

Constitution, Europe, External Affairs and Culture Committee
Thursday 13 March 2025
9th Meeting, 2025 (Session 6)

Review of the UK-EU Trade and Cooperation Agreement Inquiry: Part 2

1. The Committee published the [UK-EU Trade and Cooperation Agreement: Barriers to trade in goods and opportunities to improve the UK-EU trading relationship](#) report on 10 September 2024, following the first part of our [Review of the EU-UK Trade and Cooperation Agreement](#) inquiry.
2. That piece of work focused on trade in goods between the UK and the EU. The second part of the inquiry is looking at trade in services and also youth mobility and touring artists.
3. The Cabinet Secretary's [response to CEEACC TCA Report Part I](#) set out the Scottish Government priorities for improving UK EU relations, including its aim to—
 - Seek full participation in relevant EU programmes, with specific priority to request a commitment to open negotiations with the EU Council to discuss options for partial or full association with Erasmus+ and Creative Europe
 - Seek restored opportunities for professionals in sectors across our economy to work in the EU
4. Evidence for the second part of the inquiry, focused on services, has covered: [a panel representing the legal profession](#) (31 October); [academics and think tanks](#) (21 November); [sectoral representative bodies](#) (5 December); [British Chambers of Commerce and Energy UK](#) (12 December); [economists and trade experts](#) (16 January); the [European perspective](#) (23 January); and those with an interest in youth mobility ([30 January](#) and [6 February](#)).
5. This week we will be hearing from two panels—

Panel 1 (AI)

- Professor Anahid Basiri, Director of Centre for Data Science and AI, School of Geographical & Earth Sciences, University of Glasgow
- Professor Mark Schaffer, Professor of Economics, Heriot-Watt University, and Fellow of the Royal Society of Edinburgh

Panel 2 (Touring artists)

- Dr Kirsteen Davidson Kelly, Artistic Director, National Youth Orchestras of Scotland
- Lisa Whytock, Director, Active Events

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- Colin Keenan, Booking Agent, ATC Live
6. A SPICe briefing for the first panel is provided at **Annexe A** and a written submission at **Annexe B**. A SPICe briefing for the second panel is provided at **Annexe C**.

Clerks to the Committee
March 2025

Constitution, Europe, External Affairs and Culture Committee

9th Meeting, 2025 (Session 6), Thursday, 13 March

Artificial Intelligence and the EU-UK Trade and Cooperation Agreement

Context

This paper has been prepared to support the committee evidence session on Artificial Intelligence which will inform its inquiry into the review of the EU-UK Trade and Cooperation Agreement and participation in the Parliamentary Partnership Assembly in Brussels on 17-18 March 2025. The paper provides an overview of relevant aspects of the EU-UK Trade and Cooperation Agreement, of the approach to AI regulation in the UK and the EU, and of the Scottish Government's AI strategy.

The EU-UK Trade and Cooperation Agreement

The [EU-UK Trade and Cooperation Agreement](#) makes no specific mention of Artificial Intelligence. However, Article 211 of the Agreement on “Cooperation on regulatory issues with regard to digital trade” states that the EU and the UK shall “exchange information on regulatory matters in the context of digital trade” including in emerging technologies.

In addition, Article 703 of the Agreement on cyber issues states:

“The Parties shall endeavour to establish a regular dialogue in order to exchange information about relevant policy developments, including in relation to international security, security of emerging technologies, internet governance, cybersecurity, cyber defence and cybercrime.”

These two Articles suggest the EU and the UK will work closely when it comes to Artificial Intelligence. However, [a European Parliament briefing on AI](#) has highlighted that the EU and the UK have adopted differing regulatory paths on AI.

Potential for EU and UK cooperation on AI

In its [November 2023 resolution on the implementation of the EU-UK Trade and Cooperation Agreement \(TCA\)](#), the European Parliament welcomed 'regulatory cooperation on ... emerging technologies, including artificial intelligence'.

In February 2024, the [UK AI minister Jonathan Berry offered to work with the EU on regulation](#), as in his view, the UK Government's approach to copyright in AI was likely to be 'reasonably close' to that of the EU's.

The Tony Blair Institute for Global Change has [published a paper in which it proposes closer collaboration between the UK and the EU on the development of AI technologies](#). The paper highlights four key areas of potential collaboration that the Institute believes should be at the top of a joint EU-UK AI policy agenda. These include investments in computer infrastructure, harmonised AI standards, closer institutional coordination and multilateral cooperation on questions concerning emerging technologies and international trade.

On the different approach to AI in the EU and the UK, the Institute states:

“The EU and UK have so far taken different approaches to AI regulation. Employing a risk-based approach, the EU AI Act introduces new obligations for developers. In contrast, the UK has deployed a principles-based framework for existing regulators to interpret and apply within their own sectors. But AI research is advancing rapidly and regulatory debates are still evolving in both jurisdictions.”

The UK approach to the regulation of Artificial Intelligence

The UK government published its original AI Regulation White Paper in March 2023, and published its [response to the consultation in February 2024](#). This approach to regulation does not envisage a focused AI regulator in the UK, but rather that existing regulators will consider the five principles of the UK regulatory approach within their remits. These principles are:

1. Safety, security and robustness
2. Appropriate transparency and explainability
3. Fairness
4. Accountability and governance
5. Contestability and redress

The UK Government also propose a central function which will support regulators in addressing the opportunities and risks associated with AI within their remits. This central function is to be established through:

1. **Risk assessment:** The UK Government set up a risk monitoring team within the Department for Science, Innovation and Technology.
2. **Regulator capabilities:** The UK Government have provided £10 million for regulators to develop their tools and capabilities.

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3. **Regulator powers:** The UK Government will regularly assess the remits and powers of regulators to ensure they are able to address the risks and opportunities of AI.
4. **Coordination:** A steering committee will support knowledge exchange and coordination on AI governance.
5. **Research and innovation:** UK Research and Innovation have a new commitment to improve links between regulators and the skills and expertise supported by UKRI investments.
6. **Ease of compliance:** The UK Government aim to ensure that regulation is supportive of innovation – an advice service will support getting new products to market.
7. **Public trust:** Work on assurance and technical standards can provide public confidence in regulation. The UK AI Standards Hub was launched in 2022, and the UK Government commit to publish advice for businesses.
8. **Monitoring and evaluation:** The UK Government plan to consult with regulators to develop a monitoring and evaluation plan.

In addition to setting out the principles and a framework, the response from the UK Government highlights that there may be a need for legislation in the future:

“However, the challenges posed by AI technologies will ultimately require legislative action in every country once understanding of risk has matured. In this document, we build on our pro-innovation framework and pro-safety actions by setting out our early thinking and the questions that we will need to consider for the next stage of our regulatory approach.”

Following the publication of the consultation response, the UK Government wrote to regulators and asked them to set out their strategic approach to AI. The [regulators responses were published on 1 May 2024](#) – individual responses from 13 regulators are available on this page.

The regulators in scope of the UK approach to regulation of AI operate largely in reserved areas; for example financial services (The Bank of England and the FCA), competition and the single market (CMA), employment law, health and safety (HSE), communications (Ofcom) and gas and electricity markets (Ofgem). There is therefore limited scope for the Scottish Parliament to take a different regulatory approach.

On 10 February 2025 the [UK Government published an Artificial Intelligence Playbook](#), which sets out guidance for government departments and public sector organisations to use AI technology. The [Scottish Government has also produced a Scottish AI Playbook](#).

The Parliamentary Office of Science and Technology published a [briefing on the ethics, governance and regulation of AI in October 2024](#). This briefing highlights uncertainties and questions for the UK Parliament to consider.

The key uncertainties highlighted relate to the speed at which AI technologies continue to develop, the regulatory response in other jurisdictions and how this

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might impact the UK, how much control and decision-making power could be ceded to private organisations through the use of AI technologies, and how AI systems can be made safe without human oversight.

The key questions for the UK Parliament to consider include:

- What kind of regulatory regime should the UK have, and to what degree there should be central oversight?
- Should there be a government certification scheme for AI systems?
- How should copyright law be applied to generative AI?
- What adaptations will be necessary in employment law?
- Who will be held legally accountable for AI systems?
- How can misinformation be constrained?
- How should the UK cooperate with other countries to develop safe and responsible AI?

Scottish Government AI strategy

In May 2020 The Royal Society of Edinburgh published an [advice paper of the development of Scotland's AI strategy](#), based on the scoping document produced by the Scottish Government. Key points raised in this paper include:

- Key strategic aims identified in the strategy, including the AI strategy being 'people centred' and AI being used as a 'trusted, responsible and ethical tool' require further consideration and development.
- With further work on the strategy to be undertaken by thematic working groups, the current call for evidence should be considered a pre-consultation. This would allow for a more developed consultation to be brought forward in the light of the activities and deliberations of the working groups, and help ensure that Scotland's approach to AI is informed by a longer-term deliberative engagement process.
- The RSE believe that an overarching strategy, covering not only AI but also robotics and automation, would be preferable due to the interconnectedness of these components.

The Scottish Government [published its strategy on 24 March 2021](#). The strategy does not set out an approach to regulation, but rather focuses on how the development of AI in Scotland can be supported. Its aim is that: "Scotland will become a leader in the development and use of trustworthy, ethical and inclusive AI". The strategy is guided by the five OECD principles for the responsible stewardship of AI:

1. AI should benefit people and the planet by driving inclusive growth, sustainable development and well-being.
2. AI systems should be designed in a way that respects the rule of law, human rights, democratic values and diversity, and they should include appropriate safeguards – for example, enabling human intervention where necessary – to ensure a fair and just society.

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3. There should be transparency and responsible disclosure around AI systems to ensure that people understand AI based outcomes and can challenge them.
4. AI systems must function in a robust, secure and safe way throughout their life cycles and potential risks should be continually assessed and managed.
5. Organisations and individuals developing, deploying or operating AI systems should be held accountable for their proper functioning in line with the above principles.

The Scottish AI Alliance, a partnership between the Scottish Government and the Data Lab, are responsible for delivery of the AI strategy.

The Scottish AI Alliance produce annual 'State of AI Reports' which account for progress on the delivery of the strategy. The [latest covers the period 2023-24](#). This highlights a number of recent developments:

- In summer 2023 the Scottish Government commissioned the leadership group at the Scottish AI Alliance. The alliance published an [initial report which was open for consultation until February 2024](#).
- Developed an [AI register](#).
- Set up a Public Sector AI Taskforce in Autumn 2023 to share best practice and reduce risk.
- The report also lists the public and business engagement undertaken by the Scottish AI Alliance.

The EU approach to the regulation of Artificial Intelligence

The European Union's approach to AI is underpinned by the [EU Artificial Intelligence Act](#) which was passed in 2024. The [European Commission describes the purpose of the Act](#) as being:

"The aim of the rules is to foster trustworthy AI in Europe.

The AI Act sets out a clear set of risk-based rules for AI developers and deployers regarding specific uses of AI. The AI Act is part of a wider package of policy measures to support the development of trustworthy AI, which also includes the [AI Innovation Package](#), the launch of [AI Factories](#) and the [Coordinated Plan on AI](#). Together, these measures guarantee safety, fundamental rights and human-centric AI, and strengthen uptake, investment and innovation in AI across the EU."

The Act entered into force on 1 August 2024 with its entry into application set for 2 August 2026 ([with the exception of some specific provisions](#)).

According to the [European Parliament's Legislative Observatory](#):

"The purpose of this Regulation is to improve the functioning of the internal market and promote the uptake of human-centric and

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trustworthy artificial intelligence (AI), while ensuring a high level of protection of health, safety, fundamental rights enshrined in the Charter of Fundamental Rights, including democracy, the rule of law and environmental protection, against the harmful effects of artificial intelligence systems (AI systems) in the Union, and to support innovation.

This Regulation does not apply to AI systems or AI models, including their output, specifically developed and put into service for the sole purpose of scientific research and development.

Regulatory sandboxes and real-world testing will have to be established at the national level, and made accessible to SMEs and start-ups, to develop and train innovative AI before its placement on the market.

This Regulation applies to AI systems released under free and open source licences, unless they are placed on the market or put into service as high-risk AI systems.”

The Regulation also prohibits a number of AI practices including:

- AI system that deploys subliminal techniques beyond a person’s consciousness or purposefully manipulative or deceptive techniques, with the objective, or the effect of, materially distorting the behaviour of a person or a group of persons by appreciably impairing their ability to make an informed decision, thereby causing a person to take a decision that that person would not have otherwise taken;
- AI system that exploits any of the vulnerabilities of a person or a specific group of persons due to their age, disability or a specific social or economic situation, with the objective, or the effect, of materially distorting the behaviour of that person
- AI system for making risk assessments of natural persons in order to assess or predict the likelihood of a natural person committing a criminal offence, based solely on the profiling of a natural person or on assessing their personality traits and characteristics;
- AI systems that create or expand facial recognition databases through the untargeted scraping of facial images from the internet or CCTV footage;
- AI systems to infer emotions of a natural person in the areas of workplace and education institutions, except where the use of the AI system is intended to be put in place or into the market for medical or safety reasons;
- biometric categorisation systems that categorise individually natural persons based on their biometric data to deduce or infer their race, political opinions, trade union membership, religious or philosophical beliefs, sex life or sexual orientation;

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The Confederation of British Industry (CBI) has set out [what the Act means for businesses in the UK](#). This information includes a short summary of how the EU AI Act differs from the UK approach to AI stating:

“The EU AIA takes a tiered risk approach, with each tier subject to differing levels of regulation, from transparency notices to human oversight and technical provisions...

...In contrast to the EU’s risk classification system and legal framework, the UK aims for a ‘light touch approach’ to AI regulation, which supports the capacity of existing regulators without establishing a super-regulator. The CBI has encouraged this pro-innovation approach —numerous CBI asks were included in the Government’s AI White Paper consultation response.

The government acknowledges, however, the eventual need for legislative framework for AI regulation, particularly for highly capable general-purpose AI.

The wider international approach to regulation

The [OECD have produced AI principles](#), listed above, which it described as the first intergovernmental standard on AI. These were adopted in 2019 and updated in 2024. The OECD also make five recommendations to policy makers:

1. Investing in AI research and development through long term public investment and encouraging private investment to boost innovation, and in large open datasets.
2. Fostering an inclusive AI-enabling ecosystem for trustworthy AI, including data, AI technologies, computational infrastructure and connectivity, and mechanisms for sharing knowledge.
3. Shaping an enabling interoperable governance and policy environment for AI, which supports AI technologies progressing from research and development stage to scale up.
4. Building human capacity and preparing for labour market transformation, ensuring individuals have the skills and are empowered to interact with AI systems, and ensuring that the transition is fair.
5. International co-operation for trustworthy AI to exchange knowledge and best practice, and to further the use of internationally comparable indicators.

White & Case (a global law firm) monitor the development of AI regulation internationally through their global regulatory tracker, and [highlight five emerging trends](#):

1. AI means different things in different jurisdictions, and note that while the EU definition is based on the OECD definition it is worded in an uncertain way, while other countries such as Canada have adopted clearer definitions. This might have implications for businesses due to the extraterritorial reach of some proposed regulations.

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2. There is not a consistent form for emerging AI regulations; some are executive orders, some statutes, and some are expansions of existing regulatory frameworks. This will mean businesses face differing compliance obligations in different jurisdictions.
3. There is also a difference of conceptual approach to AI regulation. For example, the UK's approach means businesses can deal with existing regulators rather than a new bespoke set of AI regulations, but this does mean that there is the potential for differing interpretations between these sectoral regulators.
4. Many jurisdictions are looking to build significant flexibility into their regulatory framework, in order to be effective in the context of rapidly evolving technology. While this might mean that regulation is effective for longer, it runs the risk of increased uncertainty.
5. The overlaps between AI regulation and other areas of law are complex, including for example intellectual property, data protection, mergers and acquisitions, financial regulation, and global trade.

Diligent also provide an [overview of AI regulatory developments by jurisdiction](#).

Issues for discussion

Today's evidence session is an opportunity to discuss the development of AI strategies in Scotland, the UK and the EU, and the challenges of developing a regulatory regime for a rapidly evolving set of technologies with global reach. The Committee may wish to explore the implications of the different approaches taken to regulation of AI in the EU and the UK and how the approaches will influence the review of the Trade and Cooperation Agreement.

The Committee may wish to explore how the Scottish Government's strategy for the development of AI as a sector sits within the proposed UK regulatory framework.

The evidence session also offers the Committee an opportunity to explore Scotland's strategy with the RSE, who were advocates of the creation of a strategy and offered detailed suggestions at the outset.

Scotland's strategy aims to establish the country as a leader in the development of AI technologies. Members may wish to explore the scale of this opportunity, and how the emerging regulatory frameworks in the UK and internationally can help or hinder this ambition. Members may also wish to consider how trading arrangements with significant markets might influence the development of an AI industry in Scotland.

Iain McIver and Andrew Feeney-Seale, Senior Researchers, SPICe

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10 March 2025

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The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot

**RSE written submission to CEEAC Committee 7 March 2025 – Review of the
UK EU Trade and Cooperation Agreement Inquiry Part 2.**

General Comments

The RSE welcomes this opportunity to provide written evidence to the CEEAC Committee inquiry into the trading relationship between the EU & UK within the context of the forthcoming TCA review. This submission will focus on issues relating to AI. The RSE argues that the UK faces difficult choices. Two regulatory regimes are likely to be globally significant: the USA and the European Union. The UK faces a choice between (a) aligning with the USA; (b) aligning with the EU; (c) mixing elements of both regimes and making its own choices. This choice may be governed by wider political considerations, such as a preference to get closer to the EU generally, or to exploit the opportunity provided by Brexit to act independently. It will also be governed by a political preference for a liberal or laissez-faire approach, stressing innovation and market opportunities, and a more regulatory approach, stressing consumer protection and social and environmental protections. The US inclines to the former and the EU to the latter. Any UK-EU reset in relations will offer substantial opportunities for a better trading relationship in relation to AI in sectors such as security and defence, compute, the green economy, and intellectual property. However, alignment with one bloc also implies costs associated with trading access in the other direction. The UK may wish to pursue a pathway that bridges between the EU and US models by developing a productive pathway that balances innovation and risk through smart regulation. However, as a small country, this approach will only work if the UK can bring others in the same direction. The RSE believes a priority for the UK should be to participate in and influence regulatory developments as a stakeholder, even if this does not translate into formal alignment.

1. What opportunities does any UK-EU reset provide for a better trading relationship in relation to AI?

The term 'reset' is ill-defined and widely rejected in EU circles. There may be opportunities for cooperation in new areas, not covered by the TCA but these will almost inevitably be accompanied by requirements in related fields. The EU remains resistant to 'cherry picking'. Better UK-EU relations could present substantial opportunities for business and research institutions for joint investment and research to drive innovation and growth in responsible and sustainable AI. In combination, the UK and EU stand a chance of playing a role in the competitive global AI landscape. AI is not just a discrete area of policy but cuts across many matters, including security and defence, which are primary considerations for policymakers in the current state of geopolitics. A better trading relationship with the EU will also unlock opportunities for collaboration on Net Zero and the infrastructure that will be needed to meet our targets. However, collaboration across sectors will require talent mobility and mutual recognition of qualifications, which are currently major obstacles to a better trading relationship. This will be discussed in further detail in question 4.

2. What are the risks to AI in Scotland of regulatory divergence between the UK and EU in relation to AI and equally what are the benefits of regulatory alignment?

There are risks and benefits of both regulatory alignment and dealignment with the EU in relation to AI.

One of the major risks to AI in Scotland of regulatory divergence between the UK and the EU is the associated trade barriers and limited access to the EU market this would create for businesses having to comply with two sets of rules. Additionally, research institutions will miss out on opportunities for joint investment and collaboration with EU counterparts which will have negative implications for innovation and talent retention. If UK does not want to move toward a light-touch style of regulation and miss out on the opportunities to be leaders in responsible and sustainable AI, then there are advantages in remaining close to the EU. Finally, if the UK diverges from the EU, it will be more reliant on the US market and political preferences which are looking increasingly unpredictable and volatile.

The benefits to AI in Scotland of regulatory alignment with the EU are the opportunities for collaboration, joint investment, and improving competitiveness outlined above, whilst making Scotland an attractive destination for talent from the EU. It would enable Scotland to operate within the most comprehensive set of regulations for AI in the world and set a global standard for ethical and responsible AI development.

However, if the UK chooses to pursue regulatory alignment with the EU, UK leaders in AI will be exposed to the more stringent rules of the EU AI Act. The stated aim of the Act is to “foster trustworthy AI in Europe.”¹ It focuses a lot on consumer protection and responsible AI, which is a benefit for society, but has been criticised for being too prescriptive for business and innovation. From a commercial perspective, the UK is performing well in various areas of AI and the application of this Act may constrain growth and innovation in the UK. This could also starve companies of access to US products and the associated opportunities to improve public services such as healthcare. In certain areas, such as self-learning dynamic AI, we are a long way away from this materialising and knowing what it means in practice. In this sense, the EU AI Act could be guilty of “regulating the hype,” which might be a mistake and have negative implications for competitiveness. Moreover, if the UK is aligned with Europe and a global company decides not to sell its product in Europe due to the EU AI Act, then consumers will be denied access to certain AI-based products from the US and other markets.

¹ [AI Act | Shaping Europe's digital future](#)

Alternatively, the UK could choose to bring the two approaches together to maximise the opportunity whilst ensuring there are effective regulations and awareness of the risks involved. By taking a complementarity approach between the US and EU models, the UK could create a competitive advantage by minimising the societal and economic risks via smart regulation. However, the UK is too small to be a global leader or regulation-setter, unlike the USA or the EU so this approach may entail losses on both sides. If the UK has its own unique regulatory environment, global companies will refrain bringing their products here.

We assume that the terms of the Scotland Act, together with the UK Internal Market Act will mean that this will be largely or entirely a Westminster responsibility so any Scottish concerns would have to be pursued with the UK Government.

3. Does the review of the TCA provide any opportunity for closer cooperation between the EU and UK on AI and/or are there any other means through which this can be achieved?

The RSE understands that the review of the TCA is very strictly about the TCA itself and how it is working and is therefore not an opportunity to raise new issues. Any new cooperation must occur outside of the TCA. Negotiating a side deal on AI will depend on how this impinged on other issues inside the TCA, for example the basic trading arrangement and mutual recognition. It is not clear how a separate deal on AI could be agreed because of the impact it would have on other areas in the TCA. However, there are opportunities for closer cooperation between the EU and the UK on AI through areas such as security and defence, intellectual property, and compute, whereby our shared interests are suited to a joined-up approach.

Security and defence, as referenced in the withdrawal agreement, with all the caveats around the risks of using AI in this context, would be a mechanism to bring closer cooperation between EU and UK, particularly at a time of geopolitical instability.

Intellectual property – There are big discussions around copyright, creative work, fair compensation and so on that alignment would really help create cooperation between EU/UK.

Compute – the UK and EU are not competitive in terms of the hardware manufacturing, data centres, and energy supply that can be secured for the big compute that is needed for AI growth compared to China and US. This might be an opportunity to join forces and become more competitive as well as address some of the sustainability issues such as how green is the energy we use for AI. The UK and Scotland have great capabilities in the

semiconductors and electronics technology, but the major limitation is scale of investment. The UK could turn these capabilities into economic growth, but international collaboration could help achieve the scale needed to realise this.

4. To what extent are mobility issues and mutual recognition of qualifications significant issues in delivering closer cooperation on AI between the UK and the EU?

The ability of EU people to visit or work in the UK is a big issue for cooperation. This mobility is absolutely essential to Scotland's talent base. The RSE has urged the UK Government to rejoin Erasmus+ and establish a reciprocal youth mobility scheme. Nothing is going to happen in Scotland in terms of economic growth and innovation in AI if we do not have the people. We need to ensure that there is an exchange in the mobility of young people, but also the whole visa regime and permission to work in the UK needs to change to meet Scotland's talent gaps. AI is going to grow and the demand for skilled people is going to increase. However, this is currently a red line for the UK Government.

Mutual recognition of qualifications is also important and if the UK is diverging more on this then it will generate increasing problems for inward migration from the EU.

From a competitiveness point of view, Scotland can only capitalise on the strength of its universities, institutions, and businesses if it competes for the best globally, and currently, the AI opportunity is becoming essential to doing so given the competitiveness of the global talent landscape. Making Scotland an attractive destination for people with AI skills is clearly a desirable objective. This is also true for people coming from the US or Asia, but is particular true for those from the EU, given our existing strong links and cultural and geographical proximity.

Constitution, Europe, External Affairs and Culture Committee

13 March 2025

Movement of Artists: TCA

Introduction

The first phase of the Committee's inquiry into the review of the Trade and Cooperation Agreement [focused on the provisions related to trade in goods](#) reported on 10 September 2024.

At its meeting on 5 September 2024, the Committee agreed to take evidence in relation to—

- Trade in services, such as financial and legal services, (including mutual recognition of professional qualifications), and
- The mobility of people (including youth mobility schemes, Erasmus+, and touring artists and creative professionals).

Both these areas are addressed in the free trade agreement section of the TCA.

This evidence session is an opportunity to discuss how the TCA supports mobility of touring artists and creative professionals based in the UK and whether and what changes might be sought during the upcoming review of the Agreement.

The Committee held a round table looking at the movement of artists to the EU post EU exit in November 2023. The Convener's contribution to the Parliamentary Partnership Assembly in London in December 2023 was also on this topic.

Context

When the UK was a member of the European Union, members of the creative industries with UK citizenship were able to travel to and work freely in other European Union countries.

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The terms of the UK's new relationship with the EU were set out in the Trade and Cooperation Agreement. Artists who are UK nationals must meet the individual requirements of each EU member state if they wish to perform there.

There was some disagreement between the Commission and the previous UK Government around why touring of music workers and artists were not provided for in the TCA. A [Politico article from 2021 provides some commentary on the process](#).

The [Scottish Government published its International Culture Strategy in 2024](#). This commented:

“International mobility is central to activities across the culture and creative sector. Without it, creative professionals in Scotland cannot take their work to other countries, and their counterparts from around the world cannot come to Scotland. The ability to carry out international activities such as touring is vital to many individuals and organisations in terms of reaching new audiences, generating income, collaborating and building vital networks across borders, and showcasing Scotland's culture and creative sector internationally.”

There were two actions in relation to mobility of artists and creatives:

- The Scottish Government will continue to push the UK Government to work with other governments and the EU to support visa-free arrangements for touring artists.
- The Scottish Government will consider what measures might support Scottish artists to address these challenges.

The International Culture Strategy also stated—

“Scotland has a number of domestic and international platforms which can support the development of the sector's international connections. As we deliver this strategy we will continue to seek ways to increase their capability and impact.”

It indicated that the Scottish Government would, “map out key international cultural networks and platforms and seek to understand where there is potential to support further development of Scottish engagement within them.” The International Culture Strategy highlighted participation with [Creative Europe](#), which the UK is no longer a part of. The Government said that it would “consider how links with the Creative Europe programme can be enhanced [and] lobby the UK Government to seek to re-join the Creative Europe programme.”

The International Culture Strategy covers 2024 to 2030. It is not clear how much progress has been made on the actions highlighted above.

The [Labour Party's manifesto for the 2024 UK General Election](#) said that it would “work to improve the UK's trade and investment relationship with the EU” and this included a commitment to “help our touring artists”.

The Secretary of State for Culture, Media and Sport [Lisa Nandy MP told the Commons on 27 February 2025](#) that Chris Bryant, the Minister of State for Media,

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Tourism and Creative Industries, had recently met with an EU Commissioner on this issue recently. The Secretary of State said that the UK Government is “seeking closer agreement [with the EU] on this issue.”

The [Scottish Government’s Office of the Chief Economic Adviser provides a regular briefing on key statistics for the creative industries in Scotland](#). This includes some information on exports. This analysis uses estimates based on data from [Export Statistics Scotland](#). The Office of the Chief Economic Adviser says that this data is not designed to collect data at such a granular level (i.e., the level of the Creative Industries), therefore “these results should be treated as indicative”. The latest data refers to 2021 and the report states—

“Total exports from the Creative Industries sector stood at £3.8 billion in 2021, accounting for 4.7% of Scotland’s total exports. Exports from this sector increased by 14.2% over the year. Exports to the rest of the UK stood at £2.0 billion in 2021 and accounted for 53.8% of total Creative Industries exports. International exports to the EU stood at £680 million (18.0%) and international exports to non-EU countries stood at £1.1 billion (28.3%).”

The Scottish Government estimates that Creative Industries’ exports to the EU in 2019 was around £580 million. However, the performing arts is only a part of the definition of the Creative Industries which include, for example, the screen and games sectors.

Working in the EU

The arrangements for an artist temporarily working in the EU vary from country to country. The [UK Government’s website](#) states—

“Many Member States have confirmed that they offer visa and work permit free routes for UK musicians, performers and support staff undertaking some short-term touring activities. Durations, definitions and requirements can vary from Member State to Member State. As a musical artist (which might include teaching and education roles) or as accompanying staff, we strongly recommend that before you travel you check domestic immigration rules for each European country you are intending to work, perform or tour in, as rules may vary depending on the length of your stay and the type of activity.”

[A 2022 report by the All-Party Parliamentary Group on Music](#) said—

“The question of work rights for non-EU citizens is mostly a matter for individual member states. This means a confusing range of restrictions are now in place; three EU member states (Portugal, Malta and Cyprus) may require work permits for musicians and performers for any commercial performance in their countries. Costs can quickly escalate. Malta, for example, requires a €150 employment licence to work as a self-employed musician. ... 24 other countries permit some work permit free touring. However, this covers a range of restrictions, from Sweden that only allows 14 days, to Spain where the industry and Government worked together

successfully to get the Spanish Government to allow music work up to the 90 in 180 day visitor limit.”

The previous [UK Government sought](#) to negotiate with a number of EU states to make it easier for artists to tour.

Member will be aware that UK nationals can travel within the Schengen area visa free for 90 days over a 180 day period. This visa-free travel covers people traveling as a tourist or for certain other reasons. These include travelling for business for your UK employer. Those travelling for work are advised to [check the rules for the country they are visiting](#).

For example, [Spain](#) allows artists and professionals working in the audiovisual sectors from the UK to work visa free for 90 days out of 180.

Taking equipment or merchandise into the EU

The rules that apply to taking equipment around artists taking goods into the EU are complicated.

If you are traveling with portable equipment, such as an instrument and a small amplifier, you do not need to declare this equipment. However, if you are travelling separately from the equipment which is moved as freight by a haulier or transport operator where the individual is not present then, assuming that the equipment is to return to the UK, a temporary admission procedure may be required. This is normally by using an Admission Temporaire or Temporary Admission (ATA) Carnet. There is a cost associated with using an ATA Carnet.

There are further complications if the equipment includes an endangered species. This could be certain types of wood used in guitars or other string or woodwind instruments. Here a CITES certificate may be required. Musicians and performers touring with these items must travel via a designated [CITES point of entry or exit](#), of which there are three in Scotland – Edinburgh, Glasgow and Prestwick airports.

Merchandise to be sold by artists is likely to be subject to customs controls. An individual is able to take up to €1,000 worth of merchandise, with a total weight of 1,000 kilograms or less, into the EU to sell on tour without paying EU customs duties¹.

Haulage

Under the TCA, UK haulage operators are limited in how they can move goods around the EU. Operators are able to undertake up to two additional movements within the EU after their first stop, either as cross-trade (the movement of goods between two countries by a haulier registered elsewhere) or cabotage (the

¹ <https://www.ism.org/advice/brexit-and-merchandise/>

movement of goods within a single country by a haulier registered in another country), with a maximum of one cabotage movement within that limit.²

In [2022, the UK Government introduced a dual registration scheme](#). This allows specialist events hauliers who have bases in GB and elsewhere to temporarily transfer their vehicles between their 2 operator's licences without needing to change their vehicles or having journeys limited by the international cabotage rules within each territory.

For EU operators in the UK, the [UK Government states](#)—

“EU operators may only conduct cabotage journeys after arriving laden into the UK and may only make 2 cabotage movements within 7 days of arriving and unloading in the UK.”

Support for touring artists

The Scottish Government's funding for the National Performing Companies includes the International Touring Fund. The International Touring Fund is available only to the five NPCs.

The Scottish Government's Festivals Expo Fund supports the Made in Scotland programmes. Made in Scotland is a “curated showcase that promotes high quality music, theatre and dance from Scotland-based artists, to international promoters and audiences at the Edinburgh Festival Fringe each year”. As part of this programme, there is an Onward International Touring fund which is to enable artists, bands and ensembles to take up new international touring opportunities for work programmed as a direct result of the inviting promoter seeing the work at the Edinburgh Festival Fringe.

Creative Scotland's other funding streams may support touring artists. For example, there are incidences of the Open Fund supporting touring artists.

The UK Government funds the [Music Export Growth Scheme](#), which is administered by the BPI. Earlier this year the UK Government announced it was expanding the funding of this scheme to “£3.2 million over the next two years”. This scheme “is designed to make available grants ranging from £5,000 - £50,000 to UK-registered independent music companies to assist them with marketing campaigns when looking to introduce successful UK music projects overseas.”

The [International Showcase Fund](#) offers grants of up to £5,500 for international export opportunities for UK-based artists, bands, songwriters and producers who have been invited to perform or create new music at international industry facing showcasing festivals, song writing camps or conferences. The ISF is managed by PRS Foundation in partnership with DBT, British Underground, PPL, British Council, Musicians Union, Arts Council England, Creative Scotland, Wales Arts International, Arts Council Northern Ireland.

² <https://www.gov.uk/guidance/international-road-haulage-jobs-inside-an-eu-country-or-between-eu-countries>

Industry bodies, such as the Musicians Union, provide advice and guidance to its members on touring in the EU.

Artists coming from the EU to the UK

The rules for artists coming into the UK from the EU were also affected by the UK leaving the EU. The [UK Government's website](#) explains—

The UK's domestic rules allow musicians, entertainers and artists from [non-visa national countries](#), such as EU Member States and the US, to come to undertake paid work in the UK for up to:

1 month without requiring a visa if they are invited to the UK by a UK-based client or organisation, and paid by a UK source (under the [permitted paid engagement](#) visitor rules).

3 months without requiring a visa if they have been assigned a [certificate of sponsorship](#) by a licensed sponsor under the [Temporary Work - Creative Worker visa concession](#).

6 months without requiring a visa if performing at a permit-free festival. The list of [permit free festivals](#) is published under the [Immigration Rules](#) and includes a range of events, from Glastonbury to Glyndebourne.

12 months on the [Temporary Work - Creative Worker](#) route, if they obtain a visa and a Certificate of Sponsorship.

[A blog by UK in a Changing Europe](#) noted:

“Comparatively little has been written about the overall impact on EU artists touring the UK, but there have been some cases reported in the press of EU artists being [refused entry](#) for lacking necessary paperwork, and complaints that the UK guidance is opaque and written only in English.”

Commentary and suggestions for improvements

The [2022 report by the All-Party Parliamentary Group on Music](#) made seven recommendations to the UK Government. These included:

- To seek to improve arrangements for music workers touring both within the TCA and through bilateral agreements with individual EU countries
- Expand number of border points where documents like carnets and Music Instrument Certificates (CITES) can be checked.
- To seek to agree a “Cultural Touring Agreement” with the EU and potentially other European states to support the liberalisation of cultural touring.

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- To “develop institutions to support UK music exports, including instituting a Music Export Office” and to increase funding for music exports.

A 2023 report by the [House of Lords’ European Affairs Committee](#) published in April 2023 on [The future UK-EU relationship](#) looked at, among a range of topics, the impact on creative industries. It expressed disappointment “that very little progress has been made in addressing the challenges faced by creative professionals wishing to work and tour in the EU”. It recommended that these issues should be taken up with the EU by the Foreign, Commonwealth & Development Office “as a priority”. It also sought updates from the UK Government on how this issue is being progressed through the mechanisms associated with the TCA and with individual Member States. The previous [UK Government’s response to these recommendations](#) stated that it had raised this issue through “the TCA Governance structure on a number of occasions”.

The [Independent Society of Musicians published a report in August 2023](#) on the impact of leaving the EU on musicians and the music sector. This was based on a survey of “408 respondents completed the survey, representing a wide range of roles and genres.” The methodology of the survey was not set out in the report (i.e., whether the 408 respondents were a self-selecting sample is not clear); it is therefore unclear to what extent the results of the survey reflect the industry as a whole. The report found that—

“Thematic analysis revealed five clear themes in the responses:

- Fewer work opportunities
- No offers of work at all
- Increased costs
- Increased red tape
- Issues around the 90 days in 180-day period Schengen restriction.

“A small number of respondents had not experienced any change.”

The ISM made a number of recommendations which asked the UK government to work with the EU and individual member states to make it easier for musicians to tour and to seek to reduce the cost and administration of taking equipment and merchandise into the EU.

The [blog by UK in a Changing Europe](#) commented—

“As long as the UK government sticks to its red lines of no membership of the single market and customs union, and no return to free movement, then the options for helping touring artists are limited. It is in theory possible for immigration and customs procedures to be simplified, but the EU will not be prepared to remove them altogether.

“Though the Commission [has stated](#) it is not prepared to rewrite the TCA to help touring artists, it is possible that this position could change as part of wider UK-EU negotiations. Given it is the UK which wants a deal on touring artists, it will have to offer the EU something in return. The EU’s primary interest is in a youth mobility agreement, and it would also like the UK to re-associate to its Erasmus+ scheme which allows EU students to undertake study placements at UK universities (and vice-versa). This might open the way to include special provisions for touring artists as part of a wider negotiation on mobility and cultural exchanges.”

At a Scotland level, the Committee received a [submission from the Musicians Union as part of its consideration of the 2025-26 budget](#). This reiterated calls for, “the establishment of a Music Expo office for Scotland which would allow Scotland's musicians to capitalise on opportunities beyond the UK and also within the UK in areas such as Northern Ireland.”

Summary of the round table in 2023

The Committee heard from a roundtable of stakeholders on this topic on [16 November 2023](#). The main themes of that discussion are set out below.

The Committee may wish to explore whether the issues raised in this session remain or whether the industry has found ways of working that minimise any additional costs or complications.

Administrative and Financial Burdens

The Committee heard that there were significant administrative and financial challenges due to the exit from the EU. The witnesses reported additional costs for carnets and visas, and that the complexity of transporting equipment have created substantial barriers to touring. The Committee heard these issues have made it difficult for both artists and technical staff to tour in the EU.

Lisa Whytock from Active Events said—

“The carnet situation is an issue for artists, both financially and administratively. The associated costs vary widely, depending on the instruments and equipment that need to be listed on the document. There is also a challenge with border controls for carnets. Officials have a varying understanding of the situation; it is random and just depends on which airport you go through. It can often cause delays and alarm for musicians operating under a carnet system.” ([OR 16 November 2023](#), col 22)

Ewan Robertson from the RSNO explained some of the additional costs due to the restrictions on haulage. He said—

“Cabotage costs us about an extra £15,000— that involves bringing a lorry from Europe to Glasgow, which goes to Europe, comes back to Glasgow and then goes back to Europe, rather than taking our own lorry. Additional carnet

costs are about £10,000 for each visit that we make to Europe.” ([OR 16 November 2023](#), col 27)

Alice Black from BECTU said that restrictions had impacted on technical staff as well as artists. She told the Committee—

“Scottish and UK technical staff are renowned as some of the most skilled crew in the world. Many international artists used to begin their tours in the United Kingdom, working with crews in Scotland, and hired equipment and transport from the UK to take into the EU. That has become too complex and, because of the 90-day rule for travel and the additional paperwork and expense required for the movement of goods, a large number of artists and touring companies are just not travelling to the UK and are not hiring our crew or our equipment to take it abroad. That has had a knock-on impact on venues and promoters, equipment hire companies, trucking companies and transport providers. We were at the centre of the live events industry, but I feel like that that has changed and we are now falling behind.” ([OR 16 November 2023](#), cols 24-25)

Career Opportunities

The Committee was told that Brexit has impacted career opportunities for artists and technical staff. The Committee heard that this limited the ability of young artists to gain experience and has impacted on established artists’ profitability.

Sam Dunkley from the Musicians Union said—

“Before Brexit, a lot of independent musicians were learning their trade and adding to the richness of their practice by performing in Europe, by being able to go and perform with musicians who were not from the same nation as them, and by being able to experience different cultures, audiences and a different way of performing. That option is not now open to too many musicians.” ([OR 16 November 2023](#), col 29)

Alice Black from BECTU said—

“We have severe skills shortages in many technical roles at the moment. We need to try and encourage people to join the industry, but part of that is the experience that you get from touring the EU, which is no longer as easy as it used to be.” ([OR 16 November 2023](#), col 31)

Merchandise

The Committee heard that there had been reductions in the sale of merchandising due to customs issues and increased costs. This had affected the financial viability of touring as some artists had relied on income from merchandise sales. Lisa Whytock from Active Events said, “it is much more expensive to bring merchandise into the EU and, therefore, to earn from it.” ([OR 16 November 2023](#), col 22)

Solutions and Support Needed

The Committee was told that there is a need for solutions and support to mitigate the challenges faced by touring artists. Suggestions included the establishment of a Scottish music export office, funding to support tours, and lobbying for a cultural touring agreement with the EU. The witnesses argued that these measures would provide financial support, reduce administrative burdens, and help artists navigate the increased complexities of touring in the UK.

Alice Black from BECTU called for, “changes to the EU trade and co-operation agreement to include a free cultural worker permit or exemption and a carnet waiver and exemption.” ([OR 16 November 2023](#), col 34).

Alistair Mackie from the RSNO said that the International Touring Fund, which is part of the funding provided to the five National Performing Companies, is “absolutely crucial” to the RSNO’s ability to tour. ([OR 16 November 2023](#), col 27) Lisa Whytock from Active Events noted that the International Touring Fund is limited to the NPCs and the [Made in Scotland Onward International Touring Fund](#) “is applicable only to artists who have performed at any of the Edinburgh festivals”, and that Creative Scotland’s Open fund could be used to support a tour but is highly competitive. She suggested that a separate touring fund be set up. (cols 23-24)

Ms Whytock said that she had a role in promoting Scottish folk music abroad and that there is a need for a wider music export office to be set up. She said—

“A promoter in Denmark might be concerned about booking an emerging or new artist for the first time, so if they have the confidence that a music export office is there to provide the resources and knowledge for those artists, it will go a long way towards helping the situation.” (Col 24)

Ned Sharratt, Senior Researcher (Education and Culture) SPICe

7 March 2025

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