

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

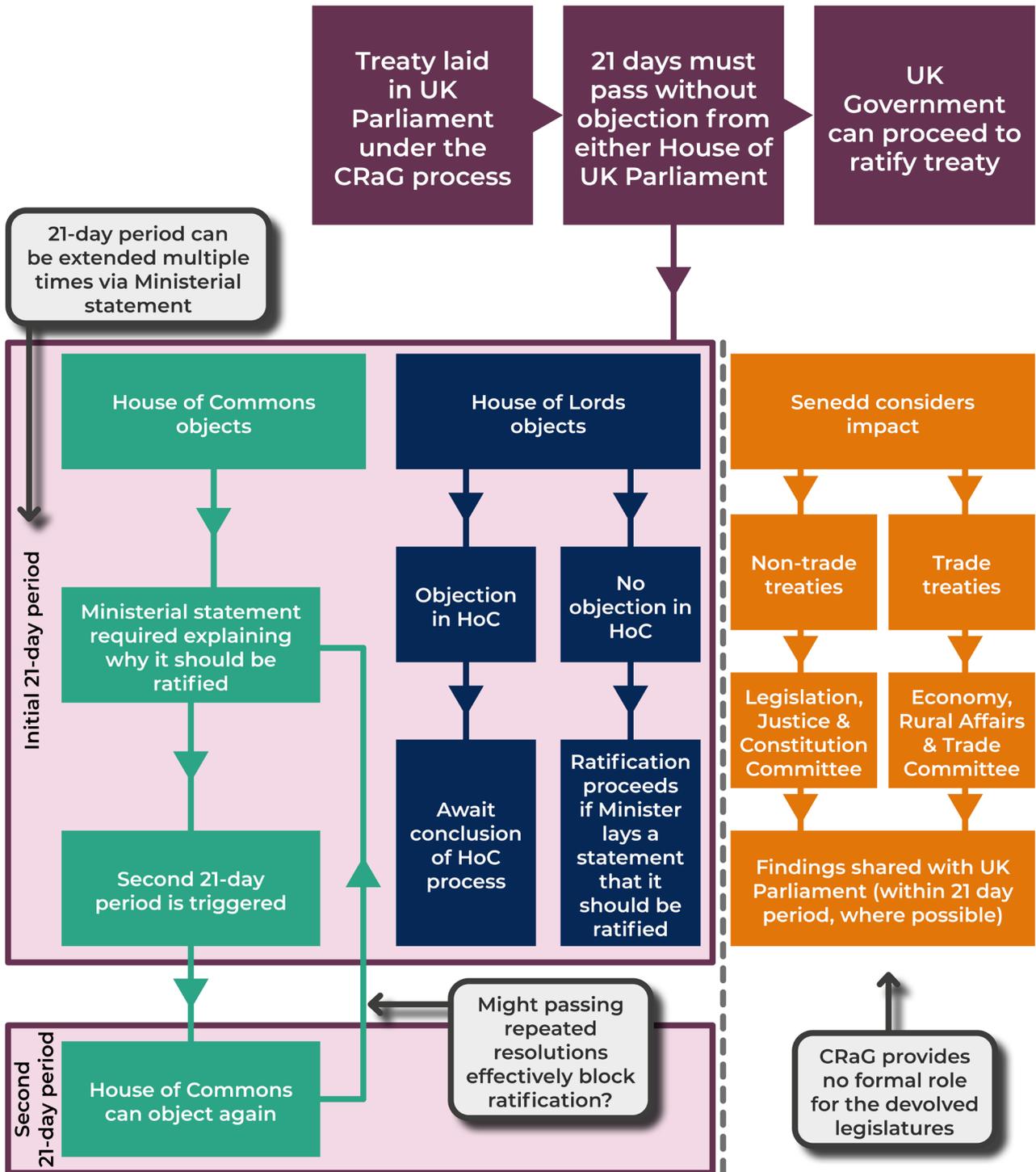
8. The Senedd's process has:

- 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.