

Wales Council for Voluntary Action (WCVA)

Scottish Council for Voluntary Organisations (SCVO)

Northern Ireland Council for Voluntary Action (NICVA)

National Council for Voluntary Organisations (NCVO)

30 July 2021

Evidence to the House of Commons European Scrutiny Committee

Inquiry into the institutional framework of the UK/EU Trade and Cooperation Agreement

Executive Summary and Recommendations

INTRODUCTION

- This response has been submitted by the four national membership organisations for the voluntary sector in Wales, Scotland, Northern Ireland and England. We are responding because the Trade and Cooperation Agreement (TCA) provides a consultative role for our sector and our stakeholders have expressed interest in exploring opportunities for deepening UK / EU civil society cooperation within and outside the formal TCA arrangements.

TRANSPARENCY

- A high level of transparency around the establishment and operation of the bodies created by the TCA is crucial to facilitating voluntary sector input and scrutiny. Due to capacity limitations in our sector, we require ample notice of agendas, meeting schedules and contact details in order to disseminate information and to identify and consult our own stakeholders in a timely fashion. Delays or gaps in publishing this information frustrates scrutiny and have a knock-on effect on stakeholders' and the devolved governments' ability to feed into the process.
- We welcome the commitments to transparency in the TCA but feel these are quite limited. Several of the provisions are optional and those on the publishing of agendas and minutes do not provide a timeframe. In practice the implementation even of these limited commitments seems inconsistent so far and we are finding it challenging to identify what materials are available, whether they will be made available and when key meetings are due to take place.
- There is currently both a lack of information on the work of the joint bodies and of collation of that information on the UK Government website. More broadly, there is very limited information available on how the UK Government is approaching the implementation of the institutional provisions, how it proposes to organise the UK Domestic Advisory Group(s) (DAGs) and the Civil Society Forum (CSF), how civil society representatives will be selected and how the UK Government and the joint bodies will approach wider stakeholder engagement in the UK. It is also unclear how the devolved governments and the interests of stakeholders from the four parts of the UK will be represented in the system and where the secretariat will sit. There is a missed opportunity to collate agendas, schedule for upcoming meetings, minutes and relevant

contact details for both the TCA and the Withdrawal Agreement on the UK Government main [Brexit page](#), similar to what is available on the [EC's page](#).

Recommendations

We would encourage the Committee to recommend:

- that the UK Government endeavours to publish key information including the provisional agendas, minutes, schedule for upcoming meetings, membership and contact details of key TCA bodies, in sufficient time ahead of the meetings;
- going beyond the TCA transparency commitments and encouraging the parties to go beyond releasing 'statements' following meetings as these offer only very limited information;
- communicating in greater detail with civil society about how the UK Government intends to implement the civil society provisions of the TCA. Especially given that the expression 'balanced representation' was left out of the TCA provisions on representation in the DAGs and the remit of the CSF's scrutiny of the agreement was limited to Part 2, as opposed to the DAGs, whose remit includes Part 3 as well. We recommend that in future reviews of the TCA the parties revisit this gap in discussions in the institutions of the TCA;
- that the UK Government collates key information about the joint TCA bodies and their operation on a single webpage, such as the current Brexit page.

ENGAGEMENT AND DIALOGUE WITH THE VOLUNTARY SECTOR AND DEVOLVED GOVERNMENTS

- There is currently no clear pathway for establishing and maintaining contact with the UK Government on the implications of the TCA for civil society. In conjunction with the current inaccessibility of information, it is difficult to see how stakeholders can highlight concerns about legal and policy developments both to the UK Government and to the joint bodies. To illustrate this point, we have so far found it easier to identify relevant contacts in the EU than in the UK Government.
- We believe that the UK Government should represent the UK in the joint TCA bodies inclusively by engaging the devolved governments as early as possible prior to key meetings. Not only are there intersections between the TCA and devolved competence, but this would also foster trust and a sense of joint ownership of the new UK/EU relationship and its governance mechanisms. **If done in a timely fashion, this will further facilitate the engagement of civil society at the local level by devolved governments.**
- We believe it is also important for the UK and devolved governments to encourage discussion in their respective legislatures of the role of the Parliamentary Partnership Assembly including around how to structure devolved input.
- We believe that the creation of a new UK wide platform to bring together voluntary sector stakeholders from across the four parts of the UK with interests and expertise in areas covered by the TCA, that is recognised by the UK Government as a regular interlocutor, would be helpful.

Recommendations

We would welcome recommendations by the Committee that the UK Government:

- provides an update on the stakeholder engagement team Lord Frost referred to when he gave evidence to the House of Lords Select Committee on the European Union on 9 February 2021 – we would also welcome a renewed commitment that any such team would engage representatively with the sector across the UK;
- engages meaningfully and regularly with the sector and with the devolved governments and legislatures on the implementation of the TCA;
- establishes an online portal for stakeholders to raise issues around the implementation of the TCA to mitigate the lack of representation for individual and wider stakeholder interests in the dispute resolution mechanism. This should also come with a renewed commitment to involving civil society in structured and ongoing dialogue around the implementation and review of the treaty.

HOW IS THE EU APPROACHING IMPLEMENTATION?

- We have provided a more detailed account of our understanding on how the EU is approaching the implementation of the TCA's civil society provisions in the body of our response. In summary, we note that the EU has established a UK-EU Follow-Up Committee within the European Economic and Social Committee (EESC), has launched an open selection process for civil society representatives on its DAG, has started to collate materials relevant to joint TCA bodies on a single web page (some of which are not currently available on the UK Government site as far as we can tell) and has involved civil society in the early stages of implementing these provisions. The EU also has a central complaints mechanism online, that provides a direct line for civil society to highlight issues arising from the implementation of the TCA.
- Given the number of steps that need to take place prior to the organisation of the first Civil Society Forum and the need for the sector to collate evidence and views, we have some concerns that time is running out for this to be a representative and useful exercise for the parties. We have also learned that in the EU's experience, its trading partners sometimes struggle to support their own DAG's.

Recommendations

We would encourage the Committee to recommend:

- that early consideration is given to the role and locus of the UK DAG secretariat;
- that consideration is given for the UK DAG to be comprised of sub groups across themes to enable discussions to reflect devolution and to enhance representativeness. We would welcome a conversation with the UK Government on how we can support a structured role for the voluntary sector in this process.

Question responses - Introductory comments

1. We would like to thank the House of Commons European Scrutiny Committee for the opportunity to respond to its enquiry into the Institutional Framework of the UK / EU Trade and Cooperation Agreement (TCA). This response has been written by Charles Whitmore of Cardiff University's Wales Governance Centre (WGC) and Lilla Farkas of Wales Council for Voluntary Action in the context of the two institutions' partnership to support the voluntary sector with the administrative, legal and constitutional changes resulting from the UK's withdrawal from the EU. The response has been coordinated on behalf of the four national membership bodies for the voluntary sector across the UK and represents the views of the four institutions:
 - Wales Council for Voluntary Action (WCVA)
 - Scottish Council for Voluntary Organisations (SCVO)
 - Northern Ireland Council for Voluntary Action (NICVA)
 - National Council for Voluntary Organisations (NCVO)
2. **WCVA** is the national membership organisation for the voluntary sector in Wales. Its vision is for a future where the third sector and volunteering thrive across Wales, improving wellbeing for all. Its purpose is to enable voluntary organisations to make a bigger difference together.
3. **SCVO** is the national membership body representing the voluntary sector in Scotland. Along with our community of 2,500+ members, we believe that charities, social enterprises and voluntary groups make Scotland a better place.
4. **NICVA** is the umbrella body for the voluntary, community and social enterprise (VCSE) sector in Northern Ireland with over 1,100 members. NICVA represents and supports the wider NI VCSE sector which comprises over 6,000 organisations providing a wide range of public services and benefits including health and social care, advice, counselling, community development, peace-building, environmental protection and management, to the promotion of arts, cultural, sporting activities.
5. **NCVO** is a membership body for charities and voluntary organisations in England. It has over 16,000 members, ranging from community groups to household name charities.
6. The **WGC** is a research unit sponsored and supported in the School of Law and Politics, Cardiff University. It undertakes innovative research into all aspects of the law, politics, government and political economy of Wales, as well the wider UK and European contexts of territorial governance.
7. We are responding to this consultation because:
 - a. the TCA provides a consultative role for civil society, including the voluntary sector in the implementation of the agreement via representation in Domestic Advisory Group(s) (DAGs) and the UK / EU Civil Society Forum (CSF);
 - b. we believe there is a role for the voluntary sector to play in scrutinising the implementation of the TCA, in gauging its impact on people's lives, in feeding this information up to the parties and in supporting engagement with civil society via the TCA bodies that is useful for the ongoing review and implementation of the agreement.

However to usefully fulfil this role, there are necessary preconditions around transparency that we currently feel are lacking. We also recognise the challenge that there is only limited experience of and currently no structures at the UK level for representative (both thematically and in terms of devolution) and coordinated engagement on trade related issues.

- c. We know that civil society in the EU is already being actively engaged by the European Commission (EC) in the implementation process on their side.
- d. Our members and partners have highlighted that many voluntary sector stakeholders in Wales, Scotland, Northern Ireland and England are keen to develop and deepen cooperation with civil society partners in the EU. As such, we are working to identify and seize opportunities for this both within and outside the formal structures of the TCA.

1. How could the implementation of the TCA and the actions of the UK/EU joint bodies impact the operation of the Northern Ireland Protocol to the UK/EU Withdrawal Agreement?

- 1.1 We believe that formalised mechanisms for engaging Northern Ireland Civil Society on the implementation of the TCA including the NI Protocol would be valuable and helpful in informing how future arrangements can best be implemented for the good of all.

2. What structures does the TCA provide to develop or deepen areas of cooperation such as mutual recognition of professional qualifications?

- 2.2 The main vehicle for facilitating civic society cooperation in the TCA is the CSF referenced in Articles 12 and 14. These provisions create a duty for the parties to consult civil society on the implementation of the agreement via the DAGs and the aforementioned CSF.
- 2.3 Article 13 further provides that the DAGs shall also include representation from civic society organisations active in economic, sustainable development, social, human rights, environmental and other matters. UK and EU DAGs are another vehicle by which civil society organisations (CSOs) can contribute to deepening cooperation.
- 2.4 Article 14 provides basic guidelines for the CSF which is to include a **balanced representation** (emphasis added to contrast with the DAGs) of CSOs active in economic, sustainable development, social, human rights, environmental and other matters.
- 2.5 Crucially we note that the Civil Society provisions of the TCA were changed during negotiations, as we understand it, by request of the UK Government:
 - a. The expression 'balanced representation' on the DAGs was changed to omit the word 'balanced'. This departure was contested by European Civic Society and the EU has noted to us that in practice they will nevertheless follow the usual protocol of ensuring balanced representation on their DAG (taken to mean an equal number of trade union, private sector and third sector representatives).

- b. The remit of the CSF was limited to Part 2 of the treaty (trade, transport, fisheries and other arrangements). This is also a departure from EU practice and raises questions for us because other parts of the agreement also intersect with sector interests.

2.6 Given that these changes directly relate to civil society interests and representation, **we would welcome clarification from the UK Government on how it intends to implement the civil society provisions of the treaty and how these changes relate to its intended approach.**

3. What are the key features of the dispute resolution procedures provided for in the TCA and what are the likely legal and policy implications of these for the UK? How closely do they follow precedent in other trade agreements and do they raise any concerns with respect to the UK's regulatory autonomy?

3.1 The TCA provisions in this area are limited to state-to-state disputes and have very limited provisions directly involving other stakeholders - we therefore have only limited input. Broadly speaking we see them as in line with existing WTO practice – although the rebalancing mechanism is novel. Clearly the scope for unilateral action in this mechanism is significant and this could have an impact on policy formulation. However, as it is untested and we do not yet understand how the concepts of 'significant divergence' or 'material impact' will be interpreted, we do not yet have a sense of how it might influence the UK's regulatory autonomy. We also welcome the exclusion of investor-state dispute settlement procedures.

3.2 There are two main points of relevance to the voluntary sector and wider civil society that we would like to raise.

3.3 Firstly, there appears to be no clear mechanism implemented at the UK level for CSOs to raise issues pertaining to the implementation of the TCA with the UK Government. The intention is clearly that formal dispute resolution mechanisms will exclusively involve the parties, however, we believe it is important for wider stakeholders in both the UK and EU to be able to submit information and have a dialogue with the parties where issues surrounding the TCA arise. In the EU – this is achieved via an [online portal](#).¹ In the UK it would seem this is to take place via the UK Government's looser commitment to engage with the sector around the TCA and via the DAGs. However, commitments to involving civil society thus far have been weak and unclear. We cannot find a formal mechanism for raising issues with the UK Government, or indeed even who the appropriate contact would be, given the paucity of coordinated information online. **We recommend that to mitigate the lack of representation for individual and wider stakeholder interests in the dispute resolution mechanism, a single online portal be established by the UK Government around the TCA which would include (amongst other transparency related matters) a means for raising issues with the Government.**

3.4 Secondly, we welcome the inclusion in article 751 (3) and annex 48 paragraph 40 of an *Amicus Curiae* procedure. This allows civil society stakeholders, such as environmental organisations, to

¹ See: https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en#complaints

provide unsolicited written submissions to the arbitration panel to help inform the dispute resolution process. **However, it is currently unclear what transparency measures will be in place to enable interested stakeholders to identify, follow and submit evidence for specific disputes.**

4. How, ideally, should the transparency requirements around the meetings of UK/EU joint bodies, as set out in the TCA, be implemented both ahead of meetings and afterwards? How satisfactory are the requirements as currently set out in the Agreement?

- 4.1 A high level of transparency around the establishment and operation of the bodies created by the TCA is crucial to facilitating voluntary sector input. National membership bodies like WCVA, NCVO, SCVO and NICVA require ample notice of agendas, meeting schedules and contact details in order to disseminate information and to identify and consult our own stakeholders in a timely fashion.
- 4.2 To facilitate scrutiny, as well as discussions with devolved governments and stakeholders prior to key milestones, we would encourage the timely publication of information including the provisional agendas, minutes, schedule for upcoming meetings, membership and contact details of key TCA bodies including the Partnership Council, the Trade Partnership Committee, the Specialised Committees and the DAGs. Delays or gaps in publishing this information frustrates scrutiny and have a knock-on effect on stakeholders' and the devolved governments' ability to feed into the process. Current practice on the UK side surrounding the organisation of the first Partnership Council meeting rendered it impossible to coordinate locally to discuss issues to raise prior to the meeting. This problem is compounded by the lack of an obvious contact or contacts within the UK Government to proactively engage on issues. **We recommend that a team be established by the UK Government to specifically engage with the sector in a structured and coordinated fashion in the context of the TCA and the Withdrawal Agreement.**
- 4.3 The complexity of the institutional arrangements and limited capacity in the voluntary sector further amplifies the need for the transparent provision of information on the operation of the TCA institutions so that stakeholders with information on the practical effects of the agreement can proactively engage. Without commitments to this level of transparency it will be challenging for civil society to share information with the relevant TCA bodies and to maintain the 'close relationships' Lord Frost referred to as necessary to feed information up to the UK Government when he gave evidence to the House of Lords Select Committee on the European Union on 9 February 2021.² **We would welcome further information on the team responsible for maintaining contact that he also referred to.**
- 4.4 While we welcome the commitments to transparency in Annex 1 of the TCA, these are too limited in our view. Rules 10 and 13 provide that provisional agendas are to be published before meetings of the Partnership Council and Committees and rules 8, 10 and 13 provide that the minutes shall be made public following their approval. However, neither set of commitments provide a timeframe for this to happen. Furthermore, several of the provisions are optional – for

² Select Committee on the European Union, 'Oral Evidence: Future UK-EU Relations: Governance', available at: <https://committees.parliament.uk/oralevidence/1703/pdf/>

example rule 10 (2) provides that the parties ‘may’ publish decisions and recommendations of the Partnership Council. **We encourage the parties to go beyond the TCA commitments in these areas.**

4.5 In practice the implementation even of these limited commitments seems inconsistent and we are finding it challenging to identify what materials are available, whether they will be made available and when key meetings are due to take place. For example, the UK Government and the EU published the agenda for the first meeting of the Partnership Council on their websites on 7 June with the meeting taking place on 9 June. The agendas for the first Specialised Committee meetings were either not published or are too difficult to find on the UK Government website. This contrasts somewhat with the EU approach where we have been able to locate the agendas for several Committees’ first meetings, however again, these were not published in a timely fashion (the Specialised Committee of Fisheries’ agenda was published one day before the meeting on the EC website).³

4.6 We note that the EC website has collated the various agendas for the first meetings into a single page and that this does not currently appear to be the case on the UK Government website. Materials pertaining to the institutional structure of the Withdrawal Agreement do have a ‘[collection](#)’⁴ which aggregates policy documents and materials, but even this is not straightforward to locate on the [Brexit landing page](#). Meanwhile, documents pertaining to the TCA and its bodies appear to have to be manually searched for amongst the list of all the ‘[policy papers and consultations](#)’,⁵ which offers no useful categorisation. There is a missed opportunity to collate agendas, schedule for upcoming meetings, minutes and relevant contact details for both the TCA and the Withdrawal Agreement on the main Brexit page. Furthermore, this page could also act as a portal for stakeholders to raise issues with the UK Government.

4.7 We would also encourage the parties to go beyond releasing only ‘statements’ following meetings,⁶ as these lack any useful details. We also note that despite the deadline being passed for approving the minutes of the first Partnership Council meeting, at the time of writing, no minutes have been published yet (and this commitment in the treaty is not optional).

4.8 We also note that there is currently no information available about how:

- a. the UK Government proposes to organise the UK DAG(s) and the CSF, both of which are clearly important to our sector
- b. how civil society representatives will be recruited
- c. how wider engagement will take place
- d. how the devolved governments and the interests of stakeholders from the four parts of the UK will be represented in the system
- e. and where the secretariat will sit.

³ See: https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement/meetings-eu-uk-partnership-council-and-specialised-committees-under-trade-and-cooperation-agreement_en

⁴ See: <https://www.gov.uk/government/collections/withdrawal-agreement-joint-committee>

⁵ See: <https://www.gov.uk/search/policy-papers-and-consultations?parent=%2Fbrexit&topic=d6c2de5d-ef90-45d1-82d4-5f2438369eea>

⁶ See the UK Government statement following the first Partnership Council Meeting here: <https://www.gov.uk/government/news/uk-government-statement-on-the-meeting-of-the-partnership-council-9-june-2021>; and the EU’s here: https://ec.europa.eu/info/publications/statement-european-commission-following-first-meeting-partnership-council-under-eu-uk-trade-and-cooperation-agreement-0_en

- 4.9 The EU has already moved ahead with the initial stages of establishing its own DAG and European civil society has been actively involved in this process. If the intention is for the first CSF meeting to take place this year, there are timing constraints to consider. One of the CSF aims is to inform discussions in the Trade Partnership Committee meeting and therefore must take place first and there are many steps that need to happen prior to a CSF meeting for it to be a useful exercise:
- a. Both the UK and EU DAGs must be recruited for, hold their first meetings and discuss with stakeholders what the agenda for the CSF should be.
 - b. Civil society stakeholders need time to gather evidence on how the TCA is working in practice, formulate positions and discuss recommendations. These steps require that local discussions take place and that information be disseminated. As this is a lengthy process, DAGs need to be informed at least 2 months in advance of the CFS meetings.
 - c. The UK and EU DAGs are expected to hold a DAG-to-DAG meeting prior to the organisation of the CSF.
 - d. The CSF must take place before the Trade Partnership Council meets in order to inform those discussions
- 4.10 Furthermore, **careful consideration will need to be given to how the UK's devolved nature is reflected in the UK DAG structure. We recommend that the UK DAG have thematic sub-structures to enable geographic representation from the governments and civil societies of each of the four parts of the UK.**

5. How could the UK/EU TCA institutions be utilised by the UK and EU to raise and, where possible, address, concerns about legal and policy developments on the other side which are of importance to them respectively (e.g. for the UK, changes in EU regulation in key areas like financial services, pharmaceuticals and energy)?

- 5.1 We acknowledge that future regulatory divergence between the UK and the EU may cause concerns for the parties, but we would also highlight that civil society in the UK and in the EU shares a wide range of common policy interests. A recurring theme of the voluntary sector's discussions about the implications of Brexit has been the sector's concern over the loss of links with European partners, and any potential negative impact this may have on opportunities for sharing knowledge and best practice across borders. This learning and information sharing has been valuable for the voluntary sector and there is a desire to maintain and deepen these connections both within and outside of the formal TCA arrangements.
- 5.2 As highlighted in the previous question on dispute resolution, it is unclear how individual stakeholders can raise their concerns with the UK Government in relation to the implementation of the TCA. Given that the formal dispute resolution mechanism is limited to state-to-state disputes, it is particularly important that channels of communication with relevant TCA bodies be made available to the sector if issues are to be raised for discussion.

However, given the current inaccessibility of information at the UK level around the organisation of the TCA institutions, it is currently difficult to see how stakeholders can highlight concerns about legal and policy developments to these fora. To illustrate this point, it is currently easier for us to identify relevant contacts to discuss the implementation of the TCA via colleagues in the EU than with the UK Government.

5.3 We recommend that the UK Government considers making an interactive portal [similar to the one used by the EC](#) available for stakeholders to communicate concerns,⁷ and that the contact details of departments leading on various aspects of the TCA be made available.

5.4 We believe that a further unnecessary complication for the sector arises from the disparity between the remits of the CSF (Part 2) and DAGs (includes Part 3), as the latter is heavily involved in steering the agenda of the former. This raises the question of how the CSF could engage in dialogue about concerns raised by the DAGs in relation to a provision under Part 3. **We recommend that in future reviews of the TCA the parties address this gap through discussions in the institutions of the TCA.**

5.5 Finally, as the CSF is the main vehicle for civil society to discuss legal and policy developments surrounding the implementation of the TCA – and that civic society is at the forefront of experiencing the new UK/EU relationship, it seems odd that it cannot make recommendations to the Trade Partnership Committee.

6. What should the Government’s approach to representing the UK in meetings of the TCA’s joint bodies be? Should the Devolved Administrations be involved in discussions that relate to devolved competences? How should the Government ensure cross-departmental and cross-sectoral coordination of its positions in the various bodies established by the TCA?

6.1 We believe that both the devolved governments and civil society from across the UK have a role in scrutinising and feeding into the work of the joint TCA bodies and that therefore the UK Government should adopt an inclusive approach in representing the UK by engaging at the devolved level in a timely fashion prior to key meetings. This is important, not only because there are intersections between the TCA and devolved competence, but also more broadly to foster trust and a sense of joint ownership of the new UK/EU relationship and its governance mechanisms. Engagement should be regular, transparent and structured, potentially be considered in the review of intergovernmental relations and should go beyond the Joint Ministerial Committee system.

6.2 In some parts of the UK the voluntary sector typically has regular and highly structured engagement with their devolved government. For example, in Wales this has a statutory basis in the form of the Third Sector Scheme and Third Sector Partnership Council. Engaging the

⁷ See: https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en#complaints

devolved governments at an early stage will further facilitate consultation with our sector via these mechanisms and support the identification of issues to share with TCA bodies.

- 6.3 We also believe it is also important for the UK and devolved governments to encourage discussion in their respective legislatures on the role of the Parliamentary Partnership Assembly. In particular around how to structure devolved input. The scale of the task of scrutinising the many facets of the UK / EU relationship moving forward is significant – requiring stakeholders to monitor discussions in the TCA bodies as well as the devolved, UK and EU legislative landscapes across numerous areas. **As such, opportunities for constructive discussion within the UK across governments, legislatures and sectors should be coordinated and maximised.**
- 6.4 We would encourage the UK Government to open and maintain coordinated and regular dialogue with the voluntary sector as a part of its role in representing the UK in joint TCA bodies. Following the initial delays in ratifying the TCA and the subsequent lack of information surrounding the first Partnership Council meeting, we are working to establish new lines of communication with the UK Government to discuss what structures we can help put in place at the UK level to facilitate this. **In particular we are keen to explore ways to coordinate discussion at the devolved level around issues arising from the implementation of the TCA, with a view to feeding these up to a new UK level Civil Society Forum comprised of stakeholders with interest and expertise in this area. If recognised by the UK Government as an interlocutor, a platform such as this could usefully support discussions in and around the joint bodies and facilitate Government engagement with a cross-section of the voluntary sector that is also representative of devolution.**

7. How is the EU approaching the implementation of the TCA and the work of the joint UK/EU bodies, and what are the potential implications of its approach?

- 7.1 We have maintained close contact with EU colleagues on the implementation of the TCA's civil society provisions and as a result have more information available to us on how they are being implemented in the EU than in the UK. Prior to the UK's withdrawal from the EU, we hosted the European Economic and Social Committee's (EESC) Brexit Follow-up Group in each of the four parts of the UK, to discuss future cooperation within the context of the future relationship agreement.
- 7.2 This group has been replaced by the EESC EU-UK Follow-up Committee which is supported and organised by the EESC External Relations section (REX). This group has met several times already, including with some of our representatives. It has two mandates:
- 7.3 On the TCA – until the DAG is established:
- a. Regular engagement with the Commission relevant services to shape the future EU DAG, secure clarifications on the deal and share feedback from civil society on the early days of implementation;
 - b. Re-establishing contacts with UK civil society in preparation for the creation of a UK DAG

- c. Monitoring of the ratification process as well as the European Parliament consent
 - d. Liaising with the Follow-up Committee on International Trade.
- 7.4 And its non-TCA related functions are:
- a. Monitoring progress on future area for cooperation with the UK
 - b. Monitoring the implementation of the Withdrawal Agreement (rights of citizens, Northern Ireland Protocol...)
 - c. Monitoring of other agreements like the Civil and safe use of nuclear energy
 - d. Monitoring UK developments relevant to EESC priorities;
 - e. Coordinating communication across the EESC on EU-UK relevant issues, centralising feedback from sections and disseminating reports and updates to Section Presidents.
 - f. Building ties with the UK mission in Brussels.
- 7.5 The EESC will also serve as the secretariat for the EU's TCA DAG and be their primary vehicle for organising the CSF. The EU DAG will mirror the EESC's method for representing civil society – that is to say equal numbers of representatives from the third, private and trade union sectors. It is suspected that this will be a comparatively large group compared to other DAGs, with numerous observers, given the breadth of the TCA compared to other treaties. A few positions on the DAG will be reserved for EESC members, and the remaining members are being chosen via a [recruitment process](#) launched by the Commission on 9 June 2021.⁸ The EU DAG will meet 2-3 times a year and will aim to publish its minutes, though its activities are limited by its resources and the capacity of the EESC's ability to serve as the secretariat.
- 7.6 We believe that the role played by of the DAG secretariat will be crucial and we know from the EU's trading history that its partners sometimes struggle to support their own DAG(s). **To mitigate this, early consideration should be given to the role and locus of the UK DAG secretariat. While the EU chooses to have a single DAG per trade agreement, this does not have to be the case in the UK – for example Canada maintains two separate DAGs for the EU-Canada Comprehensive Economic and Trade Agreement (one on labour and one on the environment). Given the UK's devolved nature and the novel breadth of the TCA, we recommend that the UK Government gives careful consideration to a DAG formation that is representative. This might involve having a single DAG with sub groups across themes to enable discussions to reflect devolution for example. We would welcome a conversation with the UK Government on how we can support a structured role for the voluntary sector in this process.**
- 7.7 The EU's approach to institutionalised engagement with civil society means that in navigating the civil society provisions of trade agreements, the political and organisational objective is to ensure that the CSF is a helpful exercise in informing the parties' joint work on implementing and reviewing the agreement. This requires close coordination and discussion between the sector and the parties as well as sufficient time to organise. We have concerns that the UK Government is approaching the civil society provisions of the TCA too slowly and is not communicating sufficiently with the sector to comfortably organise the CSF in 2021. Particularly given that the various steps we highlighted in answer to the question on transparency must take place beforehand.

⁸ See: <https://ec.europa.eu/transport/sites/default/files/2021-06-09-call-eu-domestic-advisory-group-eu-uk-trade-cooperation-agreement.pdf>

- 7.8 **We are concerned that there will be a representativeness and engagement gap between the EU and the UK's approaches to implementing the civil society provisions of the TCA that will frustrate the organisation of the CSF as a representative and useful exercise.** This is partly due to the UK lacking a platform at the UK level, recognised by the UK Government, to coordinate collective discussions within and with civil society. This has made it much more difficult to have high level discussions that are geographically representative around how the sector discharges the role provided for it by the TCA (and other trade agreements). At the EU level mainstreaming discussions and the organisation of DAGs and the CSF through the EESC has guaranteed that civil society at the EU level has had structured engagement on implementing the TCA's provisions. We also note that the recruitment process for the EU DAG started almost 2 months ago, that the EU already has an online portal available for civil society to contact the Commission with complaints about the TCA and has started collating transparency related materials online (it is currently only possible to locate Specialised Committee meeting agendas on the EU's website).
- 7.9 Finally, we note that this is very much uncharted territory for the sector, the devolved and UK Governments and to some extent even the EU. It will take time for civil society and the Governments of the UK to adjust to the TCA's institutional provisions and to find a format that is appropriate. **However, we believe that transparency and regular communication is necessary to achieve this and would welcome a recommendation by the Committee that the UK Government commits to meaningful and regular engagement with the sector and the devolved governments on the implementation of the TCA and its civil society provisions.**