



The Scottish Parliament
Pàrlamaid na h-Alba

All Committee Conveners (by
e-mail)

The Scottish Parliament
EDINBURGH
EH99 1SP

CEEAC.committee@parliament.scot

30 January 2024

Dear Convener,

I am writing to provide an update on recent developments in relation to post-EU scrutiny.

The Constitution, Europe, External Affairs and Culture Committee has agreed working agreements with the Scottish Government in relation to both the scrutiny of the UK EU Trade and Cooperation Agreement (**Annexe A**) and bi-annual updates in relation to the REUL Act (**Annexe B**).

The Constitution, Europe, External Affairs and Culture Committee will continue to lead in the scrutiny of these issues and will share information provided by the Scottish Government in accordance with these new working arrangements with subject committees as appropriate.

Yours sincerely

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

Scrutiny of the UK EU Trade and Cooperation Agreement

Working arrangements with the Constitution, Europe, External Affairs, and Culture (CEEAC) Committee

January 2024

1. Purpose

1.1 This paper sets out the Scottish Government's (SG) proposed approach to engaging with the CEEAC Committee on matters relating to the UK EU Trade and Cooperation Agreement (TCA). It aims to increase clarity on SG activity, and contribute to the Committee's forward planning.

2. Principles of approach

2.1 SG shares the view of the CEEAC Committee that the Parliament's scrutiny of the implementation of the TCA and its engagement with the Parliamentary Partnership Assembly requires transparency in relation to positions taken in areas of devolved competence.

2.2 SG will engage openly and constructively with the Committee on all relevant aspects of its work programme relating to the governance of the TCA. We will share information in a timely manner, working under the following principles:

- In order to avoid unnecessary duplication, we will not proactively share information that is readily available in the public domain (e.g. Partnership Council press statements), unless specifically requested by the Committee. The exception to this approach is where binding decisions of the Partnership Council relate to matters within devolved competence.
- We may on occasion have to limit some of the detail we provide due to confidentiality agreements to which SG is bound. This is particularly relevant when reporting on Intergovernmental Relations, e.g. Inter-Ministerial Group (IMG) meetings.

3. Scrutiny of the Trade and Cooperation Agreement

Specialised Committees

3.1 We will:

- Provide a forward plan of Specialised Committee (SC) meeting dates, once this has been received from the UK Government.
- Write to the Committee twice a year with an update on SG's TCA activity and associated SCs. To date each SC has met annually, with several clustered together – an initial 'spring round' in May/June, and an 'autumn round' of the remainder in October/November. Letters will be timed to follow the conclusions of these rounds as promptly as possible, and will include the following:
 - An overview of SG's overarching priorities for the TCA, particularly where these have changed since the previous reporting period.
 - A note of the Committees that have met during the reporting period.

- An indication of which of those Committees is remitted to consider issues of devolved competence, and a summary of the associated issues SG asked to be included on the SC agenda (noting that SG is not permitted to participate directly in most SC meetings, and that it is ultimately for the UK Government and EU to agree the agenda); and
- An overview of associated outcomes.
- Share UK Government Explanatory Memorandums (EMs) on EU Council Decisions that establish the EU position for SC meetings (NB: not all SCs will require an EU Council Decision to establish the EU's position).
- Inform the Committee as and when appropriate if either the UK Government or the EU instigates dispute resolution mechanisms relating to TCA implementation.

Partnership Council

3.2 We will:

- Write to the Committee normally within two weeks after each TCA Partnership Council (PC) meeting and in advance of the Cabinet Secretary appearing before the Committee. Information shared will be contingent on the confidentiality arrangements required by the UK Government and European Commission, and will set out a summary SG priorities for the meeting and the outcome, both in terms of the UKG position and any subsequent EU response.
- Seek to schedule the appearance before the Committee of the Cabinet Secretary CEEAC to follow the annual meeting of the PC.
- Share UK Government EMs on European Council Decisions that establish the EU position for the PC, before meetings where possible.

Parliamentary Partnership Assembly

3.3 We will:

- Provide official-level written and (on request) oral briefing to the Convenor and Deputy Convenor in advance of all Parliamentary Partnership Assembly (PPA) meetings.

3.4 We would be grateful for feedback where appropriate from the Convenor and/or Deputy Convenor following their attendance at PPA meetings.

Inter-Ministerial Group on UK-EU relations

3.5 We will:

- Inform the Committee in writing when an IMG meeting has been arranged, including an overview of key agenda items.
- Write to the Committee normally within two weeks following IMG meetings to update members on key points raised by SG Ministers, highlighting the positions advocated in respect of areas of devolved competence and the associated outcomes from the meeting.

Ministerial appearances before the Committee

3.6 We will:

- Commit to the Cabinet Secretary CEEAC providing oral evidence to the Committee on TCA implementation at least once a year. As set out above, this will usually follow the annual meeting of the PC.

ENDS

REUL Act update proposals

Substance of updates

- The core of updates will be a list of REUL Act SSIs and consent-engaging UK SIs as laid/notified in the relevant update period.
- For this purpose, an instrument made by Scottish or UK Ministers under other powers but with the primary purpose of directly handling REUL Act changes that took effect on 1 January 2024 will be listed, for example the Importation of Animals and Related Products (Miscellaneous Amendment and Revocation) (Scotland) Order 2023.
- The Scottish Government will incorporate “forward look” information on assimilated law policy including with regards to primary legislation that includes delegated powers recognisable to REUL Act powers, to the extent possible and meaningful given that Scottish Ministers do not share UK Ministers’ deregulatory and divergent agenda for the future treatment of assimilated law.

Format and frequency of updates

- The format of updates will be a letter sent by the Cabinet Secretary for Constitution and External Affairs to the Constitution, External Affairs, Europe and Culture Committee.
- The update series will be distinct from alignment, inter-governmental relations and all other pre-existing reporting arrangements.
- Updates will be sent bi-annually in 2024, 2025 and 2026 with reporting periods to 23 December and 23 June respectively.
- The Constitution, External Affairs, Europe and Culture Committee will publish update letters on its webpage.

Timing of updates

- Updates will be sent after each January and July UK statutory report, so that updates can contain appropriate commentary on or supplementation of UK reports where appropriate.
- Update letters will be sent before February recess and after summer recess each year.

Review of these arrangements

- Should there be a material change of circumstances, for example the volume of REUL Act instruments arising increases significantly, either of the Scottish Government or the Scottish Parliament may propose updates to these arrangements for discussion and agreement.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020

