



The Scottish Parliament  
Pàrlamaid na h-Alba

Angus Robertson MSP,  
Cabinet Secretary for Constitution,  
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The Scottish Parliament  
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By e-mail

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Dear Cabinet Secretary

27 November 2023

### **The Scottish Government's Policy of EU Alignment – Annual Reports 2023**

Thank you for your letter dated 31<sup>st</sup> October and your oral evidence on 16<sup>th</sup> November with regards to annual reporting on the Scottish Government's policy of EU alignment.

The Committee welcomes the significantly extended levels of reporting on the policy to align. We have no comments on the statutory draft report on the use of the Continuity Act power.

We also welcome your recognition that the new approach to reporting is complemented by the EU Law Tracker.

The Committee is content with your proposal that our respective officials discuss the feasibility of sharing the tracker in a timeframe that would the Scottish Government to co-ordinate the consideration of its conclusions in your own analysis.

We reiterate our view that it is incumbent upon the Scottish Government to provide a sufficient level of transparency to allow the Parliament to carry out effective scrutiny of the alignment policy.

This is also essential in allowing business and other stakeholders an opportunity to engage in the policy-making process

With this in mind, the Committee proposes the following suggestions for improvements to reporting moving forward.

While we welcome the additional information provided in Annexe C it would be helpful to have more detail with regards to “current alignment consideration” with regards to each area of EU legislation in the Table which is under active consideration or where alignment has been agreed. For example, it would be helpful to include a read across to relevant Common Frameworks, relevant discussions within the TCA Specialised Committees and/or consideration of the market access principles within UKIMA.

It would also be helpful to have an indication of whether primary or secondary legislation is being considered including within the ambit of the Programme for Government or whether a non-legislative approach is more likely.

The Committee also requests that once an alignment decision has been made with regards to each area of EU legislation in Annexe C that this is communicated to the Parliament including the reasoning for the decision. We suggest that our respective officials consider how this can be done proportionately.

The Committee would also welcome further clarity around defining what “where appropriate” means and what criteria is used in making alignment decisions and what guidance is provided to Scottish Government policy officers.

The Committee also notes that there remain some outstanding issues in relation to the reporting of alignment information as set out in your letter dated 27<sup>th</sup> April –

“I also note that our officials will consider how such an approach might be relevant to ongoing work to review the UK Statutory Instruments Protocol, and that Parliament may wish to similarly consider where the Legislative Consent Process might be updated in Standing Orders to include relevant alignment information.”<sup>1</sup>

The Parliament has yet to consider whether the Legislative Consent Process should be updated in Standing Orders to include relevant alignment information but the Committee would welcome the inclusion of such information in the annual reporting process whether or not this is included in the Standing Orders.

The Committee also notes that officials continue to review the UK Statutory Instruments Protocol including consideration of the provision of alignment information as part of that process.

Yours sincerely,



**Clare Adamson MSP**  
**Convener of the Constitution, Europe, External Affairs and Culture Committee**

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<sup>1</sup> [Letter from Cabinet Secretary Angus Robertson to CEEACC Convener - 27 April 2023.pdf](#)