

# UK-EU Series: Trade & Cooperation Agreement Institutional Framework

January 2022



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# **UK-EU Series: Trade & Cooperation Agreement** Institutional Framework

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The Trade and Cooperation Agreement sets the terms of the UK-EU relationship following the UK's withdrawal from the EU. This series summarises key parts of the agreement and what it means for Wales.

The UK formally withdrew from the EU on 31 December 2019 and entered a transition period while the terms of its future relationship with the EU were negotiated.

On 24 December 2020, the UK and EU announced that they had reached agreement on the terms of their future relationship in the **Trade and Cooperation Agreement** (TCA) alongside a number of other agreements and joint statements.

The agreement applied provisionally from 1 January 2021, pending UK and EU ratification. It entered fully into force on 1 May 2021.

The TCA follows the **Withdrawal Agreement** which set the terms for the UK's withdrawal from the EU. Both agreements remain in force.

The UK and EU have agreed that the TCA will govern future agreements between:

- UK-EU;
- UK-EU plus EU 27 Member States; and
- UK-Euratom bilateral agreements

unless otherwise provided for in the agreements themselves. These agreements are called 'supplementing agreements' in the TCA and form part of the overall framework as an integral part of UK-EU bilateral relations.

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# 1. Introduction

The UK and EU agreed a new joint institutional framework in the Trade and Cooperation Agreement (TCA). The arrangements can be found in Part One on Common and Institutional Provisions.

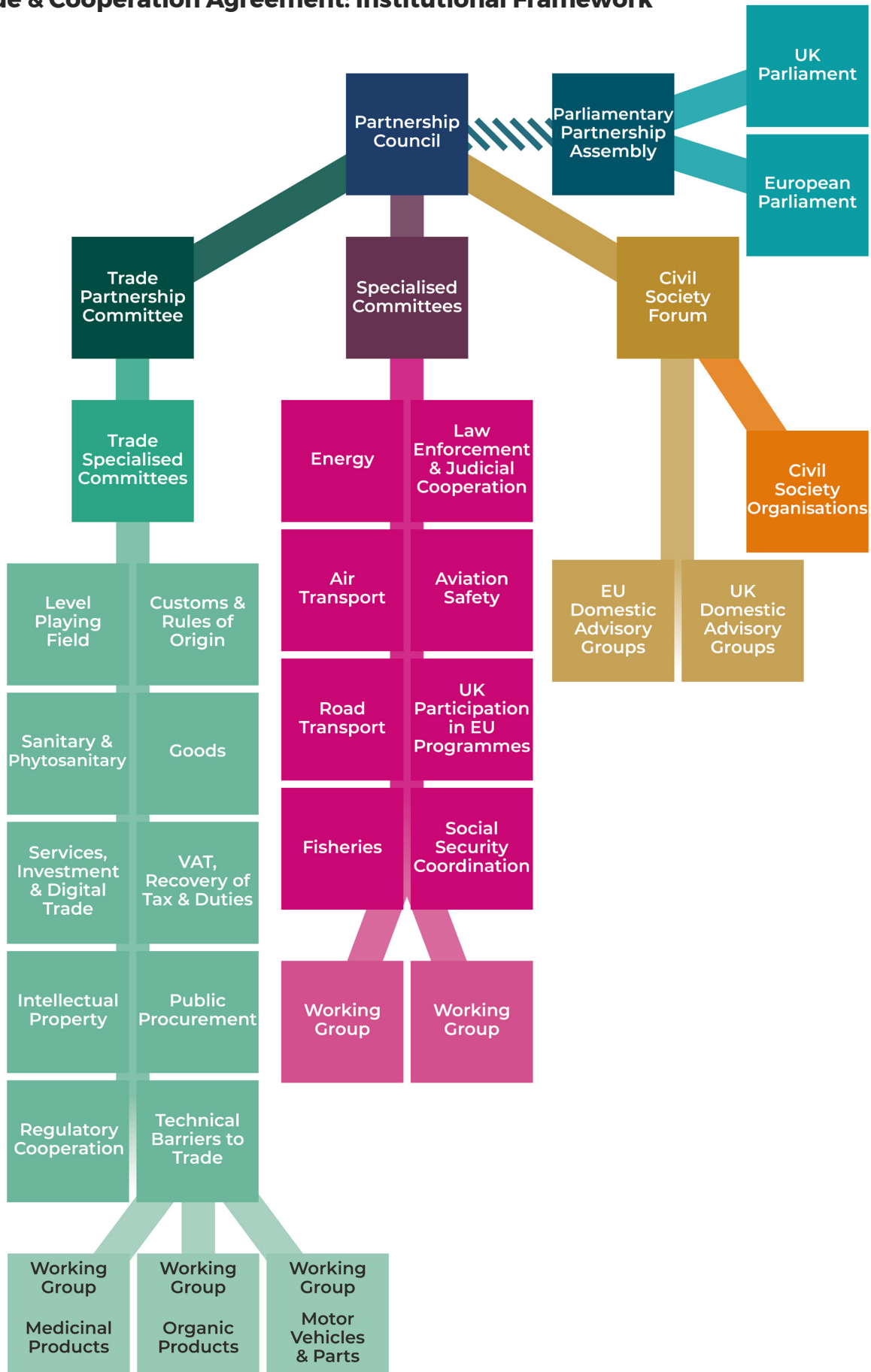
The TCA establishes 24 new committees and working groups to oversee its implementation and application. The participation of civil society is also provided for, as well as parliamentary cooperation between the UK and European Parliaments.

This guide explains the new UK-EU institutional framework:

- Partnership Council
- Committees
- Working Groups
- Domestic Advisory Groups
- Civil Society Forum
- Parliamentary Partnership Assembly

The framework is shown in an infographic at the start of this guide.

Trade & Cooperation Agreement: Institutional Framework



## 2. UK delegation

It is for the UK and EU to determine their own delegation for meetings.

The EU is represented by the European Commission, although the **EU has agreed internal arrangements** to allow Member States to attend.

While the UK is mainly represented by the UK Government, the devolved governments have attended some meetings. On 1 July, the UK Government **confirmed** that the number of members of its delegation will vary in number, depending on the meeting's agenda.

This followed a **letter from the UK Government's Lord David Frost** to the devolved governments, which set out how he intends to involve them in UK-EU forums established by both agreements.

The letter confirmed that most forums would be co-chaired by officials from the corresponding lead Whitehall Department, supported by Lord Frost's Cabinet Office team, but that devolved governments could attend where items of devolved competence are on the agenda.

However, this is subject to the final discretion of the UK co-chair. Preparation for such meetings should also involve **representatives from the devolved governments** "as a matter of normal practice."

How Wales is represented is explained in each section.

A December 2021 **article by Senedd Research** shows which meetings have been attended by the Welsh Government to date.



### 3. Partnership Council

The Partnership Council supervises and facilitates the implementation and application of the TCA and any UK-EU supplementing agreements.

It is co-chaired by one representative of the UK Government and EU Commission, meeting at least once a year or on request. The work of the Partnership Council is governed by Annex 1 [Rules of Procedure of the Partnership Council and Committees].

#### Remit

The Partnership Council can adopt decisions, make recommendations and adopt amendments to the TCA and supplementing agreements, except in relation to the institutional framework arrangements described here.

It can also:

- discuss any matters;
- delegate some powers to the Trade Partnership Committee or Specialised Committees;
- establish or dissolve committees or change their tasks; and
- make recommendations to the UK and EU regarding the transfer of personal data.

#### Decisions and recommendations

Decisions of the Partnership Council (and Committees) are binding on all bodies set up by the TCA and supplementing agreements, including the TCA's dispute settlement arbitration tribunal.

Recommendations of the Partnership Council have no binding force.

Decisions and recommendations will be adopted by mutual consent.

Procedural rules specify that decisions and recommendations made in the period between meetings should be by written procedure between the co-chairs. The receiving Party has one month to express its agreement with the draft decision or recommendation, which will be recorded in the minutes of the next Partnership

Council meeting. If the Party does not agree, the draft will be discussed or adopted at the next meeting. Decisions will specify the date on which they take effect.

### **Additional powers**

Additional powers are provided to the Partnership Council throughout the TCA. For example, it has the power to examine the effects of accession of a third country to the EU in future.

### **Meetings**

Meetings shall take place in public and the provisional agenda details will be published beforehand.

English has been adopted as the working language.

Committees shall inform the Partnership Council of their meeting schedules and agendas in advance of their meetings and on their results and conclusions.

### **Welsh Government attendance**

On 9 June, the **first meeting** of the TCA's Partnership Council took place. The Welsh Government's Minister for Economy, Vaughan Gething, attended as an observer.

## 4. Committees and Working Groups

The TCA establishes 19 new committees to support the Partnership Council. There are 11 trade committees and eight non-trade committees called ‘Specialised Committees’ which have different powers. The TCA also establishes four Working Groups, but there is an option to establish more.

The new UK-EU committees established by the TCA comprise:

- 11 trade committees, made up of 1 Trade Partnership Committee and 10 Trade Specialised Committees
- 8 Specialised Committees on non-trade areas, such as energy and transport

Committees will

- comprise representatives of each party, who must ensure there is ‘appropriate expertise’ to the issues under discussion; and
- set their own meeting schedules and agendas by mutual consent.

The work of Committees is governed by Annex 1 [Rules of Procedure of the Partnership Council and Committees], although Committees can amend the rules governing their own work.

### Trade Committees

The TCA establishes one Trade Partnership Committee and 10 Trade Specialised Committees.

#### Trade Partnership Committee (TPC)

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##### **Role**

The TPC’s role is to report to, and assist, the Partnership Council and to carry out any task or exercise any powers assigned to it. The TPC will supervise the implementation of the TCA and supplementing agreements, as well as the work of the Trade Specialised Committees. It can adopt decisions or make recommendations where power to do so has been delegated to it by the

Partnership Council. It also has the power to ‘explore the most appropriate way’ to prevent or solve difficulties arising outside of the TCA’s dispute settlement procedure and to establish or dissolve Trade Specialised Committees and Working Groups.

## **Remit**

The TPC’s remit extends to trade matters covered in:

- TCA Part Two Heading One on Trade (with exceptions for some energy matters);
- TCA Part Two Heading Six on Other Provisions. Heading Six covers trade-related definitions, the relationship between the TCA to WTO agreements, geographical application and termination of Part Two; and
- TCA Annex 27 on energy and environmental subsidies.

The TPC’s remit does not extend to other matters covered in Part Two of the TCA, such as aviation, road transport, social security coordination and visas for short term visits, fisheries and remaining energy matters.

## **Meetings**

The TPC shall be co-chaired by senior representatives of the UK and EU with responsibility for trade-related matters, or their designees. The TPC shall meet on request, or at least annually.

## **Trade Specialised Committees (TSC)**

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The TCA establishes 10 Trade Specialised Committees for the following areas:

- 1.** Goods
- 2.** Customs Cooperation and Rules of Origin
- 3.** Sanitary and Phytosanitary (SPS) Measures
- 4.** Technical Barriers to Trade (TBTs)
- 5.** Services, Investment and Digital Trade
- 6.** Intellectual Property
- 7.** Public Procurement
- 8.** Regulatory Cooperation
- 9.** Level Playing Field (LPF) for Open and Fair Competition and Sustainable Development

## **10. Administrative Cooperation in VAT and Recovery of Taxes and Duties**

### **Role**

TSCs have the power to monitor and review the implementation of the TCA and supplementing agreements, assist and report to the Trade Partnership Committee (TPC) (including carrying out tasks assigned to them), conduct preparatory technical work (particularly where the PC or TPC must adopt decisions or make recommendations), adopt decisions, discuss technical issues and to exchange information, share best practice and implementation experiences.

### **Meetings**

The TSCs shall be co-chaired by representatives from the UK and EU and shall meet at least once a year, unless provided for in the TCA or unless the co-chairs decide otherwise.

## **Specialised Committees**

The TCA establishes 8 Specialised Committees (SCs) on the following topics:

- 1.** Energy
- 2.** Air Transport
- 3.** Aviation Safety
- 4.** Road Transport
- 5.** Social Security Coordination
- 6.** Fisheries
- 7.** Law Enforcement and Judicial Cooperation
- 8.** Participation in Union Programmes

These correspond to their relevant headings under Part Two and the entirety of Parts Three and Five of the TCA.

### **Role**

The SCs' role is to monitor and review the implementation of the TCA and supplementing agreements, assist and report to the Partnership Council (including carrying out tasks assigned to them), adopt decisions, including amendments and recommendations for which the TCA provides or where the Partnership Council has delegated its powers, discuss technical issues, exchange

information, discuss best practice and share implementation experience.

### **Additional powers to resolve UK-EU disputes**

Specialised Committees have an additional role and remit to Trade Specialised Committees. They can:

- establish and dissolve Working Groups; and
- play a formal role in the TCA's dispute settlement procedure. Its consultation process can take place in the framework of a Specialised Committee or of the Partnership Council (PC). The SCs may refer the dispute to the PC, but the PC may also decide to hear the matter itself. More detail of how this works is not provided.

SCs have the power to resolve UK-EU disputes by issuing binding decisions in the fields of aviation, road transport, social security coordination and visas for short term visitors, fisheries and some energy matters. SCs are not able to do so in relation to some energy matters.

### **Meetings**

The SCs shall be co-chaired by representatives from the UK and EU and shall meet at least once a year, unless provided for in the TCA or unless the co-chairs decide otherwise.

### **Working Groups**

The TCA establishes four Working Groups (WGs).

The following three Working Groups will support the Trade Specialised Committee on Technical Barriers to Trade:

- Organic Products
- Motor Vehicles and Parts
- Medicinal Products

A fourth Working Group on Social Security Coordination will support the Specialised Committee on Social Security Coordination.

WGs can be established by the Trade Partnership Council or Specialised Committees.

WGs shall work under the supervision of Committees to assist them with tasks, prepare their work and to carry out tasks assigned to them. They shall be co-chaired and attended by representatives of the UK and EU. They will set their own rules of procedure, meeting schedules and agenda by mutual consent.

### Welsh Government attendance

The UK delegation to TCA committees has included **officials from the Welsh Government** for the first meetings on social security coordination, energy, fisheries, regulatory cooperation and most trade-related meetings. They were not part of the UK delegation at the **meeting on public procurement**, a devolved area, nor at the **meeting on intellectual property**, a reserved area.

Attendee information for the **remaining meetings** that have since taken place is not yet publicly available.

## 5. Civil society

A duty is placed on the UK and EU to consult civil society on the TCA's implementation and supplementing agreements. This includes establishing and/or consulting with Domestic Advisory Groups and a Civil Society Forum.

### Civil Society Forum

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A duty is placed on the UK and EU to facilitate a new Civil Society Forum to conduct a dialogue on the implementation of Part Two of the TCA (on trade, energy, air transport, aviation safety, road transport, social security coordination and fisheries). Its operational guidelines adopted by the Partnership Council.

Attendees shall comprise independent civil society organisations, including members of the Domestic Advisory Groups. Meetings shall take place at least once a year, unless agreed otherwise by the Parties.

### Domestic Advisory Groups

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The TCA requires both Parties to consult newly created or existing Domestic Advisory Groups (DAGs) on issues covered by the TCA or supplementing agreements. This means that DAGs have a broader remit than the Civil Society Forum described above, whose remit relates only to Part Two of the TCA.

The groups shall comprise independent civil society organisations, such as non-governmental organisations, business and employer organisations, trade unions and those active in social, human rights, environmental and other matters.

A duty is placed on the UK and EU to consider their views or recommendations and aim to consult at least once a year. The UK and EU must also endeavour to publish a list of organisations, including their contact points.

### Representation from Wales

The UK Government **consulted** on engagement with business and civil society groups and issued an **Expression of Interest for membership** for a single UK DAG 2021. The consultation ran until the **end of November 2021**.

The **consultation document** stated that it will determine membership having considered “geographical and regional representation” to ensure membership is as “balanced as it can be”.



## 6. Parliamentary Partnership Assembly (PPA)

The TCA provides an option to establish a Parliamentary Partnership Assembly (PPA) for parliamentary cooperation between the European Parliament and 'the Parliament of the United Kingdom.'

If established, the PPA:

- Shall be informed of the decisions and recommendations of the Partnership Council;
- May request information 'relevant information' regarding the implementation of the TCA and supplementing agreements from the Partnership Council; and
- May make recommendations to the Partnership Council.

### Delegations

The UK Parliament and European Parliament have both confirmed their delegations will comprise of 35 members.

On 16 November, the **House of Lords confirmed** that the UK delegation will comprise of 21 MPs and 14 Lords members, respecting the party balances in both Houses.

The PPA will:

- meet twice annually, alternating between London and Brussels/Strasbourg;
- be led by a Bureau, consisting of a Co-Chair and two Vice-Chairs from both delegations. The Bureau is likely to meet between plenary meetings.

Each meeting of the PPA is expected to result in a summary report which will be available to all members.

The European Parliament formally **agreed to appoint** its delegation on 5 October, to **consist of 35 Members**.

## Role of devolved legislatures

On 21 September, the UK Parliament’s representatives, Lord Kinnoull and Sir Oliver Heald, **responded** to a **request from committees** of the devolved legislatures, saying they would “seek to involve” them in the work of the PPA.

On 16 November, the **House of Lords confirmed** that “observers” from the devolved legislatures will also be invited to attend, subject to the agreement of the European Parliament.