

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:

For further information contact:

Video conference via Zoom

P Gareth Williams

Meeting date: 2 June 2025

Committee Clerk

Meeting time: 13.30

0300 200 6565

SeneddLJC@senedd.wales

Remote – Supplementary Pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

(13.35 – 13.40)

No Procedure Instruments

3.2 SL(6)608 – The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025

(Pages 1 – 5)

Attached Documents:

LJC(6)-17-25 – Paper 19 – Report

LJC(6)-17-25 – Paper 20 – Welsh Government response

4 Inter-Institutional Relations Agreement

(13.40 – 13.45)

4.1 Correspondence from the Welsh Government: Meetings of inter-ministerial groups

(Page 6)



Attached Documents:

LJC(6)-17-25 – Paper 21 – Letter from the Cabinet Secretary for Economy,
Energy and Planning: Inter-Ministerial Group for Trade, 30 May 2025

5 Papers to note

(13.45 – 13.50)

5.4 Submission to the House of Lords International Agreements Committee inquiry into treaty scrutiny

(Pages 7 – 14)

Attached Documents:

LJC(6)-17-25 – Paper 22 – Submission

SL(6)608 – The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025

Background and Purpose

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (“the 2022 Regulations”) were made in December 2022 to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In particular, the 2022 Regulations retained and vested functions on the Welsh Ministers that were previously contained in EU Directives.

One such function was that conferred by article 5(5)(a) of the Equine Directive¹ which, as modified by the 2022 Regulations, was intended to allow the Welsh Ministers to make provision for periods of the year during which Equidae may be dispatched from parts of third countries infected with African Horse Sickness into Wales.

The Legislation, Justice and Constitution Committee’s [report on the 2022 Regulations](#) noted, among other reporting points, that reference to article 5(5)(a) of the Equine Directive had not been included in the Schedule to the 2022 Regulations. This omission means that article 5(5)(a) of the Equine Directive as modified by the 2022 Regulations is not a functional regulation-making power.

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025 (“the Order”) corrects this error by amending the modification of article 5(5)(a) in the 2022 Regulations. As amended, modified article 5(5)(a) provides that Equidae must be dispatched only during certain periods of the year, having regard to the activity of vector insects, to be determined by order made by the Welsh Ministers under section 10 of the Animal Health Act 1981 (“the 1981 Act”).

According to the Explanatory Memorandum, section 10 orders enable equivalent provision to be made to the function that was erroneously omitted from the Schedule to the 2022 Regulations. The amendment will enable any order made under section 10 of the 1981 Act for the purposes of African Horse Sickness to be incorporated within the trade in animals and related products (“TARP”) enforcement regime.

¹ Council Directive 2009/156/EC on animal health conditions governing the movement and importation from third countries of Equidae.



Procedure

No procedure.

The 1981 Act provides that the Order must be laid before the Senedd after it is made by the Welsh Ministers.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

The Order corrects an error in the 2022 Regulations and, according to paragraph 2.2 of the Explanatory Memorandum, the free issue procedure will be applied. The Welsh Government is asked to explain why there is no banner or headnote on the Order explaining that it is being made to correct an error in an earlier instrument and will be issued free of charge to all known recipients of that instrument.

Merits Scrutiny

The following five points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Order corrects an outstanding issue identified in the LJC Committee's report on the 2022 Regulations. There remains one further issue identified in that report which has not yet been addressed by the Welsh Government. This relates to reporting point 30, which noted that the 2022 Regulations create Henry VIII powers which are subject to the negative procedure. In response, during the debate on the 2022 Regulations, the then Minister for Rural Affairs and North Wales and Trefnydd gave an undertaking to change this to the affirmative procedure.

Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs to the LJC Committee dated [9 September 2024](#) and [18 October 2024](#) explained that no suitable vires to achieve this change to procedure had yet been found, and that no suitable legislative vehicle was currently available to make the change through a Welsh Bill or statutory instrument. The Welsh Government is asked to confirm whether this remains the case.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.



The Order came into force on 31 March 2025. The LJC Committee reported to the Senedd on the 2022 Regulations, including identifying the error being addressed in the Order, on 12 December 2022. The 2022 Regulations came into force on 16 December 2022.

The Welsh Government is asked to explain whether there has been any practical impact of the error in the 2022 Regulations remaining on the statute book for over two years.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

It is noted that orders under section 10 of the 1981 Act are not subject to any Senedd scrutiny procedure, being subject only to a requirement that the order is laid before the Senedd after being made.

If not for the error in the 2022 Regulations, any regulations made under modified article 5(5)(a) of the Equine Directive would have been subject to the negative procedure (see regulation 6 of the 2022 Regulations), providing Members of the Senedd with the opportunity to table a motion to annul the regulations. There is no such opportunity in relation to an order under section 10 of the 1981 Act.

5. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Section 91(1) of the 1981 Act requires the Welsh Ministers to publish a notice in the London Gazette and the Edinburgh Gazette stating that the Order has been made and where copies of the Order may be obtained. The Welsh Government is asked to confirm that such a notice has been published.

6. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Section 91(2) of the 1981 Act requires every local authority to publish, at their own expense, every order sent to them by the Welsh Ministers in such manner as the Welsh Ministers direct or, in the absence of any such direction, by advertisement in a newspaper circulating in the district of the local authority.

The Welsh Government is asked:

- a) to confirm that the order has been sent to local authorities for publication, and
- b) whether the Welsh Government has assessed the potential financial implications for local authorities of the requirement to publish the Order and any future section 10 orders made as part of the TARP enforcement regime.

Welsh Government response

A Welsh Government response is required reporting points 1, 2, 3, 5 and 6.



Committee Consideration

The Committee considered the instrument at its meeting on 28 April 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

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Legislation, Justice and Constitution Committee

Government Response: The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025

Technical Scrutiny point 1: As set out in the Explanatory Memorandum, the intention was for the 2025 Order to be issued under the free-issue procedure; due to administrative oversight this was not done. Instead, the 2025 Order will now be reissued as a corrective reprint, and subject to the free issue procedure.

Merit Scrutiny point 2: The Welsh Government can confirm that the situation is unchanged and that there is currently no suitable or prospective legislative vehicle available to address reporting point 30.

Merit Scrutiny point 3: Further to the letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs Huw Irranca-Davies MS on 9 September 2024, no impacts have been brought to our attention.

Merit Scrutiny point 5: The Welsh Government can confirm that the notices have been published in the London and Edinburgh Gazettes.

Merit Scrutiny point 6: Section 91(2) of the Animal Health Act 1981 does not place an obligation on the Welsh Ministers to send Orders to the local authorities.

In respect of the queries raised in the committee's report:

a) the Welsh Government can confirm that this Order was not sent to local authorities.

b) A Regulatory Impact Assessment ('RIA') was not carried out by the Welsh Government for this Order. In respect of any future section 10 Orders, the Welsh Government will consider whether an RIA is appropriate on case-by-case basis.

Agenda Item 4.1

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of Legislation, Justice and Constitution Committee

SeneddLJC@assembly.wales

30 May 2025

Dear Mike

I am writing to inform you, in line with the inter-institutional relations agreement, that a meeting of the Inter-Ministerial Group for Trade is scheduled for 2 June 2025.

The meeting will be the first meeting since several significant trade announcements, including UK trade deals with the US and India, and will be used to discuss these agreements as well as engagement between UK administrations.

I will update you further following the meeting.

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Inquiry into the UK treaty scrutiny process

Committee submission

21 May 2025

The Legislation, Justice and Constitution Committee is the responsible committee, as set out in the Senedd's Standing Orders, for constitutional and legislative affairs. The Committee may also consider any matter relating to legislation, devolution, the constitution, justice, and external affairs.

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 consult the devolved governments and legislatures but they are often responsible for putting treaties into practice and must make sure that they comply with the UK's international obligations.
2. The implementation of international agreements can fall within Senedd competence, place duties on the Welsh Ministers and fall on Welsh public bodies to deliver, as acknowledged by the former First Minister, Mark Drakeford MS. They can also require changes to Welsh legislation.
3. In January 2019 during the Brexit negotiations, the Senedd became the first devolved parliament to establish a dedicated approach to international agreements scrutiny, led at the time by the External Affairs 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 an agreement 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.

New process following 2021 Senedd elections

5. After the 2021 elections, this process changed. Treaties are now initially considered by one of two Senedd committees, depending on whether they’re trade agreements or not.

6. The majority of treaties are non-trade agreements and are considered by our Committee since we were established in June 2021. To date, we have considered 88 treaties. We regularly obtain information from the Welsh Government and notify other Senedd committees of treaties within their remits. We report our assessments and findings to the Senedd and share our reports with your Committee. This submission summarises key themes arising from our work.

7. The UK’s trade agreements are considered by the Economy, Trade and Rural Affairs Committee (ETRA). ETRA held inquiries on the UK-New Zealand agreement and the UK-Australia agreement to ascertain their impact on Wales. Both are summarised in a research article by Senedd Research. ETRA has also considered other significant trade agreements, such as with Ukraine and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and is monitoring new developments between the UK-US and UK-India.

The importance of devolved scrutiny

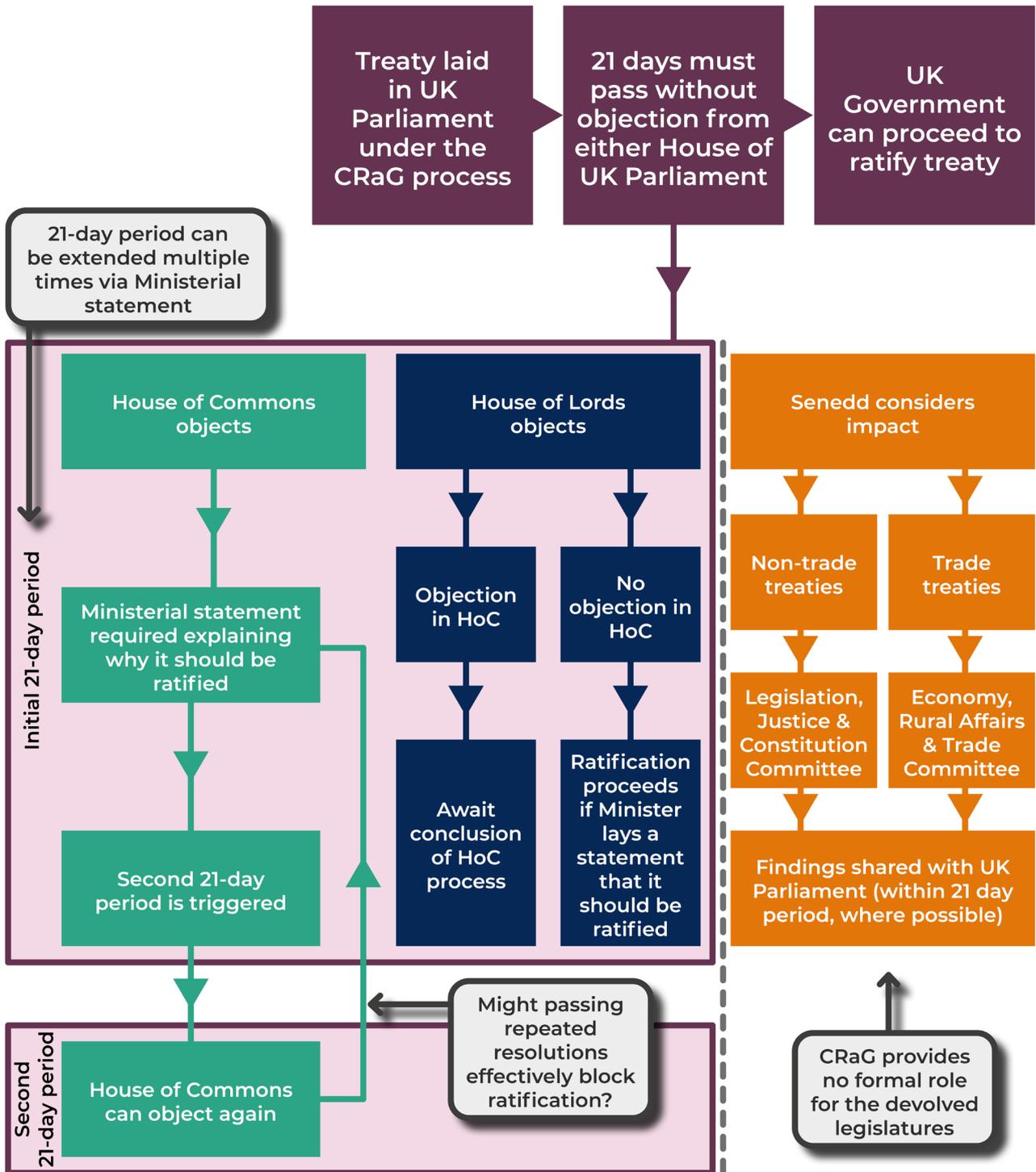
8. The Senedd’s process has:

- obtained information from the Welsh Government which would not otherwise be 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 international agreements negotiation and implementation; 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 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; and
- 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.

The Senedd and CraG

9. Senedd treaty scrutiny is not always possible within CRAg's initial 21 day period. However, our process proves that input from devolved legislatures is possible and can yield important results, despite CRAg's limitations. The infographic over the page shows CRAg's process alongside the Senedd's process.



2. Key issues

10. 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 before the UK Parliament forms its conclusions.

11. The parliamentary process for international agreement scrutiny means that the UK Parliament becomes involved at the very end of the process, ahead of ratification. The Committee recently highlighted that its scrutiny may involve exchanging correspondence with the Welsh Government to seek further information. As such, it may not always be 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.

12. Information relating to devolution in an agreement's Explanatory Memorandum was previously inconsistent. The Committee previously noted there was no information available on the involvement of the Welsh Government, nor clarity on the UK Government's view on devolved legislative competence. We note and welcome that the following information is now usually included: (i) a high level competence assessment, (ii) confirmation that the devolved governments have/have not been consulted, and (iii) confirmation that the devolved governments are content. However, this level of detail falls short of reflecting the practical implications of treaty implementation. The Committee frequently learns information for the first time in the course of correspondence with the Welsh Government. For example, the former First Minister, 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. Furthermore, treaty 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.

13. Examples of best practice exist which could be used as a blueprint. Our consideration of 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. 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.

14. 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 agreements. The [Committee warned](#) of the risk that the Senedd could be bypassed by such processes, including in areas of devolved competence, during its scrutiny of the Health and Care Bill's Legislative Consent Memorandum. Subsequent amendments to the Bill ensured that the Senedd retained having sight and scrutiny of implementation arrangements under future international healthcare agreements, albeit via the negative procedure.

15. We note the PACAC Committee's report on *The Scrutiny of International Treaties and other international agreements in the 21st century*, to which we provided written and oral evidence. We welcome the recognition afforded to the role of devolved governments and parliaments, and support its call for sufficient time to allow for our findings to be meaningfully fed in to the CRaG scrutiny process at Westminster.

3. Conclusions

16. The UK Government agrees international agreements which can modify Senedd competence, cover matters within Senedd competence or matters that have important policy implications for Wales. Their implementation can require changes to Welsh legislation, place duties on Welsh Ministers and fall on Welsh public bodies to deliver, as acknowledged by [former First Minister](#), Mark Drakeford MS.

17. The Senedd and Welsh Ministers are required to observe and implement the UK's international obligations by the devolution settlement and the Welsh Government's Ministerial Code. An [article by Senedd Research](#) explains the operation of international law at the Senedd.

18. We regret that the CRaG process does not provide a formal role for the devolved legislatures, including where international agreements modify or fall within devolved competence, or have significant policy implications.

19. Senedd international agreements scrutiny is not always possible within CRaG's initial 21 day period. However, our process demonstrates that input from devolved legislatures is possible and can yield important results.

20. We believe that the Senedd has made a valuable contribution to UK international agreements scrutiny in the last five years, including as set out in this submission. This Committee proudly continues this work.

- 21.** We remain of the view that improvements to treaty scrutiny in the UK are essential and long overdue. This position, as regularly expressed in our reports and inquiry submissions, still stands.
- 22.** We have previously provided evidence to the Public Administration and Constitutional Affairs Committee's inquiry on The Scrutiny of International Treaties and other international agreements in the 21st century and welcome the recognition afforded to the role of devolved governments and parliaments, and support its call for sufficient time to allow for our findings to be meaningfully fed in to the CRaG scrutiny process at Westminster.
- 23.** We believe UK parliamentary scrutiny could 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.
- 24.** In the course of our scrutiny, we regularly identify that devolution information is missing from agreement documents. Detailed devolution information greatly assists us in our scrutiny of each agreements' 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.
- 25.** Where information is included, it is not always sufficiently detailed for this Committee to draw conclusions against. Information on engagement with the devolved governments in the development of agreements and an agreement's impact on devolved competence would be particularly useful. Conversely, where no engagement occurs or no impact is envisaged, it is useful that the documents confirm this.
- 26.** Having a consistent format and approach to presenting devolution information would assist the Committee in its scrutiny. We would welcome a requirement to include certain devolution information as a minimum.
- 27.** In respect of implementation, we reiterate our concerns that the Senedd could be bypassed by post-Brexit legislation intending to implement future agreements, including in areas of devolved competence, via secondary legislation where primary legislation would conventionally be used.

28. We note and welcome the support of members and committees of the UK Parliament, and external experts, for devolved involvement in international agreements scrutiny.

29. We extend our offer to contribute to future discussions on devolved involvement in international agreements scrutiny with the UK Parliament or UK Government.