

Lessons from 100 treaties

Senedd scrutiny of international agreements

March 2026



1. Background

- 1.** The UK Government negotiates and agrees treaties on behalf of the UK via the Royal Prerogative. There is no legal requirement to involve the devolved governments and legislatures but they are often responsible for putting treaties into practice. The observation and implementation of international obligations is not reserved.
- 2.** Treaties can modify or cover matters within the Senedd's legislative competence and/or cover matters that have important policy implications for Wales. Their implementation can require changes to Welsh legislation, place duties on the Welsh Ministers and fall on Welsh public bodies to deliver.
- 3.** In January 2019, during the Brexit negotiations, the Senedd became the first devolved parliament to establish a dedicated approach to treaty scrutiny, led at the time by the Fifth Senedd's External Affairs and Additional Legislation Committee.
- 4.** The process followed treaties laid in the UK Parliament under the process formalised in the Constitutional Reform and Governance Act 2010, known as "CRaG". It asked whether a treaty covered devolved areas, or had important policy implications for Wales. If yes, the committee would explore whether significant issues had been addressed and report to the Senedd, the Welsh and UK governments, and other UK parliaments.
- 5.** Treaties are sometimes also referred to as international agreements and we use the term interchangeably.

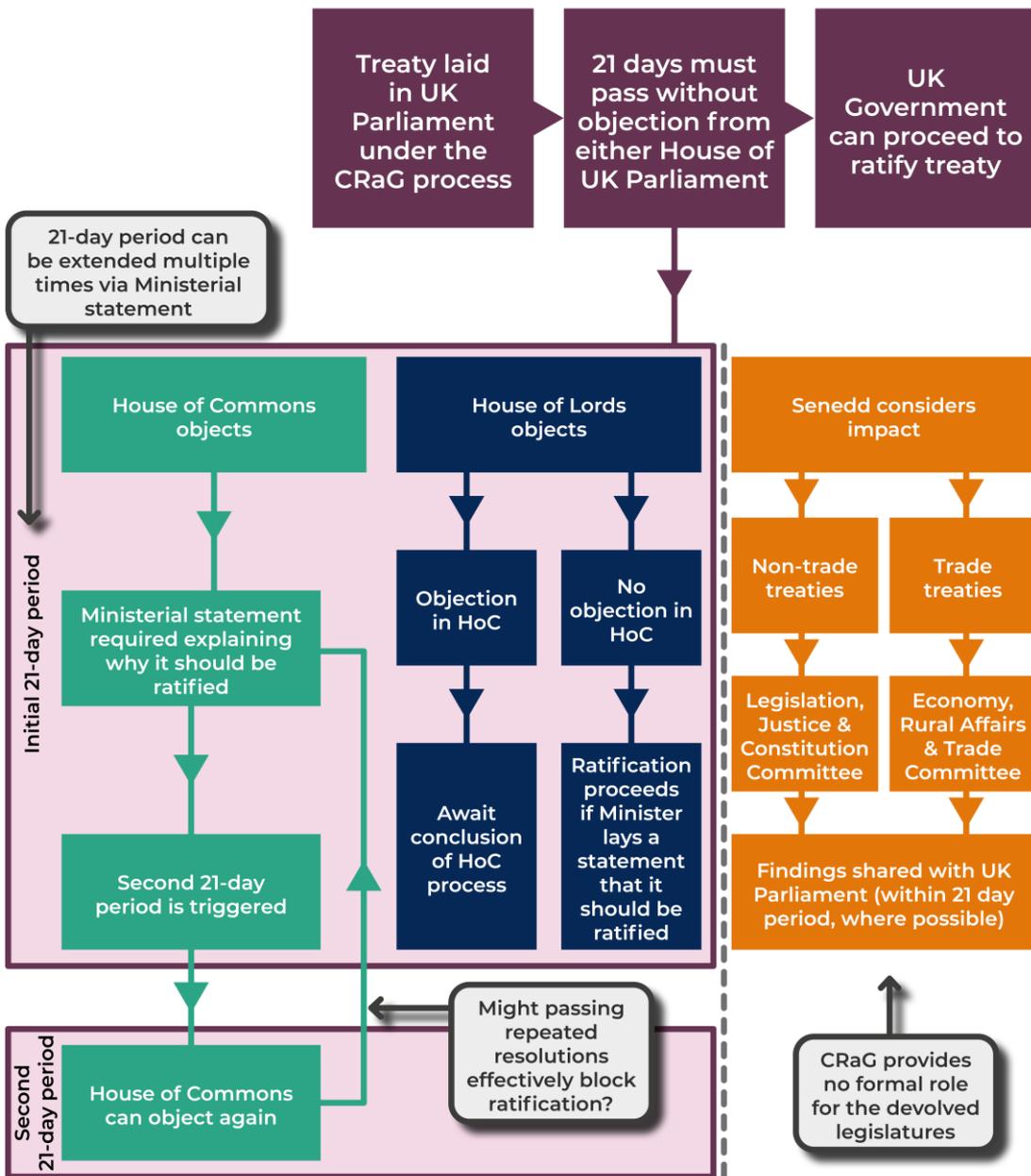
Sixth Senedd scrutiny

- 6.** In the Sixth Senedd, this Committee agreed to consider non-trade international agreements, while the Economy, Trade and Rural Affairs Committee agreed to consider international trade agreements.
- 7.** The majority of treaties are non-trade agreements and have been considered by this Committee since we were established in June 2021. To date, we have considered 100 treaties, 33 of which have required more detailed scrutiny on account of their anticipated significance to Wales.
- 8.** We regularly obtain information from the Welsh Government and notify other Senedd committees of treaties within their remits. We have developed a

substantial body of experience and expertise, and the Senedd remains the only devolved legislature with a dedicated treaty scrutiny process. We report our assessments and findings to the Senedd and share our reports with the House of Lords International Agreements Committee.

9. Since the establishment of the Senedd’s process in 2019, committees in the UK Parliament have conducted a total of four inquiries on UK treaty scrutiny. The Committee has provided written and oral evidence to these inquiries¹.

Treaty scrutiny: UK Parliament process alongside the Senedd’s process



¹ Further information can be found at Annex 1

Outcomes

10. Our approach to treaty scrutiny has resulted in the following positive outcomes:

- Obtained information from the Welsh Government which would not otherwise have been provided to the Senedd or the UK Parliament, including for live committee inquiries.
- Ensured this information is in the public domain.
- Enhanced our understanding of the devolved implications of international obligations from a constitutional and practical perspective.
- Provided new information on intergovernmental ways of working. The Welsh Government has advised us of its level of involvement in the negotiation and implementation of international agreements; whether it had prior knowledge that an agreement was concluded; where Memorandums of Understanding are in place between the four governments for certain categories of international agreements; the relationships between multiple international agreements and domestic mechanisms, the Welsh Government's approach to its international obligations; and where it holds a different view to the UK Government.
- Notified the House of Lords International Agreements Committee of conflicting accounts from the Welsh and UK governments of devolved involvement during treaty development.
- Identified where devolution information is missing from treaty documents, including on the Welsh Government's involvement and the UK Government's view on devolved legislative competence.
- Secured a commitment from the Welsh Government to make it clear when UK Bills subject to Senedd consent intersect with international obligations, and to provide more information.

2. Key issues

Process

11. The Senedd and the Welsh Ministers are required by the devolution settlement to observe and implement the UK's international obligations,

including those included in treaties concluded by the UK Government. The Welsh Government's Ministerial Code also includes a specific requirement for the Welsh Ministers to comply with international law and treaty obligations.

12. Importantly for the Senedd, CRaG does not provide a formal role for the devolved legislatures, nor does it contain a duty to consult with the devolved legislatures, including before the UK Parliament forms its conclusions.

13. Senedd scrutiny regularly involves scrutiny by other relevant policy committees and exchanging correspondence with the Welsh and UK governments to seek further information. As such, it is not always possible to complete scrutiny within CRaG's initial 21-day period provided to the UK Parliament, and to therefore share relevant information to inform its conclusions.

Our view

14. As we have repeatedly stated in various submissions to committees of the UK Parliament, we regret that the CRaG process does not provide a formal role for the devolved legislatures, including where treaties modify or fall within devolved legislative competence, or have significant policy implications for Wales.

15. Scrutiny of treaties by the Senedd is not always possible within CRaG's initial 21-day period. However, the process established by Senedd committees demonstrates that input from devolved legislatures is possible and can yield important results, despite CRaG's limitations. We therefore support calls for sufficient time to allow for our findings to be meaningfully fed in to the treaty scrutiny process at Westminster.

16. We believe that the Senedd has made a valuable contribution to UK treaty scrutiny in the last five years and this Committee has proudly carried out this work.

17. We remain of the view that improvements to treaty scrutiny in the UK are essential and long overdue. Our position, as regularly expressed in our reports and inquiry submissions, still stands.

18. We believe UK parliamentary scrutiny can only benefit from the devolved legislatures having a formal role, where our view is recognised and accommodated. This would also provide members of the UK Parliament with greater opportunity to incorporate important conclusions from a devolved perspective.

19. We welcome the recognition afforded to the importance of devolved governments and parliaments in UK parliamentary evidence, inquiries and reports. However, as yet, this has not translated into change that accommodates input from devolved legislatures, including support for a formal role.

Recommendation 1. We call for the devolved legislatures to have a formal role in the UK Parliament's treaty scrutiny process.

Conclusion 1. We urge our successor committee to continue treaty scrutiny in the Seventh Senedd and to contribute to future discussions on devolved involvement in treaty scrutiny with the UK Parliament and UK Government.

Explanatory Memoranda

20. Information relating to devolution in an agreement's Explanatory Memorandum remains inconsistent. The Committee previously noted examples where no information was provided on the involvement of the Welsh Government, nor clarity on the UK Government's view on devolved legislative competence.

21. We have since noted and welcomed some progress in this area. The following information is often, but not always, included:

- a high-level assessment of whether the agreement relates to either reserved or devolved matters, or both;
- whether the devolved governments have been consulted; and
- if relevant, confirmation that the devolved governments are content.

22. However, this level of detail falls short of reflecting the practical implications of the operation and implementation of treaties from a devolved perspective.

23. The Committee frequently learns information for the first time in the course of correspondence with the Welsh and UK governments. For example, the former First Minister, the Rt Hon Mark Drakeford MS, in relation to the UK-Switzerland Social Security Convention, set out the remit and responsibilities of each of the Welsh Government, Senedd and Local Health Boards in respect of the Convention.

24. We believe examples of best practice exist which could be used as a blueprint for an Explanatory Memorandum that provides an appropriate level of information. The Council of Europe Convention on preventing and combating

violence against women and domestic violence remains the best example to date. Its accompanying documents contained helpful information on devolution, including listing specific articles containing duties of the devolved governments.

25. Furthermore, as a result of a separate legal requirement to report on the Convention's implementation until its ratification, there was substantially more information readily available to assist the Committee in its consideration than is usually the case. The Welsh Government's response shone yet more light on the divergent policy between the UK and Welsh governments, and also informed a live Senedd inquiry into the experiences of migrant women of violence against women, domestic violence and sexual violence.

26. Lastly, Explanatory Memoranda do not include as standard sections typically found in documents accompanying domestic legislation, such as territorial application tables or impact assessments, which would be useful additions.

Our view

27. We continue to identify that devolution information is missing from Explanatory Memoranda. Detailed devolution information greatly assists us in our scrutiny of each treaty's implications for Wales. Moreover, it expedites our scrutiny process, which in turn maximises our ability to share our view with the UK Parliament within CRaG's initial 21-day period.

28. Where information is included, it is not always sufficiently detailed for this Committee to draw conclusions from. Information on engagement with the devolved governments in treaty development and the anticipated implications for devolved competence would be particularly useful.

29. For example, we recently noted that the Explanatory Memorandum for the Treaty on Friendship and Bilateral Cooperation between the UK and Germany did not specify if the Welsh Government was content with the agreement, nor whether its ideas and input were reflected in the negotiating outcomes. However, this information was included in relation to the UK Government's consultation with "certain businesses, interest groups, academics and other experts in UK-German relations."

30. Conversely, where no engagement occurs or no impact is envisaged, it is useful that the documents confirm this.

31. Having a consistent format and approach to presenting devolution information would assist the Committee in its scrutiny. We would welcome a

requirement for the UK Government to include certain devolution information as a minimum.

Recommendation 2. We call on the UK Government to consult the devolved governments and legislatures with a view to improving the information provided on devolution in treaty Explanatory Memoranda.

Implementation

32. Senedd treaty scrutiny is not limited to the CRaG process and extends to implementation. There are many important examples of Senedd committees following up on treaty implementation in devolved areas, such as the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, the UK-Ukraine One Hundred Year Partnership Agreement, and the Law of the Sea on the Convention and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (“the BBNJ Treaty”).

33. In 2021, the Welsh Government’s Reforming our Union document stated that:

“It is for the devolved governments, in consultation with the UK Government (and other governments as necessary) and subsequently with their devolved legislatures, to consider how obligations within devolved competence arising from the UK’s international agreements should be implemented, including whether the devolved institutions should implement these through their own legislation or agree to be covered in UK/GB legislation.”

34. We have often since examined the use, operation and implications of implementing legislation. For example, post-Brexit legislation has reduced the scrutiny role afforded to the UK Parliament in some areas by authorising the use of secondary legislation to implement international healthcare agreements. The Committee warned of the risk that the Senedd could be bypassed by such processes, including in areas of devolved legislative competence, during its scrutiny of the legislative consent memoranda laid by the Welsh Government in respect of the UK Government’s Health and Care Bill. Subsequent amendments to the Bill ensured that the Senedd retained oversight and scrutiny of implementation arrangements under future international healthcare agreements, albeit through regulations subject to the annulment procedure.

35. We have considered several legislative consent memoranda on UK Bills laid by the Welsh Government relating to the implementation of international

obligations, including treaty obligations. We have raised specific concerns about the use of UK legislation that has proceeded without Senedd consent being used for implementation, including instances where the Welsh Ministers have been granted powers in devolved areas despite consent having been withheld.

36. For example, we discussed this matter in respect of a treaty between the UK and Switzerland on the recognition of professional qualifications with the then First Minister, the Rt Hon Mark Drakeford MS, when he appeared before us to provide evidence in September 2023. This was in light of the Senedd having refused consent for the *Professional Qualifications Act 2022*, the powers of which may be used for the agreement's implementation. When asked how this matter may develop, or be resolved, in future, the then First Minister said that:

"... 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."

37. The then 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."

Our view

38. We reiterate our concerns that the Senedd could be bypassed by the use of UK secondary legislation to implement treaty obligations in areas of devolved competence where primary legislation would conventionally be used.

39. We also reiterate our concerns relating to legislative consent and the Sewel Convention in relation to UK Bills to implement treaty obligations for which Senedd consent has been withheld.

Conclusion 2. Our longstanding and firm view is that it should be the responsibility of the Senedd to legislate for Wales on matters which are within its devolved competence. This includes the implementation of international obligations.

Annex 1 – evidence provided to UK Parliament inquiries on treaty scrutiny

- European Union Committee - Working practices (2020) (submitted by our predecessor committee, the External Affairs and Additional Legislation Committee).
- International Agreements Committee - Working practices (one year on) (2021).
- Public Administration and Constitutional Affairs Committee - Scrutiny of treaties in the 21st century (2024).
- International Agreements Committee - Treaty scrutiny in Westminster: Addressing accountability gap (2025).