

CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE

11th Meeting 2021, Session 6

25 November 2021

The Scottish Government's International Work

1. As part of its inquiry into the Scottish Government's international work, the Committee is looking at how the Scottish Government engages internationally and what it wants to achieve from this work.
2. This includes both its EU and wider international engagement, its support for international development and how its external affairs policies interact with UK government policies in these areas.
3. As part of its inquiry the Committee launched the call for views [Inquiry into the Scottish Government's international work](#), which closed on 29 October 2021. All relevant submissions have been published [online](#).
4. At this meeting the Committee will take evidence from one panel of witnesses who will join the meeting remotely—

Panel

- Dr Kirsty Hughes, Fellowship of the Royal Society of Edinburgh (FRSE)
 - Dr Adam Marks, International Policy Executive, Law Society of Scotland
 - Professor Murray Pittock, University of Glasgow, co-chair Scottish Arts and Humanities Alliance (SAHA)
5. Members can find the written submissions from the witnesses mentioned above in **Annexe A**.
 6. In addition, SPICe have provided a summary of the written evidence, which is attached in **Annexe B**, and a briefing on the Scottish Government's external affairs policies, which is attached in **Annexe C**.

Committee Clerks
November 2021

Written submission from Scottish Arts and Humanities Alliance (SAHA)

The Scottish Arts and Humanities Alliance (SAHA) is a joint initiative of eleven Scottish Higher Education institutions, the Royal Society of Edinburgh and the Scottish Graduate School for Arts & Humanities. It was established to give a public and collective voice to the Arts and Humanities in Higher Education and will also make connections as appropriate with work at a UK and international level to promote the value of SHAPE (social sciences, humanities and the arts for people, the economy and the environment). It is engaged with the Irish Humanities Alliance on a variety of issues, including those relating to the bilateral strategic review of 2020, and with the European Alliance (EASSH).

This new Alliance is designed to promote more widely the contribution of the Arts & Humanities to positive change in society, to economic progress and to cultural understanding. It will work with the Scottish Council for Global Affairs in promoting Scotland-related culture and policy events internationally

How should the Scottish Government engage with the EU and what should it seek to achieve from its engagement?

The Scottish Government should engage with the EU to promote bilateral mobility in areas connected to education, research and cultural and third sector institutions, while promoting Scottish research and innovation in the EU. This has already begun through the Saltire Fellowship and Scholarship schemes, but at a much lower budgetary level than that planned by the Welsh Government and as yet without a bilateral component. Currently, SAHA members including the University of Glasgow (CIVIS, the Guild), University of Edinburgh (LERU, UNA Europa), and University of St Andrews (Europaeum) are engaged in promoting and developing such bilateral links across the EU.

The SG should use its Brussels, Berlin, Paris, Dublin and other hubs to promote work connected to the implementation of the bilateral strategic review (Dublin), events on EU and Scottish Govt regulation, policy and research priorities (Brussels) and cultural and scientific relations, including the promotion of Scottish produce in its major export markets, from shellfish to whisky (Berlin, Paris and elsewhere). It should seek- via its Cultural Relations Strategy- to achieve cultural, individual and institutional mutual benefit and understanding, as well as promoting Scottish research, culture and commercial advantage. The Scottish Government should measure the effectiveness of its diasporic and soft power outreach. Burns Suppers linked to trade and development should be a normative feature and SG should also be represented at major EU Scottish related events such as the British Chambers of Commerce Burns Supper in Frankfurt.

How might the EU-UK TCA affect how the Scottish Government engages with the EU and how will that engagement interact with UK government policy in this area?

The TCA has various related impacts which lie outside its immediate remit, such as the Internal Market Act (IMA) which extends the power of the UK government over

Scottish policy areas to an unprecedented extent, with the capacity to impact Scotland's distinctive reputation for high quality (and non genetically modified) produce, as well as many other areas. The tone of TCA implementation on the UK side is also at times challenging. In areas particularly of relevance to SAHA, SG should facilitate the dialogues between HEIs and Research Organizations which support the fullest practicable engagement with EU Horizon research funding (as we do via EASSH and other HE partnerships). In other areas impacted by TCA/IMA, SG should focus on presenting Scotland and its strengths in culture, produce, research, education, business location, development and international partnership as distinctively and positively as possible with a view to building relationships and awareness (and having a strategic plan to do so) without cutting across the legal relationship established by the TCA.

What role should the Scottish Parliament have in scrutinising the operation of the TCA and how the TCA influences the Scottish government's engagement with the EU?

Given the Scottish vote in 2016 and subsequent votes in the Scottish Parliament indicating cross-party opposition to the UK government's approach to the implementation of the Brexit process, the Scottish Parliament should have the powers of scrutiny that better match its democratic mandate within Scotland.

What should the priorities of the Scottish Government be in developing its external affairs work and overseas presence, including its international development policy?

1. Promoting the distinctive culture, produce, tourism, education and research qualities of the Scottish brand, bearing in mind that the Anholt annual brand survey shows that our cutting edge global research achievement in STEM is globally underestimated and the role of Arts and Humanities research (including in place-based USP building and development) is likewise.

2. Promoting educational, research and workplace mobility between Scotland and the EU

3. Develop bilateral policy reviews (which may include development policy) similar to the 2020 review with the Irish Government with European and other relevant partners, including ambassadorial events to reach out to audiences/institutions/NGOs in the EU engaged with Scotland.

4. Develop relationships in a focused and strategic manner to support 1-3

Does the Scottish Government's budget for external affairs deliver value for money?

There is a minority view within Westminster-noted in recent research-that the UK government's promotion of the UK overseas does not make sufficient use of its secondary or 'sub-brands', most centrally Scotland (Gethins 2020). Given Scotland's comparative position within the UK in renewable energy, whisky, gin, technology and CCI development and shellfish and salmon exports, inward investment and a host of other areas, the Scottish Govt should promote Scotland abroad via a definitive and

renewable strategy. At the same time it should take a careful view about the balance between engagement and political risk when opening new offices. It should also arguably have KPIs reflective of the performance of its hubs and the opportunities they bring. For example, the profiling of Glasgow's Translational Medicine Strength in Places bid by Brian Dornan's team in Scotland House was hugely helpful in securing funding which has created significant benefit for the Scottish economy. More of these effects should be traceable, measurable and provide good news stories for Scotland and the hubs. Even Burns Suppers have an economic impact and follow ups on the effects of Scottish produce promotion more generally would also be useful (see https://www.gla.ac.uk/media/Media_707867_smxx.pdf).

What principles should inform the Scottish Government's international engagement (e.g. economic, democratic, human rights, climate change or cultural / 'soft power' priorities)? And should that engagement be based on geographical or policy focus? Please elaborate.

As has been noted earlier, Scotland's national brand (in everything from culture to climate and other scientific research- how many know that we are 25 times over represented in globally highly cited papers per capita) should be the focus with a strategy of building relationships (including through mobility), policy exchange and agreement and commercial advantage. The diaspora should be engaged with in these areas wherever practical.

There should be a focus on the EU and centres of major Scottish diaspora outwith it in building presence and relationships.

How do the Scottish Government's EU and international policies interact with UK foreign and diplomatic policy in these areas?

They reinforce them by building a more diverse representation of the strengths of UK foreign policy abroad.

There will inevitably (at least at present) be a divergent focus on EU relationships which require sensitive handling.

Written submission from the Royal Society of Edinburgh

The Royal Society of Edinburgh is Scotland's national academy of science and letters. It is a registered charity, operating on a wholly independent and non-party-political basis and providing public benefit throughout Scotland.

How should the Scottish Government engage with the EU and what should it seek to achieve from its engagement?

1.1 The Royal Society of Edinburgh (RSE), Scotland's National Academy, welcomes the opportunity to provide its views to the Constitution, Europe External Affairs and Culture Committee on the Scottish Government's International Framework. Our response was facilitated through an RSE working group, which included RSE Fellows and other academic experts.

1.2 When the UK was in the European Union, the Scottish Government engaged with the European Union both indirectly – by shaping the UK's EU policy when it addressed devolved issues – and more directly, using the resources of the Scottish Government's Brussels' office. Officials based in Brussels, while serving the Scottish Government, were formally part of the UK's permanent representation for diplomatic purposes, giving them privileged access to EU networks and agencies.

1.3 Engagement with the European Union remains critically important, for economic, political and cultural reasons. For example, implementing the European Union (Continuity) (Scotland) Act 2021, which empowers Scottish Government ministers to ensure Scots law keeps pace with EU law, will require close monitoring of the EU legislative process. Scottish exporting businesses also require support to ensure their compliance with EU regulations when seeking to access to the EU internal market. However, EU engagement is now much more difficult because of Brexit. The UK, including Scotland, can no longer rely upon privileged access to EU decision-making bodies. This makes it important to maintain a Scottish Government presence in Brussels, recognising that, as part of a country that is no longer an EU member state, more resources will have to be invested to ensure productive engagement. It also means maximising networking opportunities within Brussels, building direct relationships with EU officials and member state representatives, and continued cooperation with the UK officials who make up the UK Mission to the EU.

1.4 Limited resources should be targeted effectively. Small nations and states, including independent States, are most effective externally when they identify strategic priorities and areas of expertise that will benefit international partners. We note and welcome the intentions set out in the Scottish Government's January 2020 publication, *The European Union's Strategic Agenda for 2020-24: Scotland's Perspective*. We encourage the Committee to scrutinise how those broad intentions are being implemented, and to elicit more specifically the areas of strategic priority.

1.5 As well as engaging with EU institutions, we see value in conducting a scoping exercise of networks, programmes, agencies and forums that remain open to the Scottish Government as both a sub-state administration and an external actor. These can take the form of multilateral fora, organisations of professional bodies with

access to EU agencies, EU programmes available to (territories within) non-members. Parliamentary groups, such as the European Friends of Scotland in the European Parliament, can also be useful forums for dialogue, networking and interaction. It is also important to build stronger relationships with the European External Action Service (EAS), which will require new diplomatic expertise on engaging with the EAS.

How might the EU-UK TCA affect how the Scottish Government engages with the EU and how will that engagement interact with UK government policy in this area?

2.1 The UK's relationship with the European Union will remain of paramount importance, despite Brexit. The EU-UK Trade and Cooperation Agreement underpins the new relationship, along with the UK-EU Withdrawal Agreement. Both are in the process of implementation. Disagreements over the implementation of the Northern Ireland protocol, annexed to the Withdrawal Agreement, are creating tensions in the relationship and could affect implementation of the TCA.

2.2 The UK Government entered into these agreements on behalf of the UK, exercising its treaty-making powers. But areas of devolved responsibility are affected directly by the TCA and the Withdrawal Agreement. It is imperative that the Scottish Government maximise all available intergovernmental channels to ensure devolved interests are represented in their governance and implementation. We are concerned that previous Joint Ministerial Committees (JMCs) designed to ensure devolved governments could input into UK policy discussions and negotiating positions with respect to the European Union – the JMC (Europe) and the JMC (EU negotiations) – are no longer operational. We await the outcome of the Joint Review on Intergovernmental Relations and underline the importance of a strategic level intergovernmental committee on European matters, alongside portfolio level engagements.

2.3 The TCA will be governed by the EU-UK Partnership Council, supported by specialised committees. These arrangements are still to be fully established but are similar to the governance structure set up to oversee implementation of the Withdrawal Agreement. There is no guaranteed representation for the devolved administrations in any of these forums. We believe that the Scottish Government should be represented in EU-UK joint committees where these are focused on devolved policy fields. We note the commitments given by Lord Frost, Minister of State at the Cabinet Office, in a letter to the devolved administrations on 27 May 2021. He noted that the Government would expect to facilitate attendance by representatives of devolved administrations, at similar seniority to UK Government attendees, where items of devolved competence are on the agenda for the Partnership Council or Specialised Committees, and that these should be preceded by a collective meeting between the UK and devolved governments, following the practice established for WA Joint Committee meetings. We recommend that the Committee seek assurances that these commitments are being upheld, and that scrutiny is focused on whether these intergovernmental engagements provide effective opportunities to represent and advance devolved interests.

2.4 It is important that intergovernmental engagement go beyond providing an opportunity for consultation. We also see a strong case for including a consent mechanism before any changes to these agreements, or key decisions are made with respect to their implementation, where these have an impact on devolved matters. The consent mechanism set out in section 12 of the European Union Withdrawal Act 2018 may provide a model.

What role should the Scottish Parliament have in scrutinising the operation of the TCA and how the TCA influences the Scottish government's engagement with the EU?

3.1 In light of the importance of the TCA for devolved competences, the Scottish Parliament maintains an important scrutiny function, with respect both to the implementation of the agreement and its effect on the Scottish Government's engagement with the EU and the UK Government. That scrutiny function should be undertaken by portfolio committees for those policies affected by the new UK-EU relationship, as well as more strategically by the Constitution, Europe External Affairs and Culture Committee. In carrying out this function, the Scottish Parliament can help to generate understanding of the link between domestic and international affairs.

3.2 To enhance its capacity for scrutiny and ensure that devolved interests are considered as part of Westminster committee processes, we recommend that the Scottish Parliament seek to revive and reorientate the Interparliamentary Forum on Brexit, in a version suitable to the discussions surrounding the EU-UK TCA. This forum should consider the scrutiny of foreign policy more broadly, in light of the interdependence between devolved and international policy.

3.3 In the last session, the Scottish Parliament and the Scottish Government reached a Written Agreement on Intergovernmental Relations, which is expected to continue in the new session. We recommend that this agreement, which obliged the Scottish Government to report on ministerial-level engagement with the UK Government, be broadened to include reporting on the Scottish Government's engagement with the European Union. This would increase transparency and strengthen accountability.

What should the priorities of the Scottish Government be in developing its external affairs work and overseas presence, including its international development policy?

4.1 Much like other small nations and states, the Scottish Government should adopt a strategic approach if it is to be effective in its external relations. This includes ensuring that priorities in external relations are driven by, and match, domestic priorities. It is widely acknowledged within the scholarly community that the separation between international and domestic policy is increasingly artificial. For example, domestic objectives of promoting a wellbeing economy, the transition to net zero, promoting gender equality and protecting human rights are shaped by international decision making and developments. These priorities can also inform the Scottish Government's external affairs, by strengthening and deepening ties in issue-based partnerships in the form of expertise-based NGOs and intra-regional

networks. Effective external relations also require identifying a few priority areas where Scotland has, and is recognised as having, niche expertise that is of value to strategic partners. The 2017 International Framework does not clearly identify such priorities, partners or courses of action, and we recommend this be revisited.

4.2 Strategic alliances are also key to successful external relations. The Arctic policy framework and work towards building partnerships with nations and states in the High North represent positive steps in strengthening strategic alliances.

4.3 The Scottish Government has a network of seven international offices in priority locations around the world, as well as an office in London. These offices are designed to raise Scotland's profile internationally, support Scottish businesses, attract inward investment and promote cultural exchange and research, building on the work of Scottish Development International. These government offices are small in resource terms and are generally embedded within, and work closely with, the UK's overseas representation, and represent a positive model of cooperation rather than competition. The extent to which they act, or have the capacity to act as, regional hubs is unclear, although we understand a forthcoming office in Copenhagen will be the base for a Nordic hub.

4.4 The Scottish Government has a small presence in international development, with successful community-based approaches developed in the context of the Scotland-Malawi partnership now being extended to development work in Rwanda, Zambia and Pakistan. We especially welcome the work in Pakistan in light of the strong cultural and family connections many Scots share with communities in Pakistan. We note and welcome the more strategic approach following the recent review of the international development programme, and encourage the committee to scrutinise the extent to which its principles are adhered to.

Does the Scottish Government's budget for external affairs deliver value for money?

External affairs represent a small part of the Scottish Government's budget: £26.6mn in 2021-22, or 0.05% of the portfolio budget. This small proportion is commensurate to the level of constitutional responsibility the government has in this policy sphere, but this active portfolio also reflects the increasing co-dependence of domestic and international issues. In our view, the budget represents good value for money, as exemplified by the growth in exports, the profile of Scotland internationally, the outcomes of targeted investments in international development, and the positive relationship that Scotland continues to have with the European Union and strategic partners, despite Brexit.

5.2 The Scottish Government's resource constraints in this area reinforce the need to build capacity. The RSE supports the development of the government's International School, as well as investments such as the Saltire Research Awards programme, designed to enhance international research collaborations. Strengthening the partnership between the academy and both the Scottish Government and the Scottish Parliament offers a clear opportunity to leverage additional capacity. It could also counterbalance the negative impact resulting from

the loss of Scotland's participation in the Erasmus scheme. Scotland-based researchers are already conducting world-class research on topics and regions that feature prominently in the Scottish Government's external relations portfolio, and are embedded within international networks of academics, NGOs and policy makers. The Scottish Centre on European Relations (until it closed in 2021) developed a wide range of policy networks across the EU (in Brussels and national capitals) interacting with leading EU think tanks, policy-makers, officials and diplomats, academics and media. It shows how non-governmental actors can make important contributions to Scottish-EU policy dialogue. We welcome strongly the newly emerging Scottish Council on Global Affairs (SGCA). In its interdisciplinary research projects, and as a forum for events and public engagement on global affairs, the SGCA will pool and integrate existing expertise across academic and wider networks, raise awareness of global issues affecting Scotland and Scottish external relations, and build capacity by training the next generation of internationally-oriented practitioners and policy makers.

What principles should inform the Scottish Government's international engagement (e.g. economic, democratic, human rights, climate change or cultural / 'soft power' priorities)? And should that engagement be based on geographical or policy focus? Please elaborate.

6.1 All of the above are important. While it should be recognised that policy decisions often in practice involve dilemmas and trade-offs, a principles-based approach would help to underpin a strategic approach to international engagement. Some principles that may be central to Scotland's external engagement include the commitment to multilateralism, international law, democracy and the pooling and sharing of sovereignty. A clear commitment to multilateralism can contribute to greater cultural awareness at home, nurturing a welcoming culture for immigration. Principles should be closely aligned with the strategic policy objectives and the broader purpose of international engagement: to future-proof Scottish society by identifying early warning trends, nurturing relationships with key allies, building policy and strategic networks, and ensuring citizens are informed and equipped to navigate the global community.

7.1 Engagement should be motivated by both geography and policy concerns. Geographically, partnerships with the near abroad, especially intra-regional partnerships with the Nordic/Baltic countries and Ireland, enable Scotland to enhance its influence in the international arena. Developing relationships with key EU partners, including through the international hubs, can be important to ensuring a cooperative relationship with the EU. None of these partnerships need undermine UK foreign policy. Investment in the Scotland-Ireland relationship over recent years has been widely viewed as positive, without stepping on the UK Government's toes (as shown in the 2021 joint report on Ireland-Scotland relations).

7.2 International norms are no longer solely set by nation-states. Strategic alliances on common policy issues with key partners and within international organisations and networks can further serve to nurture the perception of Scotland as a valuable and relevant international ally, whilst supporting the Scottish Government's domestic interests. These policy networks should be fluid, adapt to specific policy ambitions,

and align with the strategic goals of the external relations programme. The aforementioned scoping exercise we recommend (para 1.4) would also help to ensure opportunities to access and gain influence within international organisations and networks are not missed.

How do the Scottish Government's EU and international policies interact with UK foreign and diplomatic policy in these areas?

8.1 The Scottish Government's ability to develop its own international policy is constrained and shaped by its limited constitutional and resource capacity, and UK Government policy decisions. The Scottish Government's EU engagement strategy has helped to maintain a positive image for Scotland internationally. Nonetheless, continuing strains in the UK-EU relationship, especially if the UK Government retreats from commitments made in the Withdrawal Agreement and the TCA, risk generating reputational and material damage internationally to which Scotland, by association, may also be exposed.

8.2 However, as the UK's role in the world changes after Brexit, there may be opportunities in the intergovernmental arena to enhance the role of devolved governments in shaping what comes next. We acknowledge that the political outlook of the two administrations, as well as the relationship between them, may make this difficult in the short term. We contend nonetheless that UK foreign policy ought to reflect the whole of the UK as it is; that implies taking account of views and interests across the territorial system, not just those articulated in Westminster. The legitimate interests of the devolved governments in the UK's European and international policy were recognised in the Memorandum of Understanding and accompanying concordats agreed in the early years of devolution.

8.3 The two governments, despite political tensions and opposing visions of Scotland's constitutional future, continue to share many internationally interests, including in combating climate change, promoting human rights, and maintaining security. These interests would continue to align whatever the constitutional and political relationship between them. In developing an external relations policy aligned with its own domestic strategic objectives, the Scottish Government can play a constructive role in advancing both Scottish and UK interests internationally. This could enable it to take advantage of the wider resources and access of the UK Government and lend its expertise in key policy areas to work cooperatively with UK governmental agencies and representatives to their mutual benefit.

Written submission from The Law Society of Scotland

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

How should the Scottish Government engage with the EU and what should it seek to achieve from its engagement?

-Post Brexit engagement

Whilst it is important to consider the limitations of the devolved legislatures and administrations in regards to foreign policy, a number of devolved areas such as culture, education and the environment will be influenced by the trade deals that the UK agrees to and the existing TCA with the EU. The influences on these devolved areas could be improved by targeted engagement with overseas organisations, national and sub-national governments. The primary focus of Scottish Government engagement with the EU will probably be upon the implications of the ‘keeping pace power’ in the Scottish Government’s UK Withdrawal from the European Union (Continuity) (Scotland) Act [2021].

The Scottish Government has to this stage engaged on the international stage on areas such as the environment and net zero, well-being, and innovation. Democratic accountability means that MSPs must be engaged with these decisions and be able to scrutinise what engagement the Scottish Government is undertaking in Brussels and elsewhere to further the government’s agenda.

Oversight should also include how EU law and policy continue to influence UK and Scottish law and policy particularly in terms of “keeping pace” but on also the impact on the UK economy or businesses. Importantly, oversight could aim to ensure that the UK, in negotiating future arrangements with the EU, seeks to maintain and improve the many legal frameworks that have been built over the last 46 years, including those governing the provision of legal services across the EU.

We have previously noted our concern about the lack of formal mechanisms for the devolved legislatures to be able to express views to either the United Kingdom Parliament or the European Parliament. We note the existence of the European Parliament ‘European Friends of Scotland’ friendship group which serves as an informal network of MEPs representing different political groups of the European Parliament with the objective of helping to facilitate dialogue on specific areas of mutual interest (<https://www.gov.scot/groups/european-friends-of-scotland/>). Whilst this network will be useful for engagement with the European Parliament we feel

more formal mechanisms for MSPs to oversee the Scottish Government's international engagement, particularly in relation to the EU where Scottish Ministers could make decisions to remain in lockstep with EU law upon the basis of discussions, would be beneficial. One potential option would be a memorandum of understanding between the Scottish Parliament and the Scottish Government covering this.

We also welcome that UK and EU Parliaments have been able to establish a Parliamentary Partnership Assembly consisting of members of both Parliaments "as a forum to exchange views on the partnership". This has been approved by the EU parliament on the 5 October 2021 and we encourage the UK parliament to start formal post-Brexit engagement between MPs and MEPs as soon as possible (https://www.europarl.europa.eu/doceo/document/TA-9-2021-0398_EN.html).

-Offices

The Scottish Government European Union Office in Brussels works to ensure that Scotland, Scottish issues and the work of the Scottish Government are understood by the EU Institutions, Member States and regions. The Brussels Office used to provide support to Scottish Ministers when they participated in EU Council meetings, to meet with the EU Commission or the European Parliament. Whilst Scottish Government ministers will no longer be attending Council meetings, they should maintain engagement with both the Commission and Parliament where it is relevant to devolved policy areas. The office will need to support these meetings and, through networking and using informal groups such as the 'friends of Scotland', ensure that ministers meet relevant officials and politicians. It will be more important than ever that the office monitors developments in the EU Institutions and reports to colleagues in Scotland so that policies of relevance to the 'keeping pace power' of the UK Withdrawal from the European Union (Continuity) (Scotland) act are flagged in advance.

This work should be supported by a range of policy and cultural events to take place in the conference centre in Scotland House.

How might the EU-UK TCA affect how the Scottish Government engages with the EU and how will that engagement interact with UK government policy in this area?

The EU-UK TCA will continue to effect a wide range of policy areas which will impact on the Scottish Government. The Cabinet Office published in late 2017 a list of 111 points where EU Law intersects with devolved matters. The subsequent establishment of common UK Frameworks illustrates the many areas that will continue to be (to varying extents) influenced by the TCA. The TCA has established a joint UK-EU Partnership Council which is similar in structure to the Joint Committee that previously governed the UK-EU Withdrawal Agreement. The Council will take decisions by mutual consent and is chaired jointly by a European Commissioner and a UK Government minister. Scottish Government ministers attend these meetings and since the Partnership Council is the main forum for interaction between the UK and EU they should, where possible, work with the UK

Government to ensure issues are dealt with through this mechanism. The Council is only one of a number of structural arrangements (e.g. the Trade Partnership Committee and various specialised committees and working groups) mentioned in Title III of the TCA, which create a dialogue between the UK and the EU.

As we have stated elsewhere, we believe it is important to ensure a “whole-of-government” approach in terms of the engagement with the EU. The concept is also of particular relevance to the future governance of the TCA. In this context “whole of government” should be interpreted as “whole of governance” to include not only the UK Government but also the Scottish Government, the Northern Ireland Executive, the Welsh Government and external stakeholders. The Scottish Government’s decision to implement a ‘keeping pace power’ means there will potentially be the desire from Scottish Ministers to engage with the EU outside the Partnership Council to discuss the laws and regulations they are intending to implement which may not be applied across the rest of the UK. It is important that the UK Government and Scottish Government maintain transparency with each other about this engagement and that the UK and Scottish Parliaments scrutinise this where appropriate.

What role should the Scottish Parliament have in scrutinising the operation of the TCA and how the TCA influences the Scottish government’s engagement with the EU?

-Scrutiny and engagement of devolved areas of TCA

Scottish ministers and the Scottish Parliament will continue to be responsible for observing and implementing international obligations in areas of devolved competence as defined in schedule 5 paragraph 7 of the Scotland Act 1998. Since Scottish Government ministers will be responsible for applying the TCA it follows that the Scottish Parliament may also play an important role in scrutinising their actions. Any actions in relation to the ‘keeping pace power’ of the Scottish Government’s UK Withdrawal from the European Union (Continuity) (Scotland) act [2021] should also be scrutinised and that includes oversight over intergovernmental relations and the Scottish Government’s overseas engagement. There is potentially an issue here in that the Act does not give a clear method for reporting when Scottish Ministers have decided not to use the ‘keeping pace power’ and we would emphasise that we would welcome the Scottish Parliament having oversight of this and any associated engagement.

What should the priorities of the Scottish Government be in developing its external affairs work and overseas presence, including its international development policy?

-Support for relevant sectors

The activities of the Scottish Government’s overseas presence will need to be reassessed as under the terms of the UK’s withdrawal from the EU it has become a third country in regards to its relations with the EU. For many sectors that are the responsibility of the devolved parliaments and administrations international support from government will become more important as the organisations seek to find new ways to engage with partners. Scotland Europa and the Scottish Government’s

offices will need to play an important role and we would like to see further clarity regarding the aims of these institutions going forward. One example of a sector looking for support is Scotland's Creative industries. EU funding of media projects was cross border and in the future ensuring those links are maintained will require support from the UK and Scottish Governments.

Civil Society will also play an important role, for example the CBI will remain a part of Business Europe. Whilst these links will continue it is important to note that many of these European organisations are structured around EU membership and inevitably this will result in a period of adjustment during which appropriate support will be required.

The links between these UK, Scottish and European organisations also serve to highlight the importance of the relationship between the UK Government and devolved administrations. There will need to be coordination between the two so that Scottish organisations based in countries with or without a Scottish Government office receive advice that aligns to a common strategy.

-Long term

Whilst it is too early to comment on the Turing Scheme it is worth bearing in mind that a number of our future lawyers have taken advantage of programmes to broaden their horizons during their studies, which rely on reciprocal arrangements with other EU universities (<https://www.turing-scheme.org.uk/>). The ERASMUS programme, the best-known EU student exchange programme established in 1987, had a number of participants from Scottish law schools. It is also important that the Scottish Government continues to support students from abroad through schemes such as the Saltire Scholarship where possible (<https://www.gov.scot/news/supporting-eu-students/>).

-Legal Services

Now that the UK has left the EU and the transitional period has ended Scottish solicitors in Europe will be subject to the host bar's rules in relation to third country lawyers (unless they took steps to protect any rights acquired prior to 31 December). This will vary from country to country. We would encourage the Scottish Government and the UK Government to work together closely with the professions to support Scottish solicitors in European countries and elsewhere across the globe.

Does the Scottish Government's budget for external affairs deliver value for money?

We have no comment to make.

What principles should inform the Scottish Government's international engagement (e.g. economic, democratic, human rights, climate change or cultural / 'soft power' priorities)? And should that engagement be based on geographical or policy focus? Please elaborate.

Whilst we would welcome transparency from the Scottish Government on what its principles are we do not see any particular reason they should be limited in scope, though all activity must be accountable to the Scottish Parliament.

Scotland's legal professionals are not based in one location and therefore it is important that there is not an overly narrow geographic focus. We therefore encourage the Scottish Government to have a presence covering as many areas as possible but also encourage them to work closely with the UK Government to ensure that there are equal levels of support when there is no Scottish Government office.

How do the Scottish Government's EU and international policies interact with UK foreign and diplomatic policy in these areas?

No additional comments.

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Constitution, Europe, External Affairs and Culture Committee

11th Meeting, 2021 (Session 6), Thursday, 25 November

Inquiry into the Scottish Government's international work – summary of written evidence

Introduction

The [Constitution, Europe, External Affairs and Culture Committee is currently undertaking an inquiry looking at how the Scottish Government engages internationally and what it wants to achieve from this work](#). The Committee published its [call for views](#) on 15 September 2021. The call for views closed on 29 October 2021.

21 written submissions were received. 5 of the responses received were from individuals and 16 from organisations.

The Committee asked for views on eight questions which covered the Scottish Government's European and wider international engagement. This paper provides an overall summary followed by an analysis of the views provided under each question.

Overarching themes emerging

The main themes which arose from the written evidence are provided below.

Engagement with the EU

The responses to the call for views supported the view that the Scottish Government should continue to engage with the European Union following the UK's departure from the European Union. Some respondents also suggested that the Scottish

Government should prioritise its EU engagement over its external engagement with the rest of the world.

Whilst it was recognised that the UK's departure from the EU has changed the nature of Scotland's engagement with the bloc, there was agreement that the Scottish Government's focus on engagement with the EU should be targeted at a limited number of policy areas with respondents clear that the Scottish Government should focus its engagement on policy areas of mutual interest such as climate change and energy policy.

The impact of the EU-UK Trade and Cooperation Agreement

Respondents recognised that following the entry into force of the EU-UK Trade and Cooperation Agreement (TCA), a number of the policy areas covered by the TCA (and the Withdrawal Agreement) are areas of devolved competence. As a result, it was agreed that there should be a role for the Scottish Government and Scottish Parliament in engaging with the TCA. Responses suggested this engagement should be on the basis of a cross-UK approach to engagement with the EU.

Most respondents said that it was important that the Scottish Parliament continues to scrutinise the operation of the TCA because of the number of areas covered which sit in areas of devolved competence. There was also agreement that parliamentary scrutiny of the Scottish Government's engagement with the European Union is also important.

External Affairs

Whilst most respondents suggested continued engagement with the EU should be a priority, it was recognised that wider external engagement was also necessary. As with its EU engagement policy, it was suggested that the Scottish Government's external affairs policy should adopt a strategic approach if it is to be effective in its external relations and that this includes ensuring that priorities in external relations are driven by, and match, domestic priorities.

There was general agreement that the Scottish Government should prioritise its international engagement through both a thematic and geographic focus. In addition, most respondents who addressed the question suggested that the Scottish Government should use culture and soft power to promote Scotland internationally.

International Development

Several responses to the call for views were received from organisations working in the international development sector. These responses were clear that international development should be a clear priority for the Scottish Government's external affairs policy.

Respondents also suggested that Scotland's international development policy should be based around developing thematic expertise in areas such as climate change, gender and migration including supporting refugees.

There was no clear consensus on whether the geographic focus of the international development policy should be focussed on a small number of countries or more widely.

Working with the UK Government

There was general agreement amongst those who responded to this question that the Scottish and UK Governments shared many of the same international priorities. It was suggested that with developments to intergovernmental mechanisms, the devolved administrations could play a more significant role in shaping the UK's foreign policies post Brexit.

Issues by question

The next section of this briefing provides more detail on the submissions under each of the questions posed in the call for views.

How should the Scottish Government engage with the EU and what should it seek to achieve from its engagement?

There was a common view amongst the responses that the Scottish Government should continue to engage with the European Union following the UK's departure from the EU. Some respondents also suggested that the Scottish Government should prioritise its EU engagement over its engagement with the rest of the world.

Kirsty Hughes (founder of the Scottish Council on European Relations) wrote:

“Brexit has put many barriers in the way of, and added costs to, the range of ways Scotland relates to the EU and its member states. So, the Scottish government should aim to ensure that Scotland's European relations recover from any negative impacts of Brexit as far as possible and to support wider non-governmental Scotland-EU relations where appropriate.

Good relations with the EU, its member states and regions, are in Scotland's broadest interests – economic, cultural, social and in terms of climate change. So the Scottish government's European strategy should aim to promote and deepen its relations across the EU (within its resource limits). It should focus on policy issues and relationships where EU and Scottish priorities are most aligned and on key priorities for Scotland in the EU context (whether aligned or not).”

Given that the Scottish Government is now seeking to engage with the EU from the outside, a number of respondents highlighted the changed circumstances for engagement. For example, Anthony Salamone wrote:

“Now that Brexit is realised, and Scotland is outside the EU, the Scottish Government faces significant challenges to conducting successful engagement and acquiring actionable influence within the EU. As the author has identified in other work, the Scottish Government is confronted with three principal challenges. First, its access to EU institutions, policies and programmes has been reduced and is dependent on the minimal EU-UK relationship. Second, its relevance in Brussels has decreased given that Scotland is neither part of the EU (with a right to participate in EU affairs) nor part of the EEA (with political legitimacy to participate). Third, it is associated with the UK Government's approach towards the EU to some extent, even though it does not wish to be so, since Scotland is part of the UK. Credible strategy should acknowledge these realities and structure engagement in response to them.”

There was agreement that the Scottish Government's focus on engagement with the EU should be targeted at a limited number of policy areas with respondents clear that the Scottish Government should focus its engagement on policy areas of mutual interest. For example, the Royal Society of Edinburgh wrote:

“Limited resources should be targeted effectively. Small nations and states, including independent States, are most effective externally when they identify strategic priorities and areas of expertise that will benefit international partners. We note and welcome the intentions set out in the Scottish Government's January 2020 publication, *The European Union's Strategic Agenda for 2020-24: Scotland's Perspective*. We encourage the Committee to scrutinise how those broad intentions are being implemented, and to elicit more specifically the areas of strategic priority.”

A number of responses highlighted the need for the Scottish Government to continue to engage with the EU in specific policy areas. For example, Murray Pittock representing The Scottish Arts and Humanities Alliance wrote that the Scottish Government should work with the EU to promote mobility in areas connected to education, research and cultural and third sector institutions, while promoting Scottish research and innovation in the EU.

The submission from Glasgow Life highlighted the need for continued engagement with the EU by the Scottish Government. Areas highlighted for promoting engagement and developing links include cultural and creative industries, destination and business tourism and conventions, major events, museums, artists, libraries and sport.

Respondents also called for the Scottish Government to support the continued engagement of Scottish civil society organisations with the EU. For example, Scotland's International Development Alliance suggested the Scottish Government should support civil society to maintain strong links with European organisations in the international development policy area.

On a similar theme, Mark Majewsky Anderson representing Glasgow Caledonian University wrote that the Scottish Government should continue its engagement with the EU and seek to find ways to ensure that Scottish organisations and citizens can continue to benefit from EU programmes as much as possible.

Whilst most submissions were positive about the Scottish Government's engagement with the EU, Anthony Salamone of European Merchants suggested that the Scottish Government's engagement with the EU currently lacks strategy:

“The Government presently lacks requisite strategy to undertake successful post-Brexit engagement with the EU and the wider world. In its Programme for Government, the Government commits to producing a new Global Affairs Framework. The creation of that framework is a vital opportunity to establish strategic direction and greater coherence for the Government's European and external relations...”

...The envisaged Global Affairs Framework should define primary principles and objectives for European and external relations which are values-based, ensure alignment between domestic policy and external action, and correspond to Scotland's current constitutional circumstances."

Given the Scottish Government's continuing engagement with the EU in policy areas such as the environment and net-zero along with the implications of the keeping pace power, the Law Society of Scotland highlighted the importance of parliamentary oversight:

"Democratic accountability means that MSPs must be engaged with these decisions and be able to scrutinise what engagement the Scottish Government is undertaking in Brussels and elsewhere to further the government's agenda.

Oversight should also include how EU law and policy continue to influence UK and Scottish law and policy particularly in terms of "keeping pace" but on also the impact on the UK economy or businesses. Importantly, oversight could aim to ensure that the UK, in negotiating future arrangements with the EU, seeks to maintain and improve the many legal frameworks that have been built over the last 46 years, including those governing the provision of legal services across the EU."

Developing formal mechanisms for scrutiny were also proposed by the Law Society of Scotland:

"we feel more formal mechanisms for MSPs to oversee the Scottish Government's international engagement, particularly in relation to the EU where Scottish Ministers could make decisions to remain in lockstep with EU law upon the basis of discussions, would be beneficial. One potential option would be a memorandum of understanding between the Scottish Parliament and the Scottish Government covering this."

Anthony Salamone also suggested the need for "cross-party engagement with meaningful avenues for all-party cooperation". On the opportunities for parliamentary scrutiny, Anthony Salamone suggested the following approach:

"Given that the Scottish Government aims to increase its European and international engagement, it would be logical for the Scottish Parliament to intensify its scrutiny of the Government in this field. The Parliament could scrutinise the design, content, implementation and evaluation of Government strategy on European and external relations, considering the central role which strategy should occupy. It could review the balance of engagement to ensure that the Government's activity is focused on Europe and does not expand into new geographical areas without a strategic basis. It could assess the extent to which the Government's plans and initiatives accord with its strategy, and the degree to which its bilateral and multilateral engagements align with its principles and objectives. Such scrutiny could be conducted regularly...

... By enhancing its scrutiny of all dimensions of the Scottish Government's European and external relations, the Parliament could ensure that the Government faces more robust and substantive challenge in an area into which it is expanding on the basis of manifest, but often undefined, ambitions.”

How might the EU-UK TCA affect how the Scottish Government engages with the EU and how will that engagement interact with UK government policy in this area?

The Trade and Cooperation Agreement (TCA), together with the Withdrawal Agreement, has set the main framework for EU-UK relations since the start of 2021. The responses which addressed this question recognised that a number of the policy areas covered by the TCA (and the Withdrawal Agreement) are areas of devolved competence. As a result, it was recognised that there is a role for the Scottish Government and Scottish Parliament in engaging with the TCA. The Royal Society of Edinburgh addressed this point:

“The UK Government entered into these agreements on behalf of the UK, exercising its treaty-making powers. But areas of devolved responsibility are affected directly by the TCA and the Withdrawal Agreement. It is imperative that the Scottish Government maximise all available intergovernmental channels to ensure devolved interests are represented in their governance and implementation. We are concerned that previous Joint Ministerial Committees (JMCs) designed to ensure devolved governments could input into UK policy discussions and negotiating positions with respect to the European Union – the JMC (Europe) and the JMC (EU negotiations) – are no longer operational. We await the outcome of the Joint Review on Intergovernmental Relations and underline the importance of a strategic level intergovernmental committee on European matters, alongside portfolio level engagements.

The TCA will be governed by the EU-UK Partnership Council, supported by specialised committees. These arrangements are still to be fully established but are similar to the governance structure set up to oversee implementation of the Withdrawal Agreement. There is no guaranteed representation for the devolved administrations in any of these forums. We believe that the Scottish Government should be represented in EU-UK joint committees where these are focused on devolved policy fields.“

The Law Society of Scotland emphasised the need for a cross-UK approach to engagement with the EU and on the TCA:

“As we have stated elsewhere, we believe it is important to ensure a “whole-of-government” approach in terms of the engagement with the EU. The concept is also of particular relevance to the future governance of the TCA. In this context “whole of government” should be interpreted as “whole of

governance” to include not only the UK Government but also the Scottish Government, the Northern Ireland Executive, the Welsh Government and external stakeholders. The Scottish Government’s decision to implement a ‘keeping pace power’ means there will potentially be the desire from Scottish Ministers to engage with the EU outside the Partnership Council to discuss the laws and regulations they are intending to implement which may not be applied across the rest of the UK. It is important that the UK Government and Scottish Government maintain transparency with each other about this engagement and that the UK and Scottish Parliaments scrutinise this where appropriate.”

The Law Society of Scotland added that as a result of the UK’s departure from the EU, Scotland’s relationship with the block will need to be reconsidered:

“For many sectors that are the responsibility of the devolved parliaments and administrations international support from government will become more important as the organisations seek to find new ways to engage with partners. Scotland Europa and the Scottish Government’s offices will need to play an important role and we would like to see further clarity regarding the aims of these institutions going forward.”

What role should the Scottish Parliament have in scrutinising the operation of the TCA and how the TCA influences the Scottish government’s engagement with the EU?

Most respondents said that it was important that the Scottish Parliament continues to scrutinise the operation of the TCA because of the number of areas covered which sit in areas of devolved competence. The Royal Society of Edinburgh proposed a number of ways in which scrutiny of the TCA could be improved:

- By ensuring a role for the Scottish Parliament’s portfolio committees in scrutinising policies affected by the new UK-EU relationship, as well as more strategically by the Constitution, Europe External Affairs and Culture Committee.
- That the Interparliamentary Forum on Brexit should be revived and reoriented into a version suitable to the discussions surrounding the EU-UK TCA.
- That the Written Agreement on Intergovernmental Relations between the Scottish Government and Scottish Parliament should be broadened to include reporting on the Scottish Government’s engagement with the European Union.

The European Movement in Scotland wrote that Scottish Parliament should have a distinct role in scrutinising the TCA, since it impacts on a wide range of devolved responsibilities. It added:

“If the democratic mandate is to be maintained, the Scottish Parliament must be able to scrutinise all Scottish Government activity, including its engagement with the EU, through the normal parliamentary processes. EMiS would encourage the Scottish Government to publish routinely details of its engagement with the EU, the actions of its international offices and its approach on all European matters. This is of considerable interest to citizens and demonstrates Scotland’s commitment to openness, international co-operation and an EU future.”

Respondents also highlighted the Scottish Government’s Continuity Act which provides a further reason for continued engagement with developments at EU level. The Law Society of Scotland set out the impact of the Continuity Act and the need for scrutiny of decisions where to and not to align:

“Since Scottish Government ministers will be responsible for applying the TCA it follows that the Scottish Parliament may also play an important role in scrutinising their actions. Any actions in relation to the ‘keeping pace power’ of the Scottish Government’s UK Withdrawal from the European Union (Continuity) (Scotland) act [2021] should also be scrutinised and that includes oversight over intergovernmental relations and the Scottish Government’s overseas engagement. There is potentially an issue here in that the Act does not give a clear method for reporting when Scottish Ministers have decided not to use the ‘keeping pace power’ and we would emphasise that we would welcome the Scottish Parliament having oversight of this and any associated engagement.”

Kirsty Hughes highlighted that the TCA presents specific challenges and risks for the Scottish parliament and government post-Brexit in that “TCA governance structures and political and policy dialogue may result in less opportunities for input for devolved institutions than before Brexit”.

“The Scottish Parliament should have an important role in scrutinising the TCA but the feasibility of this is questionable. There are serious questions for both Westminster and Holyrood as to the extent of transparency that is and will be forthcoming from the UK government around the governance structures of the TCA (and the extent to which there will be Scottish representation – and the opportunity for genuine and active Scottish participation in these structures).

The Scottish Parliament should also have a clear overview and role in assessing how the ‘keeping pace’ powers are being used by the Scottish government. This should be across the board and not only where keeping pace is done through the powers of the Continuity Act. The limited provision for parliamentary oversight in the Act is highly regrettable.”

What should the priorities of the Scottish Government be in developing its external affairs work and overseas presence, including its international development policy?

Whilst most respondents suggested continued engagement with the EU should be a priority, it was recognised that wider external engagement was also necessary. For example, Kirsty Hughes wrote:

“Scotland’s trade, cultural links, soft power reputation and more extend globally so prioritising some external affairs work beyond the EU is clearly necessary.”

As with its EU engagement policy, it was suggested that the Scottish Government’s external affairs policy should adopt a strategic approach if it is to be effective in its external relations and that this includes ensuring that priorities in external relations are driven by, and match, domestic priorities. The Royal Society of Edinburgh submission set this out in more detail:

“For example, domestic objectives of promoting a wellbeing economy, the transition to net zero, promoting gender equality and protecting human rights are shaped by international decision making and developments. These priorities can also inform the Scottish Government’s external affairs, by strengthening and deepening ties in issue-based partnerships in the form of expertise-based NGOs and intra-regional networks. Effective external relations also require identifying a few priority areas where Scotland has, and is recognised as having, niche expertise that is of value to strategic partners. The 2017 International Framework does not clearly identify such priorities, partners or courses of action, and we recommend this be revisited.

Murray Pittock representing The Scottish Arts and Humanities Alliance suggested the Scottish Government’s policies should focus on “promoting the distinctive culture, produce, tourism, education and research qualities of the Scottish brand”.

Police Scotland expressed support for the Scottish Government’s international development programme and principles and added that:

“Reflecting the diversity of the communities in Scotland, and the interconnectivity between national and international dimensions to poverty, justice, inequality and climate change Police Scotland supports activities and initiatives which contribute towards community safety and wellbeing, both within Scotland and beyond our borders.”

The Scottish Council of Jewish Communities (SCJC) response focussed on the impact of Scottish responses to international affairs on the Jewish community in Scotland suggesting that “it is frequently the case that these cause increased fears and feelings of anxiety among people who, in many cases, already feel vulnerable”. The SCJC highlighted concerns about the Scottish Government’s procurement policy

which “strongly discourages trade with illegal settlements in the Occupied Palestinian Territories” and also drew attention to the Scottish Parliament writing that during the whole of Session 5 (2016–21), more motions were submitted about Israel than about any other country.

“It is a cause for concern to the Jewish Community that this disproportion on behalf of the Scottish Government and Parliament may indirectly encourage antisemitism from those who conflate the local Jewish community with the State of Israel, especially as there is strong evidence that the situation has worsened since the Scottish Council of Jewish Communities carried out an inquiry during 2012-13, funded by the Scottish Government, into the experience of Being Jewish in Scotland.”

As a consequence, the SCJC suggested that the success of Scottish Government’s international engagement work should be judged “not only by the extent to which it enables Scotland to flourish on the international stage, but also by its impact in Scotland”. The SCJC highlighted the policies of Scottish local authorities and the experience of Jewish students studying in Scotland as areas where the Scottish Government’s international policies have had an adverse impact.

International Development policy

Several responses to the call for views were received from organisations working in the international development sector. These responses were clear that international development should be a clear priority for the Scottish Government’s external affairs policy. For example, Firefly International, a small Scottish NGO wrote:

“International development should be a clear priority and highlighted as such with considerably more prominence in the public domain than currently. This could become a 'niche' area, distinguishing it from rUK despite the relatively small size of Scotland’s international development budget.”

Scotland’s International Development Alliance suggested that the Scottish Government’s external affairs work and overseas presence should prioritise a leadership role on sustainable development including:

- measuring and reporting on Scotland’s global environmental and human impact footprint holistically;
- adopting a headline measure of progress beyond GDP growth that represents the broader concerns of human and ecological wellbeing;
- using public procurement, public policy and leadership on business practice in Scotland to support sustainable development;
- Supporting calls for cancellation of all external debt payments due to be made in the next two years for those countries in need, and most urgently, for 77 of the world’s lowest-income countries as identified by the World Bank; and,

- Championing loss and damage in climate finance, while boosting the quantity of grant-based support in climate finance and ensure more of it is focused on the least developed and most vulnerable countries.

Firefly International added that Scotland should look to establish partnerships with other members of the international development community, especially smaller EU member states such as Ireland, as well as non-EU members such as Norway.

“Through meaningful strategic partnerships with others, small nations can add value to their relatively small scale budgets. The importance of enhancing development effectiveness through development cooperation has long been recognised and encouraged and Scotland would do well to demonstrate its maturity and wisdom as a donor to ensure at least alignment and at best active funding partnerships with one or more international donors who share its priorities.”

The Scotland Malawi Partnership wrote that the Scottish Government should “look to prioritise constructive civic engagement through its international development work, for maximum impact”:

“We feel that this focus on engaging and working through civic society is a bold, innovative and effective approach to international development. Conventional approaches to international development have not delivered all they have promised; they have not offered the transformational change needed on climate change and the Sustainable Development Goals. In part this is because, too often, these have been imposed solutions, parachuted from the global north, and disengaged from the realities of life. A community-driven approach, which builds on the myriad civic links which exist, and which empowers the people of both nation, offers a genuinely noteworthy new approach, which is fast gaining global recognition.”

Respondents also suggested that Scotland’s international development policy should be based around developing thematic expertise in areas such as climate change, gender and migration including supporting refugees.

There was no clear consensus on whether the geographic focus of the international development policy should be focussed on a small number of countries or more widely. Some responses highlighted concerns that the policy should not over extend itself and there was a call from the Scotland Malawi Partnership for a continued focus on Malawi.

The Scottish Emergency Medicine -Malawi Project expressed support for the Scottish Government’s international Development policy when it was delivered in conjunction with civic society.

Does the Scottish Government's budget for external affairs deliver value for money?

The Royal Society of Edinburgh stated that the Scottish Government's external affairs budget of £26.6mn in 2021-22, or 0.05% of the portfolio budget was good value for money:

“as exemplified by the growth in exports, the profile of Scotland internationally, the outcomes of targeted investments in international development, and the positive relationship that Scotland continues to have with the European Union and strategic partners, despite Brexit.”

In the context of Brexit, Kirsty Hughes wrote that the Scottish Government's external affairs impacts and effectiveness “look considerable”. She highlighted the Scottish Government's ability to maintain good relations and a positive image for Scotland with EU partners though she added “how this is valued compared to budget is an open question, but it is clearly of value”.

Anthony Salamone of European Merchants emphasised the need for European and international engagement to be subject to assessment and evaluation based on the commitments of the Scottish Government set out in the Programme for Government. Anthony Salamone also set out criteria under which the Scottish Government's overseas offices should be evaluated:

“The Scottish Government's network of representative offices located in the EU and the wider world (sometimes called ‘Innovation and Investment Hubs’) is often the focus of political attention when assessing Government engagement. This network is, however, only one component of its European and external relations. In written evidence to the previous committee, the author defined five criteria for evaluation of the Government's representative offices: (1) the work and performance of each office; (2) relationships and connectivity between the offices; (3) relationships and connectivity between the offices (collectively and individually) and Edinburgh; (4) policy strategy and direction in Edinburgh; and (5) learning and future development, including expansion of the network. The operations of these representative offices should be fully integrated into Government strategy, forming a coherent network.”

Scotland's International Development Alliance wrote that its members welcomed the commitment to increase the International Development Fund to £15m per annum. On scrutiny of the budget, it added:

“To deliver further value for money, a normative approach to international development budgeting would be welcome. This would inflation-proof the budget and drive towards political consensus, over time.

That said, more scrutiny over this spend is essential.

This scrutiny should be led by parliament using a Policy Coherence for Sustainable Development (PCSD) approach, perhaps using a screening tool like the OECD Screening tool.

Such scrutiny might be effectively carried out by a standalone Committee like CEEAC, and this would be a step forward, especially if scrutiny of this kind was built into its remit, and there was a duty to report regularly.

However, we emphasise that a PCSD approach to parliamentary scrutiny should be embedded across all committees to ensure a coherent approach to everything Scottish Government does, as per the PCSD definition below.”

The Scotland Malawi Partnership also welcomed the increase in the International Development Fund to £15 million per year, on achieving value for money, it wrote:

“The Scottish Government achieves greatest value for money where it applies something different and innovates, where it challenges norms and assumptions, and where it looks to work in a collegiate, collective and collaborative manner with civic society. By working with and through civic society, the Scottish Government achieves far greater impact with the funds available. For every pound spent on the Scotland Malawi Partnership, for example, around £200 is levered from Scottish civic society.”

The Scotland Malawi Partnership’s response was critical of the Scottish Government’s move to a having a mix of competitive and non-competitive funding opportunities for the international development fund arguing that:

“we feel competitive calls for applications are the most transparent and effective mode of grant-making, offering best value for money and leveraging maximum wider support and input. We encourage the Scottish Government to prioritise open calls wherever possible and include details within the annual development impact report on the proportion of funds which have been through a competitive process and the proportion that have not.”

It also criticised the Scottish Government’s decision to cancel the Small Grants Programme.

What principles should inform the Scottish Government’s international engagement (e.g. economic, democratic, human rights, climate change or cultural / ‘soft power’ priorities)?

The British Council wrote that in developing its external affairs work, the Scottish Government should include a focus on the benefits of cultural relations and soft power adding that:

“Successful international cultural collaborations are key in building and investing in long term relationships to secure mutually beneficial outcomes.

Particularly as the arts and education sectors develop out of the COVID19 Pandemic.”

The British Council submission included details of its work in promoting Scotland through its work to develop and grow Scotland's international connections and contribution across the arts, education and society sectors. Working in collaboration with other stakeholders such as Creative Scotland and Universities Scotland, the British Council provided details of a number of projects which have sought to keep Scotland's arts and education sectors internationally connected throughout the pandemic and promote Scotland's soft power. On the importance of Soft Power, the British Council submission stated:

“There is a growing body of research evidence that demonstrates the impact of cultural relations and soft power on trade, inward investment, tourism, international study and diplomatic influence. Soft Power Today (October 2017), a report published by the British Council and the University of Edinburgh, found that countries which invest in overseas cultural institutes see significant returns. For example, a 1% increase in the number of locations a cultural institution covers results in a near 0.66% increase in Foreign Direct Investment for the parent country. In 2016, such a rise would have been worth £1.3bn for the UK.”

Glasgow Life's submission highlighted the role of culture, sport and major events as key drivers of the Scottish soft power “brand” and suggested the Scottish Government should prioritise these. Glasgow Life added:

“It may also be helpful to consider developing an explicit soft power strategy integrated with other economic, environmental and social strategies underpinned by the National Performance Framework. This may facilitate improved clarity around objectives and improve planning and outcome delivery. Soft power is difficult to coordinate, so it is important that the development of any strategy or approach involves stakeholders across a wide range of settings and is based on learning from cities such as Glasgow.”

In a joint submission, Professor Kurt Mills (University of Dundee) and Dr Andrea Birdsall (University of Edinburgh) set out that human rights should be embedded in all aspects of the Scottish Government's international engagement. The submission also supported the Scottish Government's commitment to develop a feminist foreign policy and the need to continue to highlight and strengthen initiatives around climate justice, business and human rights and peacebuilding. The submission also cites challenges caused by the Scottish Government's relationships with countries with doubtful commitments to human rights stating the Scottish Government:

“will face many situations where its ambitions and commitment will be challenged as it expands its global reach. Scotland has relationships with a variety of countries, particularly in the area of development, whose commitments to human rights and democracy may be less than firm. The existing practice of providing aid directly to organisations on the ground, rather than through the ruling government, as it does, for instance, in Rwanda, is a positive and innovative way to provide support to the most vulnerable

internationally, while keeping an arm's length from human rights abusing governments. Yet, maintaining a delicate balance between the human rights aspirations of the Government and realities of global diplomacy will always be a challenge.

In addition, there will be other situations where such finesse will not be adequate in managing a relationship with a human rights-abusing state. This is particularly the case with China. Scotland obviously wants to have good relations with China. Trade links are important, as are cultural links.”

Bòrd na Gàidhlig wrote that “It is essential that Gaelic language and culture are included within Scottish Government’s external affairs work” because Gaelic is an essential aspect of Scottish identity and it contributes to the Scottish economy.

And should that engagement be based on geographical or policy focus? Please elaborate.

Respondents who answered this question largely agreed that the Scottish Government should prioritise its international engagement through both a thematic and geographic focus.

Anthony Salamone of European Merchants set out his view that the distribution of Scotland’s overseas offices should be based on a defined strategy and that the placing of an office in Warsaw did not necessarily make sense:

“In the Programme for Government, it pledges new offices in Copenhagen and Warsaw. While purposeful expansion of the network is reasonable, in proportion to Scotland’s current constitutional position, it should be based on defined strategy. These new locations were announced before work on the Global Affairs Framework had ostensibly begun. To date, the Scottish Government has offered no substantive rationale for the selection of these locations. If its objective were to build strategic connectivity in the EU, Rome, Madrid and The Hague would be the logical choices. Given that Poland is currently a politically isolated EU Member State in conflict with the EU institutions, the selection of Warsaw is a strange allocation of resources.”

The Royal Society of Edinburgh wrote that the Scottish Government’s engagement should be motivated by both geography and policy concerns, adding that:

“Geographically, partnerships with the near abroad, especially intra-regional partnerships with the Nordic/Baltic countries and Ireland, enable Scotland to enhance its influence in the international arena. Developing relationships with key EU partners, including through the international hubs, can be important to ensuring a cooperative relationship with the EU.”

How do the Scottish Government's EU and international policies interact with UK foreign and diplomatic policy in these areas?

The Royal Society of Edinburgh suggested that post-Brexit there may be opportunities in the intergovernmental arena to enhance the role of devolved governments in shaping what comes next:

“We acknowledge that the political outlook of the two administrations, as well as the relationship between them, may make this difficult in the short term. We contend nonetheless that UK foreign policy ought to reflect the whole of the UK as it is; that implies taking account of views and interests across the territorial system, not just those articulated in Westminster. The legitimate interests of the devolved governments in the UK's European and international policy were recognised in the Memorandum of Understanding and accompanying concordats agreed in the early years of devolution.”

Anthony Salamone proposed that the UK and Scottish Governments should seek to revisit the concordat on international relations:

“Nevertheless, the two governments should strive for better cooperation in this area. A new concordat on international relations could support such efforts. The current international relations concordat dates to 2013 and the EU relations concordat was rendered obsolete with Brexit. A new agreement could broaden the terms of sanctioned engagement to include political dialogue with states, the EU institutions and international organisations, codifying the Scottish Government's actual practice. It could also better delineate the operation of Scottish offices within the premises of UK diplomatic missions.”

The SCJC highlighted the need for a more unified approach to external affairs between the UK and Scottish Governments:

“It is in no-one's interests for the Scottish and UK Governments to be at loggerheads, and while legitimate difference of opinion and debate may help to clarify best policy, claims of “right” on the one hand, and refusals to discuss on the other, can only lead to less-than-best policy, confusion, and reduced feelings of confidence and security for the diverse communities both north and south of the border.”

Kirsty Hughes wrote that “in many ways, there is clear complementarity between Scottish government and UK government policies in external affairs”. She added that in principle, both Governments want to support and promote key areas notably trade, human rights and climate change.

Finally, Professor Kurt Mills (University of Dundee) and Dr Andrea Birdsall (University of Edinburgh highlighted an example of where Scottish and UK Governments have different views on foreign policy related matters:

“Scotland’s international interests and engagements, while perhaps somewhat divergent, are inextricably linked to Westminster. However, the UK Government does not always use Scotland’s unique identity and its existing soft power to its full advantage in the UK’s wider foreign policy. At the same time, where Scotland’s interests and policies do diverge from wider UK policy, it is incumbent upon Scotland to be up front about this.”

Iain McIver, Senior Researcher (Europe and International), SPICe Research

19 November 2021.

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

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

Constitution, Europe, External Affairs and Culture Committee

11th Meeting, 2021 (Session 6), Thursday, 25 November

Scottish Government External Affairs Policy Overview

This short briefing provides an overview of the Scottish Government's External Affairs policies. Further reading is available in the [SPICe External Affairs Subject Profile](#) and in the chapter [A Scottish foreign policy? In the SPICe Key Issues for Session 6 briefing](#).

Introduction

Throughout the history of devolution, successive Scottish Governments have ensured an international presence and pursued a form of international engagement. This approach dates back to the first Scottish administration which established an office in Brussels in 1999.

The International Framework

The Scottish Government's international policy is underpinned by its International Framework. The most recent iteration of the International Framework was published in December 2017. It sets out outcomes and ambitions both for the Scottish population and for Scotland's businesses and institutions, along with the economy.

The [International Framework](#) is targeted toward two overarching objectives:

- "To create an environment within Scotland that supports a better understanding of international opportunities and a greater appetite and ability to seize them".
- "To influence the world around us on the issues that matter most in helping Scotland flourish."

The Framework has a number of aims outlined under four strategic objectives:

- **Relationships and partnerships** - to Strengthen Scotland's external relationships, roles and networks. This includes links with governance bodies in Scotland's identified priority countries along with working with Scottish diaspora in the priority countries.
- **Reputation and attractiveness** - to build Scotland's reputation and international attractiveness. This includes working to promote Scotland's culture and values, boost Scotland's export performance, ensuring that Scotland remains an attractive location for investment and building on Scotland's education research capability.
- **Global outlook** - to enhance Scotland's global outlook which should make Scotland a more attractive place to visit and do business with. This focusses on, amongst other areas, developing trade and investment links and supporting education links.
- **European Union** - to protect Scotland's place in Europe. This focusses on the Scottish Government's determination "to protect and further strengthen our relationships with European partners to develop and deliver mutually beneficial outcomes, policies and programmes in pursuit of our objectives".

The Scottish Government has identified a number of "outcomes" and "ambitions" to measure delivery of the International Framework. These come under three categories - "our people", "our businesses and institutions" and "our Scotland". The outcomes and ambitions are shown in the boxes below.

Our People

- Are better able to engage in a global world.
- Are engaged in international exchanges and learning opportunities.
- Are aware of the international environment and Scotland's place in the world.

Our Businesses & Institutions

- Are more globally competitive.
- Are able to cooperate with international partners to exchange knowledge and best practice.
- Are able to maximise and take advantage of export and trade opportunities.
- Are innovative and able to access international funding opportunities.

Our Scotland

- Our economy is stronger and more resilient, there are greater employment opportunities and inequality is reduced.
- Our economic, educational, cultural and heritage strengths are globally recognised, supporting our positive international reputation.
- Our physical and digital connectivity is strengthened and Scotland is viewed as an attractive location to invest in and visit.
- Our international partners are supported in achieving our mutual goals. We show leadership and contribute to reducing global inequality and poverty.
- Our bilateral, multilateral and institutional relationships are strong and we are able to promote our interests overseas.

In the [2021-22 Programme for Government](#), the Scottish Government committed to creating “a new global affairs framework this year to guide Scotland's international engagement, grounded in a values-based approach, and a feminist approach to foreign policy”.

The International Framework sits above five engagement strategies focussed on the United States, China, Canada, India and Pakistan. In the cases of the United States, China and Canada, these strategies complement and inform the work of the Scottish Government's international offices in these countries which the Scottish Government describes as ["priority locations"](#).

Engagement with the EU

In addition to its other international priorities, a significant focus for the Scottish Government is developing Scotland's post-Brexit relationship with the European Union.

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

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

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

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

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

In March 2021, the Scottish Government published [Steadfastly European, Scotland's past, present and future](#). This policy document set out:

“how Scotland has been - and always will be - steadfastly European, whatever path others choose to take. It gives a tangible flavour of ways in which the Scottish Government wishes to make that mind-set a reality in the months and years to come.”

International offices

Following the Brexit vote, the Scottish Government has sought to further develop its international footprint, opening new offices in [London](#), [Berlin](#) and [Paris](#). These offices complemented the Scottish Government's existing offices in [Brussels](#), [Dublin](#), [Beijing](#), [Ottawa](#) and [Washington DC](#).

[According to the Scottish Government](#), the purpose of the international offices is to:

“to promote Scottish interests overseas and strengthen our relationships with countries and continents.”

In addition to the Scottish Government’s international presence, [Scottish Development International has a large international footprint](#) with over 30 offices across the globe.

In its [2021-22 Programme for Government](#), the Scottish Government committed to strengthening its Brussels office and to opening a Scottish Government Office in Copenhagen, “to increase Scotland’s economic and cultural visibility in the Nordic regions”. The Scottish Government also committed to opening an office in Warsaw, during the lifetime of the Parliament.

International development policy

The Scottish Government’s [current international development strategy \(IDS\)](#) was published in 2016. The document sets out the key elements of the strategy which are:

- A Vision that Scotland’s IDS contributes to the fight against global poverty, inequality, injustice and promotes sustainable development by embedding the UN Sustainable Development Goals in all that we do.
- The priorities in pursuit of this vision are to encourage new and historic relationships; empower our partner countries; engage the people of Scotland; and enhance our global citizenship.
- Scotland’s identified partner countries are Malawi, Zambia, Rwanda and Pakistan. The first 3 countries form the sub-Saharan African project base and there is a strong emphasis on education in Pakistan.
- The Scottish Government’s ways of working will involve investing the International Development Fund (IDF); utilising Scottish expertise; collaborating with others; and promoting the [Beyond Aid agenda](#).

The International Development Policy is supported by the Scottish Government’s [International Development Fund \(IDF\)](#). When it was introduced in 2005, the IDF was worth £3 million annually. The IDF’s value has then increased in stages to total £10 million in 2017-18. The IDF has been maintained at this cash value in the current financial year, alongside £177,000 for administration. In its [2021-22 Programme for Government](#), the Scottish Government committed to increasing the value of the IDF to £15 million and that future increases to the value of the fund will be in line with inflation. The Programme for Government also saw the announcement of a new £500,000 International Development Women and Girls Empowerment Fund, funding local organisations in partner countries to ensure women and girls are safe, equal and respected.

In 2019, [the UK's total overseas development assistance was £15,197 million](#)⁴. The Scottish Government-funded International Development Fund, [Humanitarian Emergency Fund and Climate Justice Fund](#) (total value £14 million) form part of the UK's total and represented 0.1% of the total UK spend in 2019.

The International Development policy has three funding streams:

- Development assistance (aid) projects
- Capacity strengthening initiatives
- Commercial investment initiatives

In September 2020, the Scottish Government announced a review of its approach to international development. On 3 March 2021, the Scottish Government provided an update on the results of the review through a [Government Initiated Parliamentary Question \(GIPQ\)](#). The outcome of the review was reflected in a [summary report](#) which was published at the same time.

As a result of the review, the Scottish Government's indicated that the International Development fund will adopt a number of changes. These are set out below:

- Build Back Fairer and Stronger – in an evolution of our funding, we will restructure our current funding streams to focus on sustainable economic recovery and institutional resilience within the key priority areas highlighted by our partner-countries, together with a new Equalities Programme.
- Global South Programme Panel – we will establish a panel of 'experts by experience' who principally work and reside in the global south along with representatives of our partner countries' diaspora who reside here in Scotland. This panel will be overseen on the part of the Scottish Government at Ministerial level and will help us ensure that global south voices continue to be heard beyond this Review, at the highest level.
- Updating our Funding Criteria – we will adjust our funding criteria to enable more partner-country based organisations to apply direct for funding, by removing the current requirement that Scottish Government international development funding only ever be accessed via a Scotland based organisation.
- Focusing our Offer – we will further refocus our international development offer, taking account of the constitutional and financial arrangement within which we currently operate and addressing the ongoing concern that we are trying to do too much given the available resources. In pausing and reflecting on where we can best contribute to our partner countries as they build back fairer and stronger from COVID-19, we want to ensure a focused approach that best matches needs and asks. The main changes in our programme in terms of thematic focus will be in Rwanda and Zambia, in response to the prioritisation by representatives of those countries' Governments and civil society.

The review led to the adoption of [eight new programme principles²](#):

1. **Partner-led country development**
2. **Equality**
3. **Amplify global-south voices**
4. **Inclusion and diversity**
5. **Collaboration and partnerships**
6. **Innovative, adapting and sustainable**
7. **Embrace technology**
8. **Accountable, transparent and safe**

The Scottish Government is now working with its delivery partners and partner countries to implement the changes to its international development programme and fund.

The External Affairs Budget

The 2021-22 Budget allocated £26.6 million for the External Affairs budget line. The International and European Relations budget line is allocated all but £100,000 of the External Affairs budget. There are 13 budget lines in the International and European Relations budget.

International and European Relations budget 2021-22

Level 4 Budget Line	2021-22 Budget (£)
External Affairs Advice and Policy	6.1 million
International Development	10 million
International Development assistance	177,000
Scottish Government office - Canada	570,000
Scottish Government office - China	550,000
Scottish Government office - United States of America	805,000
Scottish Government office - Paris	556,000
Scottish Government office - Brussels	2.3 million
International Relations	236,000
Humanitarian Aid	1 million
Scottish Connections - to support a range of activity aimed at enhancing Scotland's global reputation through continuing commitment to the Brand Scotland collaboration	1.5 million
European Strategy	485,000
Migration Strategy	2.2 million

The Scottish Government hub offices in London, Dublin and Berlin are supported from the Economy, Fair Work and Culture budget. The budget for the external network offices in the Economy budget is worth £3.3 million in 2021-22.

Iain McIver, Senior Researcher (Europe and International), SPICe Research

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