21st century, Summary