



Response of the Bar Council of England & Wales

Consultation on Government Engagement with business and civil society groups on implementation of the EU-UK Trade and Cooperation Agreement

1. This is the response by the General Council of the Bar of England and Wales (the Bar Council) to the Cabinet Office Consultation on Government Engagement with business and civil society groups on implementation of the EU-UK Trade and Cooperation Agreement (“TCA”)¹
2. The Bar Council represents approximately 17,000 barristers in England and Wales. It promotes the Bar’s high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad. The Bar Council is also the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board (BSB). A strong and independent Bar exists to serve the public and is crucial to the administration of justice.
3. The Bar Council is grateful for the opportunity to submit its views on the crucial question of how the Government should engage with business and civil society groups on implementation of the Trade and Cooperation Agreement (TCA), specifically through the Domestic Advisory Group (DAG) required to be set up pursuant to Article 13 TCA and the Civil Society Forum (CSF) provided for by Article 14 TCA.

Why the Bar should be invited to join the DAG

4. The Bar, as an independent UK legal profession, has a key role to play in supporting the full and proper implementation of the TCA, including through Bar Council membership of the DAG. Aside from our public interest role, the Bar Council represents an important professional business sector, whose economic contribution to the UK economy is significant in and of itself, as well as underpinning the broader UK services economy and investment therein. Beyond that, our presence on the DAG would bring with it our membership’s legal expertise across the range of issues that may arise when implementing the TCA, whether specific to professional services, market access and judicial cooperation; to wider horizontal questions such as on data protection and Level Playing Field, or to trade and dispute resolution in the context of the TCA as a whole,

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1008842/Final-Consultation-Documents-Civil-Society-Forum-and-Domestic-Advisory-Group.pdf

or, for example, under Part III, Law Enforcement and Judicial Cooperation. The Bar Council also enjoys significant links with the judiciary, and a permanent presence and connections in Brussels and beyond, in particular amongst the legal community, which serve to further inform and underpin our insights.

5. Responses to the questions posed:

1. *How should the UK Government engage formally on TCA implementation issues through a domestic advisory group? The Government is planning a meeting once or twice a year with one group and would welcome your comments on the format, scope, and other ways of consultation. How do you see this group operating effectively?*

- Given the importance, broad range and complexity of the issues that are likely to be dealt with by the DAG, the Bar Council considers that a minimum of four meetings per annum should be foreseen, with flexibility to convene in between if an urgent matter requiring DAG input arises.
- There should be sector-specific sub-groups (for example, at the level of Professional Business Services across the 3 jurisdictions), that meet more often. These sub-groups could make recommendations in their sector(s); identify issues for broader discussion; report on developments in their area and suggest items to go on the full DAG agenda when of broader interest / importance. The legal sector is likely to have comments on developments in other areas too, including re dispute resolution.
- There needs to be a mechanism to convene and take action on urgent matters. For example, if the EU were to threaten to withdraw the Data Adequacy decision, or HMG were to table legislation which might be likely to provoke such a move. DAG members or sub-groups should be enabled to call such a meeting if needed.
- In terms of practical operation of the DAG, we suggest that:
 - DAG members should be consulted on the agenda sufficiently in advance of meetings to allow them to consult internally, comment and make suggestions.
 - DAG meeting minutes should be circulated in a timely fashion, allowing members to take forward any action / advice agreed upon.
 - DAG members should also receive, in a timely fashion, meeting agendas, minutes and reports emerging from the CSF and other EU-UK TCA bodies, including relevant Trade Specialised Committees, in order that their advice and input to government in advance thereof is as comprehensive and useful as possible.
- On matters of particular importance, and when time permits, there should be scope to organise public consultations to inform the work of the DAG / CSF.
- In addition, Government should compile and publish lists of experts that can be called upon and invited to participate in meetings even if not formally members of DAG, as the need arises, to provide targeted advice.
- More generally, Government should ensure that the views and demands of civil society groups, such as the Bar, are reflected in all fora in which it meets counterparts on the EU side, including the Partnership Council and all TCA trade committees.

2. *If a selection had to be made, what further criteria, additional to those set out in Article 14 of the TCA, could be prioritised to decide the members of the UK delegation to the Civil Society Forum, e.g. the size of the economic or public interest, geographical interest, trade knowledge and experience or ability to protect and represent the UK's interest effectively?*
 - As explained above, the Bar has (i) an important public interest role; (ii) considerable economic and societal importance, both domestically and internationally, and (iii) expertise in issues relevant to the TCA (see paragraph 4 above).
 - We respectfully suggest that this supports our requested direct participation in the DAG.
 - We would also suggest that such factors be amongst those that HMG prioritises in appointing other members of the DAG, from other important sections of business or society, so as to achieve a comprehensive and representative cross-section of insights and expertise on issues arising under the TCA.

3. *What role should the UK Government play in supporting interactions between UK and EU stakeholders on TCA implementation, in addition to the sharing of contact information under the terms of the TCA and facilitating the CSF meetings?*
 - Government should suggest and be open to calling for additional meetings between UK and EU counterparts if and when the need arises, in order to try to head off issues through early communication, and to assist in finding negotiated solutions to possible problems.
 - Government should be flexible and responsive to the views of the particular sector(s) in allowing them to take the lead, where that makes sense, for example, in the pursuit of a sectoral or broader Mutual Recognition Agreement; and provide support as needed in pursuit thereof.
 - If specific Civil Society sectors / actors advise Government that, in pursuit of a particular objective under the TCA, a particular course of action or inaction at government level, be it policy or hard or soft law, is desirable, we would urge Government to use its best endeavours to facilitate that.

The Bar Council
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