

First Plenary Meeting of the UK TCA Domestic Advisory Group

28 April 2022

List of organisations present:

- ADS Group Ltd (Aerospace, Defence, Security and Space)
- Agricultural Industries Confederation (AIC)
- AirlinesUK
- Association of the British Pharmaceutical Industry
- Bar Council of England & Wales
- British Beer and Pub Association
- British Chambers of Commerce
- British International Freight Association (BIFA)
- British Meat Processors Association (BMPA)
- British Medical Association
- British Ports Association
- Confederation of British Industry (CBI)
- Chartered Accountants Ireland
- Chemical Business Association
- Citizens Advice
- Dairy Council for Northern Ireland
- Energy UK
- Federation of Small Businesses (FSB)
- Food and Drink Federation (FDF)
- Greener UK
- GuildHE
- Law Society of England and Wales
- LIVE (Live music Industry Venues & Entertainment)
- Logistics UK
- Make UK
- National Council for Voluntary Organisations
- National Farmers' Union
- NHS Confederation
- Scotch Whisky Association
- Scottish Council for Voluntary Organisations
- Scottish Fishermen's Federation
- techUK
- The Business Services Association (BSA)
- TheCityUK
- Trades Union Congress (TUC) plus 4 other Unions represented through TUC
- UK Music
- UKFinance
- United Kingdom Association of Fish Producer Organisations (UKAFPO)
- Universities UK
- Wales Council for Voluntary Action
- Wine and Spirit Trade Association (WSTA)

Welcome and Introduction/Q&A with James Cleverly/ Minister for Europe and North America

1. The Minister for Europe (MfE) welcomed attendees and thanked the members for their participation. He stressed the importance of the DAG to support TCA implementation, including harvesting the expertise and knowledge of members. He was keen to hear specific examples of where the TCA was working and where it was not. MfE was clear that the UK and EU were near neighbours and good friends, and the situation in Ukraine was a reminder of how well we can work together. He also mentioned the Northern Ireland Protocol and the Government's hope for a sustainable solution, as it was currently a sticking point in UK-EU relations. The minister then opened the floor for questions and comments.

2. Points raised:

- There were some questions about the make-up of the DAG. Participants felt the government should protect the DAG's sectoral and geographical representation.
- Participants said one role of the DAG would be to help the government see things in practical, rather than political terms.
- The UK should enshrine and build upon employment rights from EU law, and ensure the UK's commitment to the Level Playing Field (LPF) provisions. It was noted that the DAG should be approached as a Social Partnership. Some participants emphasised the importance of governance and decision making in the group being balanced between business/employer, trade union and civil society organisations, and an attempt should be made to address this.
- There should be cooperation with the EU DAG, including using organisations' links to their European counterparts.
- Divergence would be a major theme and organisations wanted to understand the management of this.
- The DAG should be a two way street with the government relaying important messages and seeking advice, rather than just organisations submitting advice.
- The importance of continuing UK-EU cooperation with regards to the NI protocol was raised, and some members stated this would be preferential to triggering Article 16.
- Noting that the DAG would be providing opinions on the operation of the 'level playing field' commitments within the TCA, participants highlighted that the Article 2 commitments under the Protocol on the non-diminution of rights would have to be considered in this context, as would respect for the devolution settlement with employment rights being devolved in Northern Ireland.
- Participants highlighted the lack of NI representation on the DAG and urged that further representation from NI business and civil society be added to the DAG.

3. The minister confirmed that:

The door was not closed on DAG membership and further organisations could be added. The minister encouraged the UK DAG members' engagement with their EU counterparts. He also confirmed the UK's commitment to the high standards including in labour and environmental areas. Minister Cleverly noted the suggestion to increase the representation of organisations from Northern Ireland and explained that all Northern Irish organisations, which applied, had been accepted. He also reaffirmed the government's commitment to the protocol, but stated that it was not working in its current form and that the government was in favour of a mutually agreed solution.

Trade and Cooperation Agreement implementation - challenges and priorities.

4. The FCDO gave a short presentation covering the role of the DAG, the key pillars and institutions of the TCA, and an update on implementation. They highlighted a number of areas where progress had been made and also some areas where there were ongoing issues. (eg bivalve molluscs, seed potatoes, and the VAT threshold). It was acknowledged that the TCA was more ambitious and complicated than other FTAs.

5. Points raised in the discussion:

- The full depth of issues could not be explored with just two meetings per year and that the DAG should think about holding additional meetings, formal or otherwise.
- It would be useful to know more about the future of the Brexit Business Taskforce (BBT) .
- Being on top of divergence and policy developments in Brussels would be beneficial to the group.
- Sub-groups could be structured to mirror the various Specialised Committees (SCs) such as the Level Playing Field. Officials involved in the Specialised Committees should engage with the DAG.
- The independence of the group would be critical to hold the government accountable - there should be an expectation that it would operate in an independent capacity.
- It was suggested that the DAG's work should clearly distinguish between: Implementation of TCA provisions; Review of TCA (in 2025); and Policy developments in areas not covered by the TCA.
- Concerns raised about more clarity on mobility rules (in line with the transparency commitments under Article 145 of the TCA), and discussing whether TCA mobility provisions could be improved when the TCA is reviewed.

6. The secretariat confirmed that:

- The Brexit Business Taskforce (BBT) would continue, and whilst the DAG was a forum for advising, the BBT was another channel to transmit

information.

- Formal plenary meetings would be twice a year but the group could set up working groups, informal sessions or have additional virtual meetings outside the plenary meetings.
- The structure, and how to link up with SCs, would be up to the members, but some of the SCs were sectoral and led by departments - so existing links should be factored in.
- The DAG could ask for information and updates from the UK government which it would endeavour to provide.

Election of Chairs/Vice Chairs and discussion on the Rules of Procedure for the DAG

7. Points raised in the discussion:

- **Rules of Procedure** - Most members saw the adoption of rules of procedure and election of a chair at the first meeting as overly ambitious. The Rules of Procedure could be discussed via written procedure and adopted subsequently.
- **Chairs** - The number of chairs and vice chairs, as well as the mandate would be a matter for the group to decide before the elections to ensure there was a balance between different groups - business/employers, unions, and other organisations. There was a need for a separate process to elect the chairs and agree what the roles of the chair and vice chairs should be, including how the workload should be split between them. It was suggested that all chairs and vice chairs should have voting rights, although others suggested chairs and vice chairs should be neutral.
- **Voting** – There should be an effort to make sure that the group could achieve as near consensus as possible. Some suggested that votes could potentially be equally divided between the different groups (employers, trade unions and civil society groups) in the DAG and raised concerns about being out voted by other groups. It was pointed out that there was limited trade union and civil society sector representation on the DAG and there was a need to ensure that all voices can be heard through the rules of procedure - there should not be one group that could outvote all other members. It was also noted that not all members may fit into one of the sub-group categories. For example a so-called “business” organisation may be made up of businesses and not-for-profit organisations. The voting procedure should be simple to avoid the group having to spend all of its time trying to obtain a unanimous position and the voting share should be balanced between employer, trade union and civil society groups.
- **Working Group** - A drafting committee or small working group could be put together in order to collate all of the suggestions for the rules of procedure over email. The group might wish to review some of the rules from the EU DAGs or other fora - for example equity of participation in sub groups, or that chairs and vice chairs can rotate to give equity of voice. It was suggested that the group needed to look at where divergence might happen and reflect this in the draft of the rules. It was pointed out that section A of the rules of procedure had no points on the dispute settlement process in the EU-UK Trade and Cooperation Agreement.

- **Government Involvement** - The secretariat should primarily provide logistics and minutes. There may be an appetite for government officials or ministers to be called into meetings to speak on particular topics. Some members raised the importance of the DAG's independence with the UK government as the secretariat, and asked for the DAG to be informed in advance of decisions being made. The Bill on retained EU law was flagged as a priority and members asked to be kept up to date on it. The secretariat needed enough resources to perform its functions in the plenary meetings.
- **Review of membership** - It was stated that any expansion of the group should factor in the balance between sub-groups, sectoral, or geographical representation as well as the already large size of the DAG.
- **The timing** of plenary meetings was raised as important. Discussions on disputes could be in parallel to save time.
- **Sub-groups** covering different thematic areas such as Level Playing Field or sectoral issues would be important

8. The secretariat concluded that:

- Most procedural points raised would be up for the DAG members to decide, including the election of the chairs, the length of the terms, and sub-groups and associated meetings outside of the plenary meetings. There was consensus that a working group should be formed to work on the Rules of Procedure and those that didn't want to be in the working group should send comments on drafting to the group or the secretariat.
- The guidelines for the Civil Society Forum were going through the Partnership Council written procedure and participants would be confirmed in due course.
- The secretariat would email material on the EU DAG and a proposed timeline for next steps, and members should also share their own considerable experience.
- The secretariat would circulate the draft minutes.