

Constitution, Europe, External Affairs and Culture Committee

13th Meeting, 2021 (Session 6), Thursday, 9 December

European Parliament scrutiny of the EU-UK Trade and Cooperation Agreement

Context

David McAllister MEP is chair of the European Parliament's Foreign Affairs Committee and co-chairs the European Parliament's UK Contact Group.

Today's evidence session is an opportunity for the Committee to discuss how the European Parliament will scrutinise the operation of the EU-UK Trade and Cooperation Agreement and the EU-UK relationship as a whole. It provides an opportunity for the Committee to understand what information in relation to the operation of the TCA, the European Parliament expects to receive. It may also allow the Committee to explore what role the Scottish Parliament should have in scrutinising the operation of the TCA, what information is available to support that scrutiny and how the committee might be able to work with the European Parliament on this.

In relation to the Scotland-EU relationship following Brexit, the evidence session provides an opportunity for the committee to hear whether the TCA will affect how the Scottish Government engages with the EU's institutions, how the Scottish Government's policy on EU alignment might evolve and how the Scottish Parliament can continue to track EU policy and legislative developments. Finally, it provides an opportunity to discuss how the Scottish Government might engage with the EU following Brexit and what the Scottish Government might seek to achieve from its engagement.

The Scottish Parliament's interest in the Trade and Cooperation Agreement

The Trade and Cooperation Agreement's governance arrangements provide wide-ranging powers for the European Commission and the UK Government in the management of the TCA. In some areas, these powers enable the UK Government and EU to agree between them to change the original terms of the TCA.

Whilst the Trade and Cooperation Agreement includes a number of provisions in policy areas of devolved competence, there are no formal arrangements in place for scrutiny by either the UK Parliament or the devolved legislatures. This includes no formal processes for scrutiny of the binding decisions which can be taken by the Partnership Council in areas of devolved competence and the UK Government's actions as co-chair of the Partnership Council.

The European Parliament and the TCA

The European Parliament has a role in scrutinising the ongoing operation of all the European Union's trade agreements. This includes the EU-UK Trade and Cooperation Agreement (TCA).

The EP's role is primarily to scrutinise the work of the European Commission which oversees the operation of the TCA and the Withdrawal Agreement. The Foreign Affairs and International Trade Committees will have responsibility for leading the European Parliament's scrutiny of the TCA whilst a number of different committees will have a role in scrutinising particular aspects of the TCA.

The governance arrangements for the TCA also provide a role for the European Parliament in receiving information about the work of the Partnership Council and the Specialised Committees which sit beneath it through the Parliamentary Partnership Assembly which will be formed by the European Parliament and the UK Parliament.

The European Parliament UK Contact Group

During the negotiations on the Withdrawal Agreement and the Future Relationship between the EU and the UK, the European Parliament set up the [UK Coordination Group \(UKCG\)](#). This group was set up to track the future relationship negotiations and liaise with the European Commission's Task Force for Relations with the United Kingdom and to influence the negotiations through resolutions. The UKCG then supported the European Parliament's consideration of the new Trade and Cooperation Agreement on which it had to give consent.

With the TCA now operational, the Coordination Group has evolved into the European Parliament's UK Contact Group. Like the UKCG, the Contact Group is co-chaired by David McAllister MEP in his role as Chair of the Foreign Affairs Committee and Bernd Lange MEP in his role as Chair of the International Trade Committee. The role of the Contact Group is to gather representatives from all

political groups to scrutinise EU-UK relations and coordinate Parliament's position in response.

The role of the Foreign Affairs Committee

Following the TCA coming into force, the Foreign Affairs Committee has largely focussed on non-Brexit related matters. However, in recent months much of the Committee's and the Committee Chair's focus in relation to the EU-UK process has been on ensuring the successful operation of the Northern Ireland Protocol.

A key element of the European Parliament's engagement with the TCA is likely to come through the Parliamentary Partnership Assembly. This is because the Parliamentary Partnership Assembly has the power under the TCA to request relevant information about the implementation of the agreement.

The Parliamentary Partnership Assembly

On 5 October 2021, the [European Parliament decided](#) to establish a standing delegation to the EU-UK Parliamentary Partnership Assembly, as well as the number of MEPs that will sit on it. On the creation of the EU delegation, [David McAllister tweeted](#):

"I am convinced that well framed inter-parliamentary relations can help us to build trust and a mutually beneficial dialogue with our #UK counterparts. A strong parliamentary dimension is crucial for shaping the implementation of the EU-UK Trade and Cooperation Agreement."

The Parliamentary Partnership Assembly (PPA) will consist of members of the European Union Parliament and the Parliament of the United Kingdom as a forum to exchange views on the EU-UK partnership. The EU-UK Parliamentary Assembly shall include 35 members each from the European Parliament and the UK parliament (70 in total).

The role of the PPA is set out in Part 1 Title III Article 11:

- It may request relevant information regarding the implementation of this Agreement and any supplementing agreement from the Partnership Council, which shall then supply that Assembly with the requested information;
- Shall be informed of the decisions and recommendations of the Partnership Council; and
- May make recommendations to the Partnership Council.

The European Parliament recently [agreed membership of its delegation to the PPA](#). It includes David McAllister MEP. On his inclusion in the EU delegation, [David McAllister tweeted](#):

"I am looking forward to be a part of establishing a mutually beneficial cooperation with our UK counterparts through the EU-UK Parliamentary

Partnership Assembly. Building trust will be key for a successful implementation of the EU-UK TCA.”

The PPA has yet to be formally established and meet.

The Friends of Scotland Group

Following EU Exit, the Scottish Government established the ['European Friends of Scotland' friendship group](#). According to the Scottish Government, the group:

“serves as an informal network of MEPs representing different political groups of the European Parliament with the objective of helping to facilitate dialogue on specific areas of mutual interest, and to ensure as close a relationship as possible between Scotland and the EU now that the UK has left the European Union.”

The Scottish Government’s Brussels Office based in Scotland House provides a secretariat function to support the running of the group.

The aims of the group are:

- promoting stronger economic, social and cultural relations between the EU and Scotland
- encouraging cooperation and understanding in key areas that relate to both the EU and Scotland such as climate change, the green deal, wellbeing economy, international development/SDGs, the Arctic, etc. and the future EU-UK relationship
- helping to maintain links between elected Members of the Scottish Parliament (MSPs) and MEPs
- facilitating links between the EU and Scottish Civil Society

Scottish Government engagement with the EU

Following the UK’s departure from the EU there is no longer a requirement to continue to comply with EU law. However, Scottish Ministers have indicated that, where appropriate, they would like to see Scots Law continue to align with EU law. As a result, it will be important that both the Scottish Government and the Scottish Parliament continue to maintain awareness of legislative developments in the EU.

The UK-EU Trade and Cooperation Agreement does not contain dynamic alignment measures (i.e. that the parties to the agreement maintain equivalent regulatory standards to each other in future). However, the Northern Ireland Protocol does require dynamic alignment in Northern Ireland with certain EU regulations and directives covered by the Protocol.

Instead of a commitment to dynamic alignment, the level playing field provisions in the Trade and Cooperation Agreement aim to ensure that the standards which

applied at the end of the transition period in the areas of labour and social standards, environment, and climate cannot be lowered (so-called non-regression) by either the UK (including by the devolved authorities) or the EU in a way which impacts on trade and investment. In addition, the level playing field provisions mean that if either side seeks to reduce or increase their labour or environmental standards unilaterally, the other party could seek to impose trade restrictions such as tariffs to ensure that no competitive trading advantage can be gained.

As a result of the Scottish Government's commitment to EU alignment and the commitments in the TCA including the level playing commitments, this arguably means awareness and scrutiny of EU legislation is more important than ever. This is because the opportunities for alignment with, or divergence from EU law are greater post exit.

On 13 October, the [European Commission committed to setting up a website](#) that "would in a clear and comprehensive way show the EU legislation applicable in Northern Ireland". This approach is because the "EU is aware that transparency is a crucial element for building trust in Northern Ireland" with regard to the operation of the Protocol.

Outwith the operation of the Trade and Cooperation Agreement, a significant focus for the Scottish Government is developing Scotland's post-Brexit relationship with the European Union.

In January 2020, the Scottish Government published [The European Union's Strategic Agenda 2020-2024: Scotland's Perspective](#). This set out why the Scottish Government thinks the EU's priorities are of importance to Scotland and how Scotland can contribute to their delivery.

The Scottish Government suggested there are opportunities for Scotland in engaging with the EU's work in the following priority areas:

- promoting progressive, democratic values on the world stage
- addressing the challenges presented by the global climate emergency
- promoting the wellbeing of all of society
- creating smart economies which thrive by the intelligent and humane use of new technologies.

The Scottish Government set out the ways in which it would seek to work with the EU following Brexit including:

- proactive and constructive engagement with the EU institutions and other multilateral organisations
- active bilateral collaboration with member states.
- robust and constructive engagement with the UK Government and the other devolved governments to protect Scotland's interests and shape the UK Government's approach to influencing the EU and future international activity.

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