

SCOTTISH PARLIAMENT CONSTITUTION, EUROPE EXTERNAL AFFAIRS AND CULTURE COMMITTEE

INQUIRY INTO THE SCOTTISH GOVERNMENT'S INTERNATIONAL WORK

Engagement with the European Union remains critically important, but Brexit has made it more difficult. Without privileged access to EU decision-making bodies, maintaining a Scottish Government presence in Brussels is important to maximise networking opportunities. We recommend scoping networks, programmes, agencies and forums that remain open to the Scottish Government as both a sub-state administration and an external actor.

The EU-UK Trade and Cooperation Agreement and the Withdrawal Agreement directly affect devolved matters. The Scottish Government should maximise all available intergovernmental channels to ensure devolved interests are represented in their governance and implementation, and should be represented in EU-UK committees where these concern devolved policy fields. Devolved consent should be sought for any decisions on their content or implementation, where these affect areas of devolved competence.

The Scottish Parliament has an important role in the scrutiny of the implementation of the TCA and its effect on the Scottish Government's UK and EU engagement. We recommend that the Scottish Parliament seek to revive and reorientate the Interparliamentary Forum on Brexit, and suggest that the Written Agreement on Intergovernmental Relations be broadened to include reporting on the Scottish Government's engagement with the European Union.

Effective external relations are driven by a strategic approach that reflects domestic priorities. This requires identifying a few priority areas where Scotland has, and is recognised as having, niche expertise that is of value to strategic partners. Nurturing strategic alliances in areas of common interest is also key, including through the Scottish Government's network of international offices.

The small external affairs budget represents good value for money. Strengthening the partnership between the academy and both the Scottish Government and the Scottish Parliament offers clear opportunities to leverage additional capacity. We welcome initiatives such as the Saltire Research Awards programme and the Scottish Council on Global Affairs.

A principles-based approach can underpin a strategic approach to international engagement. Principles should be closely aligned with strategic policy objectives, and include commitment to multilateralism, international law, democracy and the pooling and sharing of sovereignty.

Summary

Scottish external engagement should have both a geographical and policy focus. Partnerships with the near abroad help enhance Scotland's influence on the European and global stage. Strategic alliances on common policy issues with key partners, international organisations and networks nurture Scotland's reputation as a valuable and relevant ally, whilst supporting the Scottish Government's domestic interests.

Despite political tensions and opposing constitutional outlooks, the UK and Scottish governments continue to share many international interests, offering opportunities to work cooperatively to advance their common interests. UK foreign policy ought to reflect the UK as it is, taking account of the views and interests of the devolved institutions.

1. How should the Scottish Government engage with the EU and what should it seek to achieve from this 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 considered 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*.¹ We encourage the Committee to scrutinise how those broad intentions are being implemented, and to elicit more specifically the areas of strategic priority.

¹ <https://www.gov.scot/publications/european-unions-strategic-agenda-2020-24-scotlands-perspective/documents/>

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.

2. 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 maximises 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 2021.² 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 goes 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.

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/990199/Letter_from_Lord_Frost_on_engagement_regarding_EU_matters.pdf

3. What role should the Scottish Parliament have in scrutinising the operation of the TCA and how does the TCA influence 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.³ 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.⁴ 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.

4. 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.

³ <https://archive2021.parliament.scot/parliamentarybusiness/currentcommittees/106398.aspx>

⁴ https://archive2021.parliament.scot/S5_Finance/IGR_Agreement3.pdf

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.⁵

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

5.1 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.

⁵ <https://www.gov.scot/publications/summary-report-review-scottish-governments-international-development-programme-light-covid-19/>

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

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. Should that engagement be based on geographical or policy focus?

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.

8. 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, risks 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.

Additional Information

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