

Constitution, Europe, External Affairs and Culture Committee
Thursday 23 January 2025
3rd Meeting, 2025 (Session 6)

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

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

Clerks to the Committee
January 2025

SPICe

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Constitution, Europe, External Affairs and Culture Committee

3rd Meeting, 2025 (Session 6), Thursday, 23 January

Inquiry into the review of the EU-UK Trade and Cooperation Agreement – Phase 2: trade in services and mobility of people

This paper for today's Committee meeting includes background briefing on trade in services, mutual recognition of professional qualifications and mobility provisions which have also previously been highlighted in SPICe papers provided to the Committee during its consideration of this element of the TCA inquiry. The paper also includes an indication of issues the Committee may wish to discuss in today's evidence session.

A summary of the issues discussed at the meetings on 31 October, 21 November and 12 December is appended to this paper.

Context

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

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

- Trade in services, such as financial and legal services, (including mutual recognition of professional qualifications), and

- The mobility of people (including youth mobility schemes, Erasmus+, and touring artists and creative professionals).

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

Trade in services as an EU member state

Whilst the TCA provides a number of measures to facilitate the trade in goods, it is more limited in its coverage of trade in services. As a result of Brexit and the UK decision to leave the Single Market, UK service providers lost the right to free movement in the EU and the right to freely provide services across the EU.

For EU member states, the free movement of services covers two elements:

- i. the freedom of establishment for individuals and companies to provide services in another Member State on a 'permanent' basis and
- ii. the freedom to provide cross border services to a recipient established in another Member State on a 'temporary' basis. This may involve cross-border movement by the service provider or the recipient, or, in the case of services delivered online or at a distance, no cross-border movement by either party.

This means that EU based service providers who follow the regulations and rules in their home country can freely provide services elsewhere in the EU Single Market.

Writing for the UK in a Changing Europe, Dr Sarah Hall [summarised the possible barriers for trade in services](#):

“For services, barriers to trade are so-called non-tariff barriers that regulate both services delivered cross-border and the person delivering them, for example, by specifying the qualifications and work experience of the service provider. Trade agreements in services aim to make delivery of cross-border services easier by reducing (or removing) these barriers, by, for example, recognising qualifications from other jurisdictions so that individuals no longer require checks and paperwork. They also include provisions that make it easier to establish an office overseas.”

Trade in services under the Trade and Cooperation Agreement

When the UK left the EU, UK service providers such as lawyers, architects, businesspeople or other professionals lost the ability to freely provide services in EU member states. Instead, they are required to abide by the domestic rules, procedures, and authorisations applicable to their activities in the member states where they operate. This means complying with – often varying – host-country rules of each Member State, as they will no longer benefit from the EU's common rules or mutual recognition of standards across the EU.

European Commission [guidance on the TCA summarises how the agreement supports trade in services](#):

“The EU-UK Trade and Cooperation Agreement (TCA) provides for a significant level of openness for trade in services and investment in many sectors including professional and business services (e.g. legal, auditing, architectural services), delivery and telecommunication services, computer-related and digital services, financial services, research and development services, most transport services and environmental services...

... The actual level of market access will depend on the way the service is supplied: whether it is supplied on a cross-border basis from the home country of the supplier, e.g. over the internet ('mode 1'); supplied to the consumer in the country of the supplier, for example a tourist travelling abroad and purchasing services ('mode 2'); supplied via a locally-established enterprise owned by the foreign service supplier ('mode 3'), or through the temporary presence in the territory of another country by a service supplier who is a natural person ('mode 4'). In practice, the actual ability to supply a particular service or invest in a certain sector also depends on specific reservations set out in the TCA, which may be imposed on EU service suppliers when supplying services in the UK in some sectors, and vice-versa.”

The [World Trade Organisation provides further information on the four modes](#) which are used to define services trade and which are referenced above.

The TCA's impact on different service providers in the UK is not uniform as the Agreement does not provide a common approach for all services trade.

Mutual recognition of professional qualifications under the TCA

A contributor to the way in which the EU has facilitated trade in services is through a process of mutual recognition of professional qualifications.

European Union member states usually regulate access to professions such as medicine, nursing and engineering in their own countries in order to protect the public. However, requiring professionals to re-train if they want to work in another Member State would discourage mobility and limit their freedom of establishment. To avoid this, EU member states agreed an approach to facilitate the mutual recognition of professional qualifications meaning where a professional is qualified in one member state, they are able to freely work in another member state.

The TCA provides very little in the way of supporting continued mutual recognition of qualifications for UK workers in the EU and vice versa. Instead, EU qualified workers wishing to work in the UK and UK nationals wishing to work in the EU must meet the qualification requirements of the UK and each individual Member State respectively.

However, the Agreement includes a commitment from both sides that they may seek to negotiate more detailed reciprocal arrangements on a sector-by-sector basis in the future.

Writing in December 2021, Dr Sarah Hall [set out the impact of the TCA on some professionals in](#) the UK:

“For professional business services such as audit and architecture, the ending of the Mutual Recognition of Professional Qualifications has erected new trade barriers with the EU. The UK had pressed for automatic recognition to continue in the TCA, but the EU refused. Instead, a process similar to that in the CETA was reached, whereby professional bodies will have to separately negotiate mutual recognition agreements. This is likely to be a drawn-out process: so far only the architecture profession has started the process. The only exception in the TCA is for lawyers. The TCA allows British lawyers to practise under their UK title and provide advice in the EU on UK and international law.

Mobility of people under the Trade and Cooperation Agreement

As referenced above, the UK’s decision to leave the Single Market meant that the automatic right to freedom of movement was lost for UK nationals. As a result, EU qualified workers wishing to work in the UK and UK nationals wishing to work in the EU have to meet the qualification requirements of the UK and each individual Member State respectively.

[According to Catherine Barnard, Professor of EU law at the University of Cambridge and Trinity College, and deputy director of UK in a Changing Europe and Emilija Leinarte, British Academy Postdoctoral Fellow at the Lauterpacht Centre for International Law at the University of Cambridge, Trinity College](#), during negotiation of the TCA, the European Commission proposed that a standalone chapter on mobility should be included in the Agreement but this was rejected by the UK Government at the time. As a result, the mobility provisions in the TCA make no commitment as such for visa-free travel instead allowing visa-free travel for short-term visits. From a UK perspective travelling to the EU, the Schengen visa allows people to travel to any members of the Schengen Area for stays of up to 90 days for tourism or business purposes.

Mobility under the TCA is temporary in nature and is limited to those who are engaged in trade in services. However, as Catherine Barnard and Emilija Leinarte have highlighted, under the TCA significant groups of persons will be excluded from the TCA even if they are engaged in the provision of services. One such group is musicians and other creative professionals.

The UK Government’s decision not to include participation in the EU’s youth mobility programme Erasmus+ within the TCA also means that young people from the UK do not have opportunities to live, study and work in the EU in the same way as they enjoyed when the UK was a member state.

For persons wishing to undertake business in the EU or the UK, the mobility rights in the TCA are [slightly more expansive](#):

“The EU-UK TCA includes limited mobility rights for natural persons intended to facilitate certain categories of business and professional mobility, in the context of trade in services: business visitors for establishment purposes, intra-corporate transferees, short-term business visitors, independent

professionals and contractual service providers. However, these persons are subject to eligibility criteria and conditions as regards their experience, professional status, remuneration and allowed length of stay. Additional restrictions are found in the reservations made by Member States and the UK.”

[Annex 21 of the TCA](#) sets out the activities which short-term business visitors are permitted to engage in:

meetings and consultations: natural persons attending meetings or conferences, or engaged in consultations with business associates;

research and design: technical, scientific and statistical researchers conducting independent research or research for a legal person of the Party of which the Short-term business visitor is a natural person;

marketing research: market researchers and analysts conducting research or analysis for a legal person of the Party of which the Short-term business visitor is a natural person;

training seminars: personnel of an enterprise who enter the territory being visited by the Short-term business visitor to receive training in techniques and work practices which are utilised by companies or organisations in the territory being visited by the Short-term business visitor, provided that the training received is confined to observation, familiarisation and classroom instruction only;

trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;

sales: representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves. Short-term business visitors shall not engage in making direct sales to the general public;

purchasing: buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in the territory of the Party of which the Short-term business visitor is a natural person;

after-sales or after-lease service: installers, repair and maintenance personnel and supervisors, possessing specialised knowledge essential to a seller's contractual obligation, supplying services or training workers to supply services pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from a legal person of the Party of which the Short-term business visitor is a natural person throughout the duration of the warranty or service contract;

commercial transactions: management and supervisory personnel and financial services personnel (including insurers, bankers and investment brokers) engaging in a commercial transaction for a legal person of the Party of which the Short-term business visitor is a natural person;

tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions or accompanying a tour that has begun in the territory of the Party of which the Short-term business visitor is a natural person; and

translation and interpretation: translators or interpreters supplying services as employees of a legal person of the Party of which the Short-term business visitor is a natural person.

More detail on the TCA's approach to temporary business travel is available in this [House of Commons Library briefing](#).

Today's evidence session

Today's evidence session is a further opportunity for Members to discuss with witnesses what the provisions in the TCA mean for trade in services and how the processes might be developed further in the context of the TCA review.

The Committee will take evidence from:

- BusinessEurope
- European Services Forum

Trade in services

The European Services Forum set out the importance of trade in services between the UK and the EU:

“In 2023, The EU exported €264 billion of services to the UK (44% of total exports to the UK – Goods & services) and the UK exported €211 billion of services to the EU (54% of total exports to the EU). The UK is the second biggest trading partner of the EU in services after the United States. Trade in goods and services are very much intertwined and many services are provided around the manufacturing products.

The TCA is working well for the services sectors. However, it cannot deliver the same level of access and facilities than within the EU Single market, with notably the loss of the single passport for the UK businesses.”

In its publication, [Eurochambres Input on Future EU-UK Economic Relations](#) published in October 2024, Eurochambres highlighted that the key priority for EU business should be more regulatory cooperation between the EU and the UK.

Business Europe published [Outlook on EU-UK relations](#) in October 2024. On the nature of trade and investment, Business Europe wrote:

“The trade and investment relationship between the EU and UK remains indispensable for businesses on both sides of the channel. While the Trade and Cooperation Agreement (TCA) has allowed businesses to avoid an abrupt transition resulting from the UK’s exit from the single market and customs union, there remain many unnecessary barriers to trade and investment flows. Following the impetus provided by the elections of new governments in the EU and UK, there is a clear opportunity to upgrade the relationship between the two economies to deliver for businesses and citizens.”

The Committee may wish to explore the importance to both the UK and the EU of services trade with each other. Linked to this, the Committee may wish to explore how this has changed following EU exit and the reasons for any change.

The Committee may also wish to discuss how the provision of trade in services in the UK has changed for EU based businesses and individuals following Brexit. This could include seeking some examples from witnesses.

Mutual recognition of qualifications

The mutual recognition of professional qualifications allows professionals qualified in one country to practise in another (and vice-versa) without having to requalify and with only minimal additional paperwork. The Committee has previously heard from UK stakeholders about the need for the UK and the EU to agree measures on the mutual recognition of qualifications.

The European Services Forum set out the way in which the TCA seeks to address the mutual recognition issue:

“The TCA has put into place a mechanism to invite the regulatory authorities of regulated professions (Lawyers, accountants & auditors, architects, some engineers, health professions, etc.) to agree on the criteria of recognition and issue recommendations to the two parties.”

The Forum highlighted the challenges in attempting to agree mutual recognition for architects:

“The European architects and the British architects’ regulatory bodies sent such recommendations to the European Commission and to the UK government. However, it requires for EU architects to pass additional exams that are not in place now, and hence would make it more difficult to allow EU architects to do business in the UK than now. The EU therefore are asking to reopen the talks between the regulatory bodies. The UK government has mandated the ARB (Architects Registration Board) and hence doesn’t want (yet) to interfere. ARB is arguing that the additional examination is non-discriminatory, and all architects must pass it, including the UK architects and all architects from third countries. It is notably related to extra Health & Safety requirements due to the Grenfell fire in an apartment tower in 2017.

After verification, it is true that ARB unilaterally recognises certain EU qualifications - and continues to do so until new arrangements are put in place between ARB and EU counterparts. However, it does not recognise some annexes of the EU Professional qualification Directive (which contains most of the qualifications notified in 2004 when the EU went from 15 Member States to 25 - nor does it include those who joined later (BG, RO, HR). On the other side of the Channel, the EU27 have been told to treat UK applicants as they would any other third country applicants. In the absence of any MRA (currently being negotiated), arrangements will vary from one country to another - some being rather strict regarding requirements, others more relaxed. So, the current situation is not satisfactory for no sides."

Eurochambres suggested there was a need for improved mobility arrangements between the EU and the UK including for professionals. In part this could be achieved through developments in relation to the mutual recognition of professional qualifications "by building on the agreed provisions in the TCA, is equally seen as an important priority for enhanced EU-UK economic cooperation".

The Committee may wish to explore EU based stakeholders' views on the need for mutual recognition of professional qualifications for regulated professions.

The Committee could usefully explore how the current arrangements for regulated professionals currently work and how an agreement for more recognition of professional qualifications would be beneficial.

Linked to this, the Committee may wish to discuss how the TCA currently operates for EU service providers seeking to provide services in the UK. In particular, the Committee may wish to seek examples of how the arrangements are working in practice for different professions.

Mobility

The Committee has previously heard evidence setting out the relevance of mobility provisions to UK service providers ability to provide services in the EU. For those service providers wishing to deliver services on the ground, there is a requirement to be based in the EU. As a result, operation of the mobility arrangements under the TCA are crucial to UK service delivery in the EU.

[Annex 22 to the TCA](#) includes a long list of service suppliers and independent professionals who are permitted to provide services in the other territory subject to a number of limitations and exceptions. However, the Annex also states that:

"In addition to the list of reservations in this Annex, each Party may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article 143 of this Agreement. These measures, which include requirements to obtain a licence, obtain recognition of qualifications in regulated sectors or to pass specific examinations, such as language examinations, even if not listed in

this Annex, apply in any case to contractual service suppliers or independent professionals of the Parties.”

The European Services Forum set out the view of EU stakeholders on the mobility provisions which affect EU professionals who wish to operate in the UK following the introduction of the TCA:

“The EU businesses are not satisfied by the current UK sponsorship programme that requires that a UK business that wants to have a EU service provider to enter the UK to fulfil a contract must be accredited as a “sponsor” so that the UK Home Office can control the flow of professional entering the country. The system is costly for SMEs and time consuming. UK SMEs often are not aware of the process and prefer to look for a UK provider instead of fulfilling the accreditation requirement. They are losing opportunities to do business with EU providers and EU providers are losing clients. UK businesses are deprived of access to EU talents and to EU innovation. This is hence a proper new trade barrier.”

The Forum also highlighted challenges for short term visitors:

“Some of them will be covered by the list of short-term business visitors in TCA Annex 21, other will not be; some will be Contract Service Suppliers (CSS) and Independent Professionals (IP) covered by TCA Annex 22. There is a lot of uncertainties whether these travellers need to be covered by the sponsorship programme, whether they need a visa, whether they need to be on the “Permitted Paid Engagements” (PPE) list that has been reviewed by the UK Home office.

We recognise the efforts made by the UK Administration in providing information on its dedicated website, and in its November 2023 Autumn Statement aiming “at simplifying and expanding the UK’s short-term “business visitor visa””. But the truth is that it is very complex to navigate this system and more clarity is needed.”

Eurochambres have set out the need for more developed mobility arrangements stressing:

“the need for EU-UK travel authorisation systems to be implemented carefully and pragmatically with a way to limit unnecessary frictions on mobility, including via transitory measures, and would welcome possibilities for bilateral exemptions form said systems altogether between both Parties.”

Business Europe also highlighted the need for better mobility arrangements between the EU and the UK:

“Agreements to enhance the mobility of professionals would be instrumental in limiting the labour shortages that firms are facing in the EU and the UK, including on the mutual recognition of professional qualifications as well as providing clarity on the visa requirements for short term business visitors.

Facilitating the mobility of contract service suppliers between the EU and UK is a clear priority for the liberalisation of trade in services.”

The Committee may wish to discuss with the witnesses how the mobility arrangements under the TCA are working for EU service providers. This could include examples of professions where the arrangements are working well and where they are more challenging.

In addition, Members may wish to discuss with the witnesses whether activities in addition to the 11 permitted activities (set out in [Annex 21 of the TCA](#)) that business visitors can perform could usefully be added to.

The Committee might wish to explore with the witnesses how the mobility arrangements between the EU and the UK following Brexit would operate alongside possible MRPQ agreements.

**Iain McIver
SPICe Research**

Summary of issues discussed with the legal services panel on 31 October 2024

At the meeting on 31 October 2024, the Committee took evidence from:

- Dr Ross Anderson (Faculty of Advocates)
- Professor David Collins (City St George's, University of London)
- Dr Adam Marks (Law Society of Scotland)

Legal services provision as an EU member state and under the TCA

Members discussed the opportunities to provide legal services in the EU when the UK was a member compared to the situation under the TCA with witnesses from the legal profession. The witnesses told the Committee that when the UK was a member of the EU, Scottish lawyers could provide advice on EU law, had the right to appear in EU courts, and could register in another EU country to eventually provide advice on national law. The ability to give advice on EU law and the right of audience in EU courts have been lost.

Opportunities presented by the TCA

The panel indicated the recent reset of relations between the UK Government and the European Commission is seen as a positive development, and could potentially lead to a more constructive approach to trade relations. Professor David Collins indicated that the express mention of legal services in the TCA is a positive sign, and signals recognition of the importance of legal services to the economy. The panel also positively remarked that the TCA allows legal services providers to offer "designated legal services" concerning "home state law, public international law, and arbitration", and includes new categories (such as inter-corporate transferees and business visitors for establishment purposes) not mentioned in WTO's GATS.

Challenges Arising from the TCA in Relation to Legal Services Provision

The Committee heard that the TCA has many reservations at the member state level, which may limit the liberalisation of legal services beyond what is established under the WTO's General Agreement on Trade in Services. The panel indicated that greater clarity from member states about what service activities are possible under the TCA is crucial. Similarly, the panel agreed that some issues, such as the definition of "designated legal services" in the TCA, need to be addressed at the EU-UK negotiating level and are beyond the influence of individual professional bodies.

The panel indicated that the upcoming implementation review process presents an opportunity to address current limitations. However, members of the panel noted that there are issues (e.g., the transparency and clarity of information from Member States required by Article 145 of the TCA) that could be addressed outside of the review process and as part of wider EU-UK relations.

Mobility and Fly-In/Fly-Out (FIFO) legal work

Specifically, the panel indicated Article 126 of the TCA, which commits both sides to review permitted activities for short term business visitors, could be addressed through the implementation review. The panel indicated that the mobility of professionals has been severely reduced as the legal services sector must now navigate 27 different legal regimes post-EU exit. The panel discussed how lawyers can provide legal advice on UK or Scotland-related matters and international legal matters if they have the appropriate visa. However, the need for country-specific visas complicates this process. Dr Adam Marks suggested that adding legal services to the list of permitted activities for short-term business visitors under Article 126 of the TCA could simplify this process.

The Committee also discussed the lack of comprehensive data on the extent to which Scottish lawyers provided advice on the laws of EU member states when the UK was a Member State. Panel members indicated it is generally believed that this was relatively infrequent because, in practice, law firms often collaborate with local professionals in EU member states. The panel indicated that clients generally prefer to be represented by lawyers who are recognised and familiar with the national courts and legal systems. This preference may reduce the frequency of Scottish lawyers appearing in foreign national courts and mitigate some of the challenges to service provision under the TCA.

The panel indicated that Scottish lawyers working in the EU tend to be concentrated in locations like Brussels and Luxembourg due to economic interests and significant legal institutions. Dr Adam Marks also indicated that challenges arose in geographical clusters. Luxembourg and Greece were specifically mentioned, due to the respective countries' legal frameworks not anticipating the TCA.

Mutual recognition agreements

The panel indicated that the EU currently seems unwilling to negotiate mutual recognition agreements for services, despite the UK's interest.

The Committee heard from Dr Ross Anderson that there is no mutual recognition between Ireland and Scotland. Dr Ross Anderson explained that Scottish lawyers often acquire dual qualifications in England and then use the appropriate route to qualify in Ireland. The primary reason for registering in Ireland is its EU membership, which grants lawyers rights of audience before EU courts and the ability to provide advice on EU law with legal professional privilege. Professor David Collins highlighted the complexity of Northern Ireland's situation, given its status within the EU single market, and suggested that Northern Ireland-based lawyers might still have rights of audience before the European Court of Justice.

Youth mobility

Members also discussed youth mobility and mobility of legal scholars with the panel. The discussion highlighted the significant impact of withdrawing from Erasmus on opportunities for law students and young lawyers, the potential benefits of the Turing

scheme as a replacement, and the importance of youth mobility for professional development in the legal sector. Dr Adam Marks expressed support for rejoining a programme like Erasmus. Dr Ross Anderson cited the ending of the EuroDevil Scheme after 40 years due to uncertainty around freedom of movement and visas post-Brexit. Professor David Collins acknowledged the benefits of the Erasmus programme but indicated his view that the UK Turing scheme replacing the Erasmus scheme is “just as good”.

Summary of issues discussed with the panel of academics on 21 November 2024

At the meeting on 21 November 2024, the Committee took evidence from:

- Professor Catherine Barnard, Professor of European and Employment Law, University of Cambridge;
- Professor Sarah Hall, Deputy Director, UK in a Changing Europe;
- Mike Buckley, Director, Independent Commission on UK EU Relations;
- Professor Jonathan Portes, Professor of Economics and Public Policy, King's College London.

The Official Report from the meeting is published on the [Scottish Parliament website](#).

Lack of clarity on the impact of the TCA on trade in services

The panel highlighted significant uncertainties regarding the specific impacts of the TCA on trade in services compared to goods. Much of the Committee’s discussion focussed on the lack of disaggregated data for the constituent nations and regions of the UK, making it difficult to identify which sectors are most affected. Mike Buckley stated:

We are missing data on the regional impacts. Before Brexit happened, research was done into what the regional impacts would be. Essentially, the determination was that areas such as London and other high-performing areas of the UK would not be particularly badly affected, but that the regions of the UK that were already poorer, such as Northern Ireland, the north-east, the poorer parts of Wales and south Yorkshire, would be much more badly impacted. [...] We simply do not know whether that has been borne out. I suspect that it probably has been, but I am not aware of anybody who has the capacity or the choice to do that research [...] there is some evidence from the regional GDP figures, which show that Northern Ireland has jumped from being bottom of the pile in every survey pre-Brexit to being consistently number 2 after London. London is not doing too badly [...] it sounds as if the rest of the UK, including Scotland, is doing worse.

The panel indicated the lack of data on trade in services is particularly problematic for new and emerging sectors (such as Financial Technology, FinTech) that are not well-represented in the Office for National Statistics’ existing data categorisations. Professor Hall stated:

There are some activities where the data clearly shows that Scotland does very well—I am thinking of fintech, which is at the intersection between financial services, technology and consultancy—but that do not fit neatly into the Office for National Statistics categorisations. When the ONS set up the business codes, something like fintech did not exist as an activity. We do not accurately know how those new and emerging activities are playing into our economy, so that is still an area of uncertainty.

Differential impact of the TCA on certain sectors

The panel indicated that physical presence and therefore mobility is crucial for certain sectors, such as the creative industries, and this may mean that they are likely to be more adversely affected by the TCA. Professor Barnard stated:

The first thing to understand is that the trade and co-operation agreement is not EU law minus; it is actually World Trade Organization law with a tiny bit plus. [...] The reason why that is relevant is because there are categories of individuals who are allowed to move, and the three categories that are most relevant for the purposes of creative professionals are short-term business visitors, contractual service suppliers and independent professionals.

From those three titles, you might think that it is obvious that creative professionals would probably fall into one of those. The problem is that the TCA operates based on what is called a positive listing system, which means that you enjoy the rights under those three headings—short-term business visitors, contractual service suppliers and independent professionals—only if your activity, profession or sector is listed in one of the annexes to the TCA. The problem is that none of the creative industries is listed in those annexes. Under those annexes, consultants and academics can physically move but cannot be paid for their work if they go as a short-term visitor. The big difference between the creative industries and those providing the other business services that we have been talking about is that the creative industries require physical presence.

The panel also discussed how other business services that do not require professional qualifications or memberships (e.g., consultancy) can more easily adapt by setting up operations remotely or without needing a physical presence in an EU member state. This means that sectors requiring mutual recognition of qualifications are more likely to face challenges in trading services. Professor Portes stated:

I and, I suspect, others are strongly of the view that the data on the services trade is also significantly more inaccurate, because it is very hard to measure some of the trade that happens remotely. However, we know that organisations under the general category of other business services—in other words, legal, consultancy and accounting services—have been doing extremely well. That has particularly been the case for consultancy services, broadly defined, as there are relatively few trade barriers of any sort.

Professor Hall stated:

The barriers to trade in services are not tariffs; they are essentially about regulatory alignment between the two trading parties. In many ways that regulation is sensible and important. I think that we would all agree that we want to be certain about a medic's qualifications before they operate in our country—there is a really good rationale for that. However, that means that, for services such as consultancy, which have much lower regulatory standards—I could set up as a consultant with no professional qualification if I had the capital do to that—it is much easier to sell services into another country. It is not like being an architect, where you need to have a professional qualification.

Challenges for seeking mutual recognition agreement(s) with the EU

The panel suggested that the UK may face unique challenges in securing MRQ or mobility agreements with the EU given that the UK's perceived baseline for negotiations is the UK's previous EU membership. Members of the panel suggested that this may be perceived by the EU as giving the UK an unfair advantage if it can secure similar arrangements post EU exit. For example, this situation could be seen by the EU as prejudicial to EU professionals, as the UK might achieve favourable terms that were available during its EU membership, potentially creating an imbalance. The recent proposal for a UK-EU mutual recognition agreement for the professional qualifications of architects (and its comparison with the recent mutual recognition agreement adopted by the EU and Canada) was mentioned by Professors Hall and Barnard. Professor Hall explained:

I want to follow up on the case of architecture, which is one of the impacted sectors, because a professional qualification is required to practise as an architect. Catherine Barnard is exactly right that the EU and the UK can try to agree an MRPQ that follows the Canadian deal.[...] under the proposal, UK architects would have had a level of recognition similar to that which they enjoyed when the United Kingdom was a member state. That points to the difficulty of translating an agreement that the EU has with Canada to an agreement that the EU might have with the UK, because of the proximity of the UK to the EU [...] —and because of the UK's relative strength in services. The really important point is that the EU met a lot of its negotiating ambitions on its strategically strong goods sector, but, arguably, the UK did not meet as many of its negotiating objectives around the UK's strategic strengths in services.

Summary of issues discussed with the trade in services panel on 12 December 2024

At the meeting on 12 December 2024, the Committee took evidence from:

- William Bain (British Chambers of Commerce)
- Adam Berman (Energy UK)

The Official Report from the meeting is published on the [Scottish Parliament website](#).

The balance of UK service exports to the EU and the rest of the world

William Bain set out the balance of UK services exports:

“It is very interesting to look at what has happened to services since Brexit. In that period, there has been an increase of 9 per cent in services exports from the UK to the EU—there has been growth. Services exports from the UK to the rest of the world have increased by 13 per cent. That demonstrates the continued shift in the economy towards services jobs and services opportunities, as well as a growth in the exportability of services that are provided by firms, employees and contractors here in Scotland.”

Later during the meeting, William Bain also told the Committee:

“The UK’s services exports to the US, for example, have been burgeoning over an extended period. We are exporting a lot more services to Asia-Pacific countries, including Singapore.

The picture is changing on the balance of services exports. Traditionally, you would have had people coming to the committee saying, “Yes, it is financial services that are the mainstay.” Now, we are seeing substantial growth in business and professional services, such as legal, accounting, architecture and design. There are also business advisory services, which are, predominantly, being provided remotely—in the Americas market and, in particular, in the Asia-Pacific region. That is going to be a key area for the Scottish economy, and we need to have a good export strategy to take those opportunities while they are still there...

... The percentage of our services exports still going to the EU is still at a significant level—36 per cent. That is a considerable amount, though admittedly less than the percentage for our goods exports. However, what we have seen in Asia-Pacific countries is a growth in the middle class and a growth in demand for UK services, whether those are business, travel, transport or cultural services—those areas are all driving that increase. We are still seeing an increase in trade and services exports to the EU, but the rates of growth are higher for exports to the US and significant parts of the Asia-Pacific region.”

Challenges for electricity trading following EU exit

Adam Berman set out for the Committee the challenges which face the energy sector following EU exit with a particular focus on electricity trading and also the

impact of the energy chapter of the TCA due to be reviewed in 2026 at the same time as the fisheries chapter.

On electricity trading, Adam Berman told the Committee:

“Today, the primary issue is in electricity trading. The UK has moved to a less efficient form of such trading, which constitutes a relatively small regulatory barrier—but a barrier nonetheless—that leads to increased energy costs for UK consumers to the tune of a few hundred million pounds per year. The figure moves depending on the energy prices that underpin it but, in the course of one or two parliamentary sessions, those are sizeable amounts of money that lead to higher energy bills for consumers across the UK.”

He added that the energy chapter review would hopefully involve both sides agreeing on the need for net zero, cheaper energy bills and energy security but that by being linked to the fisheries review there was a danger of it becoming “slightly politicised” and as a result the UK and devolved governments should push for progress on electricity trading as soon as possible.

Trade priorities for the services sector

William Bain set out the views of the services sector who are members of the British Chambers of Commerce (BCC) highlighting that there was dissatisfaction with the barriers to trade. A particular priority highlighted by the services sector was making it easier to move workers from the UK to the EU and vice versa.

“Companies tell us that they are still having problems securing secondments for staff so that they can work from company offices in the EU. There are problems with the rule on the number of days for which people can stay—for short-term stays, it is 90 days in every 180. The range of activities that are permitted is sometimes subject to member state reservations, which vary from country to country, and there are the block reservations that are set out in annexes 21 and 22 of the TCA. We need a broader range of activities that businesspeople from the EU can do when they are in the UK, and that UK businesspeople can do when they are in the EU. I think that those are the key areas that businesses want to see progress on.”

The BCC also highlighted the need for progress on mutual recognition of professional qualifications and for a youth mobility scheme. On mutual recognition of professional qualifications, William Bain told the Committee:

“Twenty-four per cent of respondees put mutual recognition of qualifications as their first priority for any further liberalisation of trade between the UK and the EU. That is quite a high percentage.”

On the sectors for which sectors wanted an agreement in this area, he said:

“Legal and other professional services, and, I think, business services. You will be aware that there was a proposal to liberalise mutual recognition of architects’ qualifications, but that proposal failed, unfortunately. It is clear that that sector is looking for that increased access into the EU market again. The BCC works very strongly on proposals on mutual recognition with our colleagues from the Law Society on the mobility sub-group of the domestic advisory group, and the legal services community in particular is keen to see that issue resolved and to have more access to the EU market than it currently has.”

William Bain also highlighted the importance of export support for the service industry providing the example of support recently provided by the Scottish Government:

“For example, Scottish Government support was invaluable in helping the Glasgow Chamber of Commerce with its superb trade mission earlier this year in the ASEAN—Association of Southeast Asian Nations—countries, and in the Asia-Pacific region more widely. That involved taking innovative Scottish companies to market their goods and services and win new customers...

... The allocation of resources is a matter for members of the Scottish Parliament to decide on, but we would say that enhancing export support will help trade in services. For emerging Scottish companies in the great clusters here—such as those in fintech in Edinburgh, the gaming industry in Dundee, and financial and business services in Edinburgh and Glasgow—additional export support is vital to winning extra business.”

Emissions trading and carbon border adjustment mechanism

Adam Berman set the energy sectors view on the importance of alignment through a price linkage between the UK and EU emissions trading schemes:

“The specific example that springs to mind is an issue that we may well talk more about in this meeting. It is about emissions trading and the carbon border adjustment mechanism, which is a sort of carbon tax that the EU will apply at its borders from 1 January 2026. There will be a significant barrier for businesses across the UK that are trading into the EU after the carbon border

adjustment mechanism is implemented. It will be particularly acute for the energy sector, in ways that we can go into later.

The UK emissions trading system is not just a Westminster competency; it is governed by the UK and devolved Administrations through the UK emissions trading scheme authority. It would be really helpful for the Scottish Government, in its role as a key partner in the UK ETS authority, to push towards a solution to that problem, which we believe would be in the form of a linkage between the UK ETS and the EU ETS.”

Building on this, Adam Berman outlined the costs of regulatory barriers between the UK and the EU:

“From the energy sector’s perspective, the regulatory barriers that we face between the UK and the EU constitute a drag on the UK economy to the tune of about £10 billion, and that number will only increase over time. The more interconnected the infrastructure that we build and the more inefficiency is built into trading arrangements, the higher those divergences will become and the more British consumers will suffer as a result, so there is a real need for urgency on the matter.

We have talked about electricity trading. The next biggest issue is carbon pricing. In the TCA, the UK and EU committed to giving “serious consideration” to linking their emissions trading systems. Frankly, our emissions trading system is a mirror image of the EU’s. There have been some small changes since we left the EU, but they were minimal. We are facing a really significant barrier...

... All I can say is that the energy sector’s original position was that we should absolutely remain in that structure. However, the second best option is to create our own emissions trading system and to link it to the EU’s—other linkages have been done round the world, particularly between the EU and Switzerland, so it is a fairly well-trodden path—which would still allow the UK access to most of the levers of control of that system. Inevitably, a relatively high degree of alignment between both sides would need to be in place, too, and there would need to be a negotiation on exactly what that would look like.”

Adam Berman set out a frustration that the new UK Government has yet to set out a position for the negotiations with the EU:

“The slight frustration that we have found from the energy sector side is that, although I appreciate that it has not been in place for long, the UK Government has yet to sketch out any demands for a starting point for

negotiation. When you do not sketch out your demands, all that happens is that Brussels moves first to sketch out its demands and then frames the terms of reference for the entire negotiation.

Of course I would like Brussels to move further in showing an interest and an appetite for this, because it is a win-win situation for both sides. However, equally, the UK Government has spoken a lot about a reset of relations with the EU, which is wonderful, but it has not provided any detail on what would sit beneath that. I strongly encourage the UK Government to be clear that it wishes to address this area, because, if it does not, Brussels will take that as a sign that the issue is not that important and that there are perhaps other things that the UK wants to deal with rather than electricity trading.”

Following the Committee meeting, on 10 December 2024, the British Chambers of Commerce published [Trade and Cooperation Agreement: 4 Years On Report](#). The main conclusions of the report relevant to this phase of the committee’s inquiry included:

- Deliver further flexibility on travel for business purposes and the range of business activities which can be undertaken. With reference to Annex 21 of the TCA, this should include the ability to seek new clients or customers in the other market by in-person short stay journeys.
- Produce a comprehensive Youth Mobility scheme between the UK and EU, covering school visits and exchanges, and the ability to work for young people, under time-limited visas.
- Prioritise professional and regulatory bodies reaching balanced agreements with their regulatory counterparts in the EU on mutual recognition of professional qualifications. This should be underpinned by a new UK-EU mutual recognition agreement on professional qualifications.
- Ensure the Emissions Trading Schemes of the UK and the EU are formally linked by an agreement. Develop bridging mechanisms, where required, between January 2026 and the date such an agreement enters into force. Linkage could be achieved through the legal basis provided for in the TCA. This would mean CBAM would not apply on affected goods moving between the UK and EU. It would provide certainty to boost investment potential in the European neighbourhood for green technologies and energy, and avoid new, unnecessary barriers to trade, including in Northern Ireland.
- Extend the scope of the energy market access provisions, due to expire in mid-2026, to have effect permanently. This would facilitate energy security and investment continuity, across key cross-border energy supply and trading sectors

EU-UK Trade & Cooperation Agreement
ESF contribution to EU-UK DAG-to-DAG and CSF meetings
On 19 & 20 September 2024
Session on “Trade in Services” – 14:00 – 15:00

1. Trade in services between the two parties is massive; Very important for the two economies.

In 2023, The EU exported 264 Bio € of services to the UK (44% of total exports to the UK – Goods & services) and the UK exported 211 Bio € of services to the EU (54% of total exports to the EU). The UK is the second biggest trading partner of the EU in services after the United States. Trade in goods and services are very much intertwined and many services are provided around the manufacturing products.

The TCA is working well for the services sectors. However, it cannot deliver the same level of access and facilities than within the EU Single market, with notably the loss of the single passport for the UK businesses.

2. Data flows and data protection

- a) Data flows between the EU and the UK are vital for both economies. If we take only two sub-sectors (Computer related services – SI2, and Professional and management consulting services – SJ2) both provided essentially digitally (with a component of short-term business visitors – see below), the EU exports account for nearly 60 Bio€ and UK exports for nearly 40 Bio €. But data flows are in fact part of every single trade transaction now-a-days. It is a broader issue of concerns to all the economic sectors.
- b) To continue to be run smoothly, the EU and the UK must maintain the legal framework on data protection.
 - i. We understand that the Data Protection and Information Bill didn't go through the previous legislative process and that after the assessment by current government, it fell, i.e. it has decided not to put it back as such through the current legislature. However, there is a need to monitor what are the intention of the new government on that matter.
 - ii. The EU Data Adequacy Decisions by the European Commission of the UK data protection laws is set to expire on 27 June 2025 (sunset clause). There is a need to monitor this process to ensure that all necessary action will be taken by the EU institutions (DG Just, Comitology?), provided that the UK government does not decide to diverge in the meantime.

3. MRA on Professional Qualifications

The idea of a Mutual Recognition Agreement of professional qualifications is to make easier the possibility for professionals to have their diplomas and qualification recognised by the regulators of the other party without having to requalify/go back to university, etc.

The TCA has put into place a mechanism to invite the regulatory authorities of regulated professions (Lawyers, accountants & auditors, architects, some engineers, health professions, etc.) to agree on the criteria of recognition and issue recommendations to the two parties. The

European architects and the British architects' regulatory bodies sent such recommendations to the European Commission and to the UK government. However, it requires for EU architects to pass additional exams that are not in place now, and hence would make it more difficult to allow EU architects to do business in the UK than now. The EU therefore are asking to reopen the talks between the regulatory bodies. The UK government has mandated the ARB (Architects Registration Board) and hence doesn't want (yet) to interfere. ARB is arguing that the additional examination is non-discriminatory, and all architects must pass it, including the UK architects and all architects from third countries. It is notably related to extra Health & Safety requirements due to the Grenfell fire in an apartment tower in 2017.

After verification, it is true that ARB unilaterally recognises certain EU qualifications - and continues to do so until new arrangements are put in place between ARB and EU counterparts. However, it does not recognise some annexes of the EU Professional qualification Directive (which contains most of the qualifications notified in 2004 when the EU went from 15 Member States to 25 - nor does it include those who joined later (BG, RO, HR). On the other side of the Channel, the EU27 have been told to treat UK applicants as they would any other third country applicants. In the absence of any MRA (currently being negotiated), arrangements will vary from one country to another - some being rather strict regarding requirements, others more relaxed. So, the current situation is not satisfactory for no sides.

The EU DAG and the UK DAG can only encourage the relevant parties to continue to work on a better solution. They also encourage the Parties to explore alternative solutions to the current system of the TCA, which is not delivering and not encouraging other professional services sectors to look for a MRA of professional qualifications.

4. Temporary mobility of services providers

This is an important issue as it has significant economic impact. As alluded here above, some trade in services transactions under mode 1 (cross-border trade) imply also some mobility of professionals to fulfil the contract that would have been concluded online. It is of the case of management consulting contracts, or maintenance and repair services, or ICT/computer related services, etc. And we have seen that this includes around 100 Bio€ of transactions per year, but it is difficult to assess the importance of the mobility part into the contracts.

- a) The EU businesses are not satisfied by the current **UK sponsorship programme** that requires that a UK business that wants to have a EU service provider to enter the UK to fulfil a contract must be accredited as a "sponsor" so that the UK Home Office can control the flow of professional entering the country. The system is costly for SMEs and time consuming. UK SMEs often are not aware of the process and prefer to look for a UK provider instead of fulfilling the accreditation requirement. They are losing opportunities to do business with EU providers and EU providers are losing clients. UK businesses are deprived of access to EU talents and to EU innovation. This is hence a proper new trade barrier. As this programme is not part of the TCA, the EU DAG call upon the UK Home Office authorities to unilaterally lift for EU services providers this obligation of sponsorship programme.
- b) **Need for clarification for short term business visitors.** Here again it is difficult to assess how many service providers (to the services sectors as well as to the goods sectors) are

moving temporarily across the Channel, but there is no doubt that there are many of them flying in/flying out every day in the Eurostar trains.

Some of them will be covered by the list of short-term business visitors in TCA Annex 21, other will not be; some will be Contract Service Suppliers (CSS) and Independent Professionals (IP) covered by TCA Annex 22. There is a lot of uncertainties whether these travellers need to be covered by the sponsorship programme, whether they need a visa, whether they need to be on the “Permitted Paid Engagements” (PPE) list that has been reviewed by the UK Home office.

We recognise the efforts made by the UK Administration in providing information on its [dedicated website](#), and in its November 2023 [Autumn Statement](#) aiming “at simplifying and expanding the UK’s short-term “business visitor visa””. But the truth is that it is very complex to navigate this system and more clarity is needed.

c) New EU “EES” and new UK” ETA”

The EU will put into force its new “Entry/Exit System” (EES) in October or November 2024. The EES will be an automated IT system for registering travelers from third countries, both short-stay visa holders and visa exempt travelers, each time they cross an EU external border, including UK citizens. The system will register the person’s name, type of the travel document, biometric data (fingerprints and captured facial images) and the date and place of entry and exit, in full respect of fundamental rights and data protection. It will also record refusals of entry. EES will replace the current system of manual stamping of passports, which is time consuming, does not provide reliable data on border crossings and does not allow a systematic detection of overstayers (travellers who have exceeded the maximum duration of their authorised stay).

On the UK side, in February 2024 The UK government has launched an **Electronic Travel Authorisation** (ETA) scheme - an ETA is a digital permission to travel to the UK, with the purpose of “strengthening the security of our border and improve travel”. On 11 September 2024, the UK Home Office announced that the “Electronic Travel Authorisation” (ETA) will open up to all other nationalities, except Europeans, in November 2024 and be required for entry from 8 January 2025. **Europeans, meanwhile, will be required to have an ETA for travel from 2 April 2025**, with applications opening up in March. It costs £10 to apply. Everyone travelling needs to get an ETA, including babies and children.

The EU DAG took note of these developments on both side of the Channel, which might further hamper professional mobility and called upon the authorities to manage the transition in an as-smooth-as possible manner, notably by ensuring that the entry into force of the system/scheme will not create delays at the borders in the first days. Clarification on the development of an application which would allow travelers to apply online was requested.

5. TCA Review process for 2026

Article 776 of the TCA states that “The Parties shall jointly review the implementation of this Agreement and supplementing agreements, and any matters related thereto five years after the entry into force of this Agreement and every five years thereafter”.

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Furthermore, Article 126 of the TCA, in the Services and Investment chapter, entitled “Review” states that the “Parties shall review their legal framework relating to trade in services and investment, including this Agreement, in accordance with Article 776.” And that the “Parties shall endeavour, where appropriate, to review the non-conforming measures and reservations set out in Annexes 19, 20, (*i.e. the schedule of commitments of the parties for services, via their negative lists*), 21 (*Short-term business visitors*) and 22 (*CSS and IP*) and the activities for short-term business visitors set out in Annex 21, with a view to agreeing to possible improvements in their mutual interest. It also specifies that this Article shall not apply with respect to financial services. The EU DAG called upon a clarification by both parties on their interpretation of these articles, and whether they will envisage possible review of the schedules of commitments and annexes on temporary movement of services providers, particularly in the new political context following the elections in the UK in July 2024.
