

# International agreements

Agreements considered on  
11 September 2023

September 2023



# 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 11 September 2023,<sup>1</sup> we considered six international agreements that were laid in the UK Parliament during the Senedd's summer recess period:
  - Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
  - UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination
  - Protocol amending the International Convention on the Conservation of Atlantic Tunas ("Palma Protocol")
  - UK-Canada Air Services Agreement
  - UK-Azerbaijan: Agreement on International Road Transport
  - UK-Saint Vincent and the Grenadines Air Services Agreement
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.

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<sup>1</sup> Legislation, Justice and Constitution Committee, 11 September 2023

**7.** We also considered correspondence regarding international agreements that we have considered previously, and agreed to take further action in relation to one item of correspondence.

## 2. Agreements requiring further action

### **Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)**

- 8.** This international trade agreement will facilitate the UK's membership of CPTPP, an Indo-Pacific trade bloc of 11 states.
- 9.** The agreement has not yet been laid in the UK Parliament, which would trigger the initial 21-day period for scrutiny.
- 10.** The UK Government has instead published the Protocol and notified the UK Parliament that it will provide it with at least three months to consider the UK's accession to CPTPP before it commences the pre-ratification scrutiny process under the CReG Act 2010.
- 11.** The UK Government states that it has taken this approach to ensure that there is appropriate time for the relevant Select Committees to consider the agreement in advance. The UK Government has confirmed that legislation necessary to implement the agreement will be brought forward, and duly scrutinised by Parliament, when parliamentary time allows.<sup>2</sup>
- 12.** We have previously noted our concerns regarding the limitations of the time allowed for scrutiny by the CReG process, in particular as it relates to scrutiny by the devolved legislatures, in a written submission<sup>3</sup> to the House of Commons Public Administration and Constitutional Affairs Committee's inquiry into the scrutiny of treaties. Therefore, whilst this Committee does not ordinarily consider trade agreements, we would like to take this opportunity to welcome the procedural approach taken by the UK Government to treaty scrutiny on this occasion.

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<sup>2</sup> UK Government, Written Statement: Comprehensive and Progressive Agreement for Trans-Pacific Partnership: Accession Protocol, July 2023

<sup>3</sup> House of Commons Public Administration and Constitutional Affairs Committee, Written evidence from the Welsh Parliament (SIT 22), November 2022

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

- 13.** This international agreement was laid in the UK Parliament on 6 July 2023. Its scrutiny deadline, as required by the CRaG Act 2010, is 18 October 2023.
- 14.** This agreement provides for continued social security coordination between the UK (excluding Gibraltar and the Crown Dependencies) and Iceland, Liechtenstein and/or Norway ('the EEA EFTA States') post-Brexit.
- 15.** The agreement ensures that eligible individuals who move between the UK and the EEA EFTA States will have their social security position in respect of certain benefits protected. This includes access to cash benefits, reciprocal healthcare cover and the export of uprated pensions. The agreement also extends to eligible person's family members and their survivors.
- 16.** Although this agreement relates to international relations, which is a reserved matter, observing and implementing international obligations is not reserved, as provided by paragraph 10 of Schedule 7A to the *Government of Wales Act 2006* ("the 2006 Act"). It is therefore within the legislative competence of the Senedd to implement certain aspects of this agreement relating to health.
- 17.** The Explanatory Memorandum confirms this position, and notes that the UK Government consulted the devolved governments on the drafting of the agreement, stating that:

*"The negotiation of reciprocal healthcare agreements and the welfare of UK nationals abroad are reserved matters, but some of the areas that reciprocal healthcare agreements cover are devolved including domestic healthcare and the recovery of overseas visitor costs. Accordingly, the UK Government has engaged and consulted with health officials from the devolved administrations throughout, sharing draft legal text, coordinating changes in guidance and regulations where needed, and liaising on health implications."*<sup>4</sup>

- 18.** It adds that:

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<sup>4</sup> UK Government, Explanatory Memorandum: Convention on Social Security Coordination between Iceland, Liechtenstein, Norway and the United Kingdom of Great Britain and Northern Ireland, July 2023, paragraph 10.1

*“This included officials from the Scottish Government, **the National Assembly of Wales**, and the relevant authorities in Northern Ireland.”<sup>5</sup> [our emphasis]*

**19.** The agreement’s documents do not mention the Memorandum of Understanding (“the MoU”) in place between the four nations, which sets out the intergovernmental process to follow when negotiating, agreeing and implementing international reciprocal healthcare agreements. It is therefore unclear to us whether, or to what extent, this intergovernmental mechanism was used during the agreement’s development.

**20.** We therefore agreed to:

- write to the Welsh Government requesting more information on its engagement with the UK Government and what steps it will take to ensure this agreement is implemented in areas within devolved competence, as described in the Explanatory Memorandum;
- draw to the attention of the House of Lords International Agreements Committee the errors in the Explanatory Memorandum, where engagement with officials from the ‘National Assembly of Wales’ is described, and highlight that no mention is made of the four nations’ MoU on international healthcare agreements; and
- draw the agreement to the attention of the Health and Social Care Committee for information.

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

**21.** This international agreement was laid in the UK Parliament on 12 July 2023. Its scrutiny deadline, as required by the Crag Act 2010, is 24 October 2023.

**22.** The Palma Protocol amends the scope of the International Convention for the Conservation of Atlantic Tunas (the “Convention”) to cover sharks and other elasmobranchs that are oceanic, pelagic, and highly migratory found in the Atlantic Ocean, makes changes to the working procedures of the International Commission for the Conservation of Atlantic Tunas (the “Commission”), and introduces a dispute settlement mechanism.

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<sup>5</sup> Explanatory Memorandum, paragraph 10.1

**23.** The Explanatory Memorandum states that no new legislation is needed to implement the Palma Protocol.<sup>6</sup>

**24.** The Explanatory Memorandum confirms that the Palma Protocol relates to both reserved and devolved matters, stating that:

*“The UK Government remains responsible for international relations, including those in relation to the Convention, a multilateral international Treaty. The Protocol makes changes to the working procedures and other matters relating to the Commission, which is an international organisation, and therefore a reserved matter. Broadly, fisheries and marine conservation in the territorial waters of the Devolved Administrations is a matter devolved to Scotland, Northern Ireland and Wales, and in the case of Scotland and Northern Ireland the Devolved Administrations can regulate their boats wherever they fish.”<sup>7</sup>*

**25.** The Explanatory Memorandum notes that the changes made by the Palma Protocol to the Convention could affect devolved matters, “such as where Devolved Administrations would be required to observe and implement recommendations of the Commission which relate to devolved matters.”<sup>8</sup>

**26.** The Explanatory Memorandum also details the UK Government’s consultation with the devolved governments in relation to the Palma Protocol, stating that:

*“Working-level contacts within each of the Devolved Administrations were consulted on this Protocol in March 2023, including an explanation of the primary changes to the Convention to be made by the Palma Protocol. Officials from Scotland, Northern Ireland, and Wales have each confirmed they are content for the UK to proceed with ratification of this Protocol.”<sup>9</sup>*

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<sup>6</sup> UK Government, Explanatory Memorandum: Protocol to amend the International Convention for the Conservation of Atlantic Tunas, July 2023, paragraph 22

<sup>7</sup> Explanatory Memorandum, paragraph 29

<sup>8</sup> Explanatory Memorandum, paragraph 29

<sup>9</sup> Explanatory Memorandum, paragraph 29

**27.** We welcome the content and level of detail on devolution included in the Protocol's Explanatory Memorandum.

**28.** We agreed to draw the Protocol to the attention of the Climate Change, Environment and Infrastructure Committee, and to write to the Welsh Government to request more information on:

- its view of the Protocol, including on the intergovernmental engagement described in the Explanatory Memorandum;
- what internal arrangements are in place to monitor, observe and implement recommendations of the Protocol's Commission in devolved areas; and
- its assessment of whether any steps, including changes, are needed at this stage to ensure Wales is compliant with the amendments made by the Protocol in devolved areas.



### 3. Agreements noted for information

#### **UK-Canada Air Services Agreement**

**29.** This international agreement was laid in the UK Parliament on 29 June 2023. Its scrutiny deadline, as required by the CRaG Act 2010, is 18 September 2023.

**30.** This agreement provides for the continuity of air services between the UK and Canada post-Brexit, including providing for unlimited scheduled services, all-cargo scheduled services, safety, aviation security, customs duties and charges and other matters.

**31.** The Explanatory Memorandum confirms that no new legislation is required to implement this agreement.<sup>10</sup>

**32.** The agreement relates to international relations and aviation, both of which are reserved matters for the purposes of Schedule 7A to the 2006 Act.

**33.** Although the agreement does not relate to devolved matters, the Explanatory Memorandum confirms that it “impacts upon air services between the Devolved Administrations and Canada, and the Devolved Administrations have been kept aware of the programme to transition EU negotiated air services agreements and no concerns were raised.”<sup>11</sup>

**34.** We agreed to note the agreement for information only. As part of our consideration of the Welsh Government’s role and involvement in UK international agreements, we also note the approach taken by the UK Government to keep the Welsh Government aware of the programme to transition EU-negotiated air services agreements.

#### **UK-Azerbaijan: Agreement on International Road Transport**

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

**36.** This agreement improves access for vehicles being used for the transport of goods and passengers between the UK and Azerbaijan, with the aim of supporting trade and other connections.

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<sup>10</sup> UK Government, Explanatory memorandum: UK/Canada: Agreement concerning Air Services, June 2023, paragraph 5.1

<sup>11</sup> Explanatory Memorandum, paragraph 10.1

**37.** Although this agreement relates to international road transport services, which is a reserved matter as provided by Schedule 7A to the 2006 Act, the Explanatory Memorandum confirms that there was a written consultation with the devolved governments and that no concerns were raised.<sup>12</sup>

**38.** We agreed to note the agreement for information, as well as the approach taken by the UK Government to ensure that the Welsh Government is aware of new international road transport agreements.

### **UK-Saint Vincent and the Grenadines Air Services Agreement**

**39.** This international agreement was laid in the UK Parliament on 18 July 2023. Its scrutiny deadline, as required by the CReG Act 2010, is 30 October 2023.

**40.** This international agreement is the first agreement governing air services between the UK and Saint Vincent and the Grenadines.

**41.** The agreement includes modern provisions on matters relevant to the operation of scheduled international air services. It also sets out the terms and conditions for the operation of air services, including with respect to safety, aviation security, customs duties and charges and other matters.

**42.** The Explanatory Memorandum confirms that no new legislation is required to implement this agreement.<sup>13</sup>

**43.** Although this agreement relates to aviation, which is a reserved matter as provided by Schedule 7A to the 2006 Act, the Explanatory Memorandum confirms that it impacts upon air services between the devolved governments and Saint Vincent and the Grenadines. It therefore notes that the devolved governments are kept aware of the UK's new air services agreements and no concerns have been raised by the devolved governments regarding this agreement.<sup>14</sup>

**44.** We agreed to note this agreement for information only, as well as the approach taken by the UK Government to keep the Welsh Government aware of new air services agreements.

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<sup>12</sup> UK Government, Explanatory Memorandum: UK/Azerbaijan: Agreement on International Road Transport, July 2023, paragraph 11.1

<sup>13</sup> UK Government, Explanatory Memorandum: UK/Saint Vincent and the Grenadines: Agreement concerning Air Services, July 2023, paragraph 5.1

<sup>14</sup> Explanatory Memorandum, paragraph 10.1

## 4. Correspondence relating to agreements previously considered

### **UK-Switzerland: Agreement on Recognition of Professional Qualifications**

**45.** Following our meeting on 10 July 2023,<sup>15</sup> we agreed to write to the Welsh Government<sup>16</sup> to seek its views on the UK-Switzerland Agreement on Recognition of Professional Qualifications. The agreement requires implementation via the exercise of concurrent powers granted to the Welsh Ministers by the Professional Qualifications Act 2022; powers which the Welsh Government objected to their inclusion. The Senedd also withheld consent to the then Professional Qualifications Bill.

**46.** In his response, the First Minister stated:

*“The Welsh Ministers remain consistently opposed to the inclusion of concurrent powers such as those in the [2022 Act]. The UK Government’s approach in taking these powers is wholly inappropriate and disrespectful to the principle of devolution.*

*The Senedd did not give its consent to the Professional Qualification Act, however relevant executive functions now sit with Welsh Ministers. The Welsh Ministers therefore have the powers to make legislation under the Act to implement both it and [this Agreement] in relation to Wales, and will exercise those functions responsibly.”<sup>17</sup>*

**47.** We considered this response at our meeting on 11 September 2023<sup>18</sup> and discussed this matter with the First Minister when he appeared to give evidence on 18 September 2023.<sup>19</sup>

**48.** When asked how this matter may develop, or be resolved, in future, the First Minister said that:

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<sup>15</sup> Legislation, Justice and Constitution Committee, 10 July 2023

<sup>16</sup> Letter from the Legislation, Justice and Constitution Committee to the First Minister, 12 July 2023

<sup>17</sup> Letter from the First Minister to the Legislation, Justice and Constitution Committee, 7 August 2023

<sup>18</sup> Legislation, Justice and Constitution Committee, 11 September 2023

<sup>19</sup> Legislation, Justice and Constitution Committee, 18 September 2023

*"... I don't think there is a way of resolving them in principle, because here was a piece of legislation that the Senedd denied consent on two separate occasions, where I could see no compelling case for the United Kingdom insisting on legislating on our behalf. I don't see where the Sewel convention could be overridden in it. And yet we have this impasse now where we are going to be using powers that we sought not to have in the first place."*<sup>20</sup>

**49.** The First Minister added:

*"... while I can't resolve it in principle ... in a sheer pragmatic way, we will use those powers when we think they are in the interests of Wales."*<sup>21</sup>

### **Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events**

**50.** Following our meeting on 10 July 2023,<sup>22</sup> we also agreed to draw the Council of Europe Convention on an Integrated Safety, Security and Service Approach to Football Matches and Other Sporting Events to the attention of the Culture, Communication, Welsh Language, Sport and International Relations Committee.

**51.** The Culture, Communications, Welsh Language, Sport, and International Relations Committee has shared the First Minister's response<sup>23</sup> to its correspondence<sup>24</sup> on this Convention.

**52.** The First Minister welcomes the Committee's interest in the Convention, and confirms that:

1. The Welsh Government was not directly involved in the development of the convention, which differs from the position described by the UK Government. In the Convention's Explanatory Memorandum (EM), it states that:

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<sup>20</sup> Legislation, Justice and Constitution Committee, 18 September 2023, RoP [109]

<sup>21</sup> Legislation, Justice and Constitution Committee, 18 September 2023, RoP [109]

<sup>22</sup> Legislation, Justice and Constitution Committee, 10 July 2023

<sup>23</sup> ~~Letter from the First Minister to the Culture, Communications, Welsh Language, Sport, and International Relations Committee~~, 25 July 2023

<sup>24</sup> ~~Letter from the Culture, Communications, Welsh Language, Sport, and International Relations Committee to the First Minister~~, 14 July 2023

*“The Convention covers devolved and reserved matters. The UK Government consulted the Devolved Administrations on the drafting of this Convention and in the preparation of this EM”.<sup>25</sup>*

2. The Welsh Government is supportive of the Convention’s principles.
3. Officials have discussed implementation with UK Government officials, including the Home Office, particularly in the context of the joint UK and Ireland bid to host the Euros.
4. The requirements of the convention are already in place and therefore no further steps are needed to implement it.
5. The response details the responsibilities of all partners involved in delivering such events, highlighting that implementation can span multiple organisations and agencies in Wales.

**53.** We agreed to draw the information in bullet point (1) above to the attention of the House of Lords International Agreements Committee.

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<sup>25</sup> UK Government, Explanatory Memorandum: Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events, June 2023, paragraph 10.1