

EXPLANATORY MEMORANDUM ON A EUROPEAN UNION DOCUMENT

COM(22)126

Report from the Commission to the European Parliament and the Council on the implementation and application of the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland 1 January – 31 December 2021

Submitted by Foreign, Commonwealth and Development Office, on 12 August 2022

SUBJECT MATTER

This Explanatory Memorandum relates to the EU's first annual report on the implementation and application of the Trade and Cooperation Agreement published by the European Commission in accordance with Article 2(4) of Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion of the UK/EU Trade and Cooperation Agreement (TCA).

The report summarises the state of play in a range of areas covered by the TCA during the first year of its application:

- Institutional framework
- Enforcement and dispute settlement
- Trade in goods
- Services and investment, digital trade, intellectual property, public procurement and small and medium-sized enterprises
- Energy
- Level playing field for open and fair competition and sustainable development
- Transport
- Fisheries
- Social security coordination
- Law enforcement and judicial cooperation in criminal matters
- Participation in EU programmes

In each section the Commission specifies what the TCA does in that area and how they have dealt with any implementation issues. The report provides statistics on trade in goods and services.

SCRUTINY HISTORY

The EU Decision to sign and provisionally apply the UK/EU TCA was deposited for scrutiny as EU document 14335/20 and an EM was submitted by Cabinet Office on 26 January 2021. Neither the ESC nor EUC formally reported on the EU Decision and the Government's EM. That EM sat alongside EMs submitted by then FCO (EU document 14336/20 on the proposed EU Decision to conclude the agreement on security procedures for exchanging and protecting classified information) and from BEIS (EU document 14337/20 on the proposed EU Decision to conclude the agreement on cooperation on the safe and peaceful uses of nuclear energy).

MINISTERIAL RESPONSIBILITY

The Foreign Secretary has overall responsibility for the UK's relationship with the EU including on the implementation of the TCA. Other Ministers have responsibility for the individual policy sectors covered by the TCA.

INTEREST OF THE DEVOLVED GOVERNMENTS

The devolved governments are consulted regularly on the UK's approach to matters arising from the implementation of the TCA.

LEGAL AND PROCEDURAL ISSUES

Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion of the UK/EU TCA provides for this annual report. The report has been sent to the European Parliament and Council for information.

POLICY IMPLICATIONS

The Government agrees that implementation of the TCA is generally proceeding well. There are, however, outstanding issues which need to be addressed, as set out below.

The TCA is the world's largest zero-tariff, zero-quota free trade deal. It secures market access across a broad range of key service sectors and establishes close cooperation in areas like transport, digital, and fighting crime. The Agreement gives the UK the autonomy to regulate in a way that suits the UK economy and businesses. UK-EU trade is rebounding overall. The latest monthly data from the Office for National Statistics (ONS) shows that UK goods exports to the EU

reached their highest value (in current prices) since records began in January 1997.¹

The governance of the Agreement is functioning as expected. All (18) TCA Specialised Committees (SCs) have met at least once, with some meeting more regularly, and all will meet again over the course of this year. The Partnership Council met for the first time in June 2021 and the Trade Partnership Committee in November last year.

We have used the formal structures of the TCA successfully to address some specific implementation issues, such as extradition cooperation through the law enforcement SC. We have concluded bilateral aviation agreements on all-cargo rights with 19 Member States under the Air Transport Title of the TCA. The Government has also made progress on touring artists – an issue not covered in the TCA, despite our efforts. Following extensive engagement by the Government and the creative industries, Spain and Greece have announced visa and work permit free routes for touring artists.

The Government's clear position is that it is improper to draw links between our differences over the Northern Ireland Protocol and implementation of the TCA, including by refusing to formalise the UK's participation in Horizon Europe (and other EU programmes). We consider the EU's approach to be contrary to its obligations under the TCA and accompanying agreements – and detrimental to scientists on both sides. The TCA also commits us to agreeing a Memorandum of Understanding (MoU) on Financial Services Regulatory Cooperation, and to developing new electricity trading arrangements. Both have been blocked by the EU, but we continue to work with the Commission to resolve these, and other, issues.

CONSULTATION

The Government is committed to transparency and parliamentary scrutiny of TCA implementation. Although no formal consultation with external stakeholders is required for this report, the Government remains in close touch with parliamentarians and external stakeholders on issues arising from the TCA including through formal scrutiny processes, evidence sessions, correspondence with committees, statements to Parliament and through bodies established by the TCA including the Parliamentary Partnership Assembly (PPA), the Civil Society Forum and the Domestic Advisory Group. Government Ministers have given evidence to Parliament on 16 occasions on EU related matters since the

¹ Office for National Statistics, May 2022

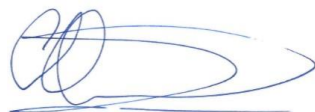
TCA provisionally entered into force on 1 January 2021. Two Ministers attended the PPA in May and we look forward to the second meeting taking place in London in November. The Government also publishes the agendas and minutes of all TCA governance meetings, including the Partnership Council (PC), on GOV.UK, and the Office for National Statistics (ONS) regularly publishes UK-EU trade data.

The Government has written to the parliamentary EU Select Committees to agree how the Government will report to these committees and to Parliament on TCA governance and implementation in the future.

FINANCIAL IMPLICATIONS

No financial implications arise as a direct consequence of the Commission's report.

MINISTERIAL NAME AND SIGNATURE



Graham Stuart MP
Minister of State for Europe