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INSTITUTIONS AND GOVERNANCE OF THE EU-UK RELATIONSHIP

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ABSTRACT

The formal relationship between the EU and the UK is conducted largely within two committee structures – one created by the Withdrawal Agreement, the other by the Trade and Cooperation Agreement. The Agreements set out dispute settlement procedures and provide for periodic reviews. The following describes the committee structures, their functions, and their operation hitherto. It also discusses the institutional arrangements put in place by the UK and the EU to manage the new relationship.

‘Negotiating the Future’ is an ESRC-funded project at the University of East Anglia.

1. THE WITHDRAWAL AGREEMENT (WA), INCLUDING THE PROTOCOL ON IRELAND AND NORTHERN IRELAND (NI)

The Withdrawal Agreement (WA), including the Protocol on Ireland and Northern Ireland (NI), established the terms of the United Kingdom's departure from the EU. It covers three areas – the financial settlement, citizens' rights and the border on the island of Ireland – as well as other separation elements.

THE JOINT COMMITTEE

The Joint Committee is responsible for the implementation and application of the WA. It is co-chaired at ministerial level (EU Commissioner and UK Minister). Maroš Šefčovič, European Commission Vice-President for Interinstitutional Relations and Foresight, represents the EU. Liz Truss, Secretary of State for Foreign, Commonwealth and Development Affairs, has been the UK's co-chair since 19 December 2021. Her predecessors in this role were Lord Frost from 1 March 2021 to 18 December 2021 and Michael Gove from 1 Jan 2020 to 1 March 2021.

The EU and UK may each refer to the Joint Committee any issue relating to the implementation, application and interpretation of the Agreement. The Joint Committee meets at the request of one or both of the parties to the agreement, or at least once a year. The Joint Committee is also required to produce an annual report (Art 164.6).

For the EU, any decision to amend the WA or any of the decisions agreed in the Joint Committee on behalf of the Union by the Commission is subject to acceptance by the Council of the European Union. On the UK side, neither amendments to the WA nor decisions agreed in the Joint Committee by the UK representative require parliamentary approval.

The Joint Committee met six times in 2020. There were five 'ordinary meetings'. An 'extraordinary meeting' was called on 10 September 2020 at the EU's request following HM Government's introduction of the UK Internal Market Bill, which, if adopted, the EU considered in [breach of the UK's obligations](#) under the WA. In 2021, the Joint Committee met only twice in the first six months. It has not so far reported on 2021. Instead, as discussed below, operational difficulties in implementing the Protocol on Ireland and NI has led to intensive negotiations at technical level under the political oversight of the co-chairs of the Joint Committee. Although the Joint Committee met on [21 February 2022](#), there was no indication that progress had been made on the 2021 Joint Report, which was due 1 May 2020 (Annex VIII, Rule 14). The report for 2020 was not published until 25 June 2021.

SPECIALISED COMMITTEES

The WA also establishes **five Specialised Committees** to oversee and facilitate the implementation and application of specific parts of the WA. They are required to meet at least once a year, and bring together representatives from the two sides. The EU is represented by staff from the European Commission, though member states are welcome to attend. The **Specialised Committee on citizens' rights** facilitates the implementation and application of Part Two of the WA, which includes: rights related to residence, the rights of workers and the self-employed, mutual recognition of professional qualifications and the coordination of social security systems. The Committee met four times in 2020 and in 2021 and has produced [five joint reports](#) so far on the Implementation of Residence Rights, the last of which appeared in September 2021. The Committee resumed its work early 2022 with a meeting on the 24 January 2022; according to the [joint statement](#), the next meeting will take place mid-2022.

The **Specialised Committee on the implementation of the Protocol on Ireland and Northern Ireland** 'is responsible for facilitating the implementation of the Protocol in a way which enables it to achieve its declared objectives'. These include 'the protection of the 1998 Belfast (Good Friday) Agreement in all its parts, and avoiding a hard border on the island of Ireland and safeguarding the integrity of the European Union's Single Market' ([Joint Committee 2020 Report](#)). The Specialised Committee met five times during the transition period between April and December 2020, and four times in 2021. After the meeting of 24 September 2021, discussions between the UK and the EU on the implementation of the Protocol on Ireland and NI took place under the direct supervision of the co-chairs of the Joint Committee (discussed below). However, the Committee resumed work on 8 March 2022 (see [joint statement](#)).

Representatives from the Northern Ireland Executive and from EU member states, including Ireland, always [attend the Committee meetings](#) as part of the UK and EU delegations respectively. The Specialised Committee also supervises the work of the joint consultative working group (Art 15 of the Protocol on Ireland and Northern Ireland), which has no power to take binding decisions, but serves as a forum to exchange information and for consultation between the two parties. It should in theory meet at least once a month.

The **Committee on implementation of the Protocol on Gibraltar** met twice in 2020 and once in 2021, on 21 April 2021 (see [joint statement](#)). Unsurprisingly, representatives from Spain attended the meeting. The Protocol on Gibraltar under the WA is distinct from the negotiations between the EU and the UK pertaining to Gibraltar [since October 2021](#).

The ***Specialised Committee on financial provisions*** is tasked with implementing work in Part V of the WA. The Committee met twice in 2020 and in 2021, and once so far in 2022 on 27 April (see [joint statement](#)).

Finally, the ***Committee on implementation of the Protocol relating to the Sovereign Base Areas in Cyprus*** met three times in 2020 but has not met since. The ***Committee on other separation provisions*** met twice in 2020, but not thereafter.

INDEPENDENT MONITORING AUTHORITY

The WA required the creation of an Independent Monitoring Authority (IMA) to monitor the UK's implementation and application of the WA pertaining to citizens' rights (Art 159, part Two), including receiving and investigating complaints from Union citizens and their family members. The [IMA](#) became operational in the UK on 31 December 2020. It is an [executive non-departmental public body](#), sponsored by the Ministry of Justice. The European Commission, meanwhile, monitors the implementation and application of the WA for UK nationals in EU member states. The IMA and the European Commission inform each other annually through the Joint Committee of measures in relation to citizens' rights under the WA.

DEMOCRATIC CONSENT IN NORTHERN IRELAND

Under the Protocol, the Northern Ireland Assembly is called upon to vote periodically to give continued consent to the application of EU law on goods and customs, the Single Electricity Market, VAT and State aid in respect of Northern Ireland (Art 18). The first vote is due in December 2024. The Assembly can, by simple majority, give consent to the continued application of relevant Union law, or vote to discontinue its application. In the latter case, the Protocol would cease to apply after two years had elapsed following the vote. Thereafter, the Assembly votes on the continued application of relevant Union law every four years.

DISPUTE SETTLEMENT

The WA includes a ***dispute settlement system***. If a dispute is not resolved between the two parties in the Joint Committee, the dispute is referred to an independent arbitration body (Art 170 to 181). Under the terms of the WA, the UK and EU nominate an equal number of independent arbitrators, with jointly agreed chairs. The Joint Committee agreed a [list of potential arbitrators](#) for the WA in December 2020. If a dispute is referred, the arbitration panel gives a binding ruling within 12 months (six months if urgent). Remedies for non-compliance start with a financial penalty, which, if remains

unpaid, opens up the possibility after six months of the temporary suspension of the WA (except on citizens' rights) and/or of provisions in other UK-EU treaties, including the TCA.

For ***disputes on the Protocol on Ireland and NI*** more specifically, Article 12 deals with disputes on the 'implementation, application, supervision and enforcement' of the Protocol. Article 16 is a specific safeguarding mechanism within the Protocol that allows either party to undertake unilateral safeguarding measures if the application of the Protocol 'leads to serious economic, societal or environmental difficulties that are likely to persist' or 'diversion of trade'. In such circumstances, the EU or the UK may unilaterally take appropriate safeguard measures, which must be restricted to what is strictly necessary to remedy the situation. Priority is given to measures that 'least disturb' the functioning of the Protocol. A lengthy [consultation and arbitration procedure](#) is outlined in Annex 7.

Since the end of the transition period, ongoing problems with the implementation of the Protocol on Ireland and NI have stretched the formal framework to its limits. Over the coming months, the EU's fears that the UK had no intention to implement the terms of the Agreement it had signed only months previously appeared to be confirmed. ***Between January and June 2021 tensions were high and problems escalated.*** As early as 13 January 2021, [questions](#) were raised in the House of Commons on the possibility of invoking Article 16 to address problems around the transit of goods between Great Britain (GB) and NI. On 29 January 2021, as part of broader action to limit the export of COVID-19 vaccines produced in the EU outside the Union, the European Commission briefly invoked Article 16 before [retracting within hours of the announcement](#). After a move that was widely considered to have been a blunder by the Commission, President Ursula von der Leyen [apologised](#) and acknowledged that a serious mistake had been made, even if a decision on Article 16 had never formally been issued.

On 3 March, the UK government announced [unilateral decisions](#) to extend grace periods in respect of export certificates for supermarkets, agrifood charges and rules around the sale of live plants without having informed the EU of its intention to do so through the formal WA bodies. As a result, on 15 March 2021, the European Commission addressed a Letter of Formal Notice to the UK, thereby launching an [infringement procedure](#) under Article 12, for breaching substantive provisions of the Protocol, as well as the good faith obligation under the Agreement. In the interest of reaching a deal, the EU had agreed that UK authorities would carry out the checks on goods entering the single market between GB and NI under the oversight of the EU. When the UK failed to implement checks from the onset and extended grace periods unilaterally, the EU regarded UK actions as both a failure to implement the Protocol and bad faith.

In May and June, the tensions around the implementation of the Protocol on Ireland and NI escalated to the political level. The UK Prime Minister [argued](#) that the current interpretation and application of the

Protocol hindered solutions and stated the UK's readiness to invoke Article 16, a position echoed by cabinet members, including the [Foreign Secretary](#). However, the [President of the European Commission and of the Council](#) and some heads of states, including the [President of the US](#), spoke publicly about the UK needing to implement the Protocol as a matter of international law.

Tensions peaked as the end of June approached. The deadline for implementing food safety paperwork on chilled meats moving from GB to Northern Ireland fell on 30 June 2021. Both parties had agreed to a six-month grace period on the trade in chilled meat products from GB to Northern Ireland to 'allow supermarkets in Northern Ireland to adjust their supply chains' (see [UK government's declaration on the 17 December 2020](#)). The UK used official channels to inform the EU of its intention to unilaterally extend the grace period. However, frictions remained. The EU [continued to refer](#) to a grace period that provides time for supply chain adjustments whereas the [UK now insisted](#) that the extension was about ensuring no barriers to the movement of meat products. On 30 June, the Parties agreed to a three-month extension.

Between July and October 2021 tensions remained high, but the parties put solutions on the table.

Since July 2021, the [UK has argued](#) there are sufficient grounds for triggering Article 16. In July 2021, the UK government published a [command paper](#), in which it outlined its approach to finding solutions to issues in the Protocol and argued strongly for renegotiation. The EU, via the President of the European Commission, promptly [rejected renegotiation](#) and insisted on solutions within the framework of the Protocol. Nevertheless, the [EU paused legal action](#) against the UK over the Protocol breaches 'in order to provide the necessary space to reflect on these issues' and solutions for implementation. In October 2021, the European Commission published 'bespoke arrangements' in [four 'non-papers'](#) covering customs, sanitary and phytosanitary, medicines, stakeholder engagement for the implementation of the Protocol.

From 15 October 2021, the co-chairs of the Joint Committee negotiated directly in nearly weekly meetings between the teams, including at the level of co-chairs. The UK's repeated public statements that the option to trigger Article 16 remained '[very much on the table](#)', [overshadowed](#) the discussions. Escalation led to some capitals [hinting](#) at a willingness to take action to [suspend the entire TCA](#) due to the UK's failure to implement the WA. In December 2021, the two parties reached an agreement on the [circulation of medicines](#). Also, the grace periods for chilled meat products have been extended indefinitely while talks on the implementation of the Protocol continue.

Since January 2022 relations have improved but a stalemate has set in. The negotiations resumed in January 2022, with the Secretary of State for foreign Affairs, Liz Truss leading the negotiations for the UK following Lord Frost's resignation. Truss's working methods are similar to her predecessor's –

frequent technical meetings overseen by equally frequent meetings with Vice President Šefčovič. Initially, both parties signalled a desire to reach an agreement by the end of February 2022 and meetings between Truss and Šefčovič culminated in the Joint Committee on 21 February 2022. However, the outstanding issues could not be resolved, and with Russia's invasion of Ukraine and the upcoming elections to the Northern Ireland Assembly in early May 2022, there has been a pause in the meetings.

At the same time, the official bodies and committee structures of the WA have resumed their meetings, after their suspension in late September 2021. The Committee on Citizens' rights met in January and the Joint Committee met in February, while the Committee on the Protocol for Ireland and Northern Ireland met in March and, for the first time, a [short joint statement](#) was published after the meeting. It outlined the commitment of both parties to 'address the outstanding issues in the context of the Protocol'. The Committee on Financial settlement met at the end of April.

In late April, the UK Minister for Europe James Cleverly [declared](#) there was a stalemate despite good relations between the parties. In parallel, the EU has [expressed its frustration](#) that the UK continues to delay EU access to the UK IT systems, despite a decision of the Joint Committee in 2020, and fails to provide the EU with full information on tariff rate quotas. Renewed tensions have also arisen in the wake of [press reports](#) that the UK Government may be preparing legislation that would allow UK ministers to overrule provisions of the Protocol. The UK Prime Minister Boris Johnson [confirmed](#) that such legislation is among the options his government is considering.

2. THE TRADE AND COOPERATION AGREEMENT (TCA)

THE EU-UK PARTNERSHIP COUNCIL

The EU-UK Partnership Council is the main governing body of the Trade and Cooperation Agreement (TCA). It is a joint committee responsible for overseeing the implementation and the interpretation of the TCA, including amendment where there are errors, omissions or other problems.

The Council is co-chaired at ministerial level, i.e. EU Commissioner and UK Minister. Maroš Šefčovič, Vice President of the European Commission, represents the EU. For the UK, Liz Truss has been co-chair since 19 December 2021.

The Council meets at least once a year and can meet in different configurations. It had its first meeting on 9 June 2021, after which each co-chair issued a statement ([UK government](#) and [European Commission](#)). All decisions are taken by mutual consent of the co-chairs. EU member states may attend meetings as part of the EU delegation but have no voting rights (Art. 3). Its tasks encompass both the

horizontal – to resolve disputes at political level – and the specific, such as to decide yearly on the continuing application of the Energy Title as of 2026 (Art 331.2), review the implementation of the Fisheries Heading (Art 510), or maintain an illustrative list of subsidies amounting to a significant effect on trade or investment (Art 374.7).

COMMITTEES AND WORKING GROUPS

The TCA also establishes **Committees** (Art 8) to support the work of the Partnership Council.

The **Trade Partnership Committee** oversees **ten Trade Specialised Committees**, dealing respectively with Goods, Customs Cooperation and Rules of Origin, Sanitary and Phytosanitary measures, Technical Barriers to Trade, Services, Investment and Digital Trade, Intellectual Property, Public Procurement, Regulatory Cooperation, Level Playing Field, Administrative Cooperation in VAT and Recovery of Taxes and Duties.

There are also **eight Specialised Committees**: Energy; Air transport; Aviation safety; Road Transport; Social Security Coordination; Fisheries; Law Enforcement and Judicial Cooperation; Union programmes.

In addition, the TCA set up **four working groups** to support the work of some of the Specialised Committees (Art 9). The Trade Specialised Committee on Technical Barriers to Trade has three working groups that support its work – the Working Group on Organic Products; the Working Group on Motor Vehicles; and the Working Group on Medicinal Products. The Working Group on Social Security Coordination is under the supervision of the Specialised Committee on Social Security Coordination.

The TCA allows Specialised Committees to establish new working groups to support their work. In November 2021, the EU agreed to the establishment of a [fisheries working group](#) to work under the supervision of the Fisheries Specialised Committee. So far, this is the only new one, although the UK has proposed a working group on [electricity trading](#).

The Trade Partnership Committee oversees the good functioning and work of the Trade Specialised Committees. It can also establish, supervise, coordinate and dissolve Working Groups, or delegate their supervision to a Trade Specialised Committee (Art 8.2). The Partnership Council can establish and dissolve Trade Specialised Committees and Specialised Committees.

PARLIAMENTARY PARTNERSHIP ASSEMBLY

More broadly, the TCA states that a **Parliamentary Partnership Assembly** (PPA) can be established (Art 11) to act as a forum for the UK Parliament and the European Parliament to exchange views on their partnership. The TCA left it to the two parliaments to decide on whether and how to establish a PPA. The PPA will be able to request relevant information from the Partnership Council on how the TCA is

being implemented. In 2021, the two Parliaments agreed to establish the PPA to monitor the implementation of the TCA and prepare non-binding recommendations. The European Parliament adopted its motion to agree to a [delegation](#) and the list of 35 delegates on 5 Oct 2021 and mirrors the structure of the European Parliament. The House of Commons gave the green light on 6 December and Lords on 8 December: the UK has [modelled its approach on Parliamentary Partnerships](#) with other international organisations such as NATO or the Council of Europe. On 26 January 2022, the list of appointments to the UK Delegation was announced in a [written statement](#) to Parliament. The PPA is expected to meet twice a year from 2022 onwards, once in London and once in Brussels or Strasbourg, issuing a report following each meeting. It is headed by a bureau, that brings together co-chairs and two vice-chairs from each delegation. The PPA will hold its first meeting on 12–13 May 2022.

DOMESTIC ADVISORY GROUPS AND CIVIL SOCIETY FORUM

The TCA provides that each party must consult with, and promote interaction between, their **Domestic Advisory Groups** (Art 13). It also established a **Civil Society Forum** (Art 14) that will meet at least once a year and whose operational guidelines are adopted by the Partnership Council. No Civil Society Forum took place in 2021, but on 24 November 2021, the UK government issued a call for [expression of interest](#) for participation in domestic advisory groups and the Civil Society Forum. At the end of March 2022, the UK [indicated](#) it was finalising the UK Domestic Advisory Group membership list, and promised to hold a first meeting and discuss a date for a first Civil Society Forum with the European Commission.

REPRESENTATION

The European Commission represents the EU on all TCA bodies. The positions it adopts are coordinated in advance in the Council of the European Union. Where acts adopted by these bodies have legal effect it is the Council that adopts the positions. The Commission also represents the EU in arbitration tribunals established under Part Six of the TCA in the case of disputes. On the UK side, there are no legal arrangements for internal government decision-making or parliamentary scrutiny in relation to positions taken in the Partnership Council and other TCA bodies. In May 2021, Lord Frost said he would provide ‘[regular updates](#)’ to the two Committees in the House of Lords and House of Commons on meetings of the TCA governance bodies, as well as on significant developments relating to implementation of the TCA.

REVIEWS AND DISPUTE SETTLEMENT

The TCA establishes a complex system for reviews and dispute settlement. First, the main **dispute settlement provisions** (Part Six) apply to most areas of Part Two covering trade, transport, fisheries and

other arrangements, and Part Five covering UK participation in EU programmes. The dispute settlement mechanism involves an initial period of consultation between the parties before recourse to an independent arbitration tribunal. In cases of non-compliance with a tribunal ruling, the complaining party can take retaliatory measures, involving suspension of obligations under the Agreement.

In some cases, the suspension of obligations can only apply in the same title or heading of the TCA. In other cases, involving trade, aviation, road transport and fisheries, there can be cross-retaliation across these headings if the circumstances are serious enough and suspension of provisions in the same area would not be effective enough. TCA provisions can also be suspended in the case of persistent non-compliance of arbitration rulings under previous agreements between the two parties (Art 749.4), including the WA.

However, there are variations from the main dispute settlement provisions for the ***level playing field*** provisions relating to labour and social standards, and environment and climate. A party can take ‘rebalancing measures’ where it feels that a significant divergence from the other party has had ‘material impacts’ on trade or investment between the two parties. These measures can involve tariffs. A party can request a review of the trade provisions of the TCA after four years. Fisheries has additional dispute resolution mechanisms. The ***fisheries*** heading can be terminated by either party with nine months’ notice. However, the trade and road transport headings would be terminated at the same time.

Secondly, there is a separate dispute settlement procedure for the ***law enforcement and judicial cooperation in criminal matters*** (Part Three of the TCA) and thematic cooperation (Part Four of the TCA). Failing resolution, either party can suspend Part Three of the TCA, or titles within it, in cases of ‘serious and systemic’ deficiencies in fundamental rights or rule of law principles in the other party.

Finally, the TCA provides for a ***review of the TCA*** every five years. It also provides for the possibility of termination of the Agreement by either party with twelve months’ notice (Part Seven).

3. ORGANISING FOR THE EU-UK RELATIONSHIP

EU ORGANISATION FOR THE RELATIONSHIP WITH THE UK

Since 1 January 2021 Maroš Šefčovič, European Commission Vice-President for Interinstitutional Relations and Foresight has been the EU’s co-chair of the Joint Committee of the WA and the TCA Partnership Council. He also oversees the negotiations on the operation of the Protocol on Ireland and NI and the negotiations on an agreement on Gibraltar.

On 1 March 2021, the European Commission reorganised the ‘Task Force for Relations with the United

Kingdom' (UKTF) into the '[Service for the EU-UK Agreements](#)' (UKS), since renamed **Western European Partners (SG.H)**. The Service sits in the Secretariat-General of the European Commission, under the Deputy Secretary-General for Interinstitutional and External Relations. The acting Director of the [service](#), Richard Szostak, as well the heads of units on the EU-UK Withdrawal Agreement, (SG.H1) and the EU-UK Trade and Cooperation Agreement (SG.H2), were involved in the negotiations with the UK. The team consists of [around 30 officials](#), but staff from other Commission services are called upon to participate in specialised meetings of the WA and TCA.

The Council of the European Union has a **Working Party on the United Kingdom** that assists Coreper (Committee of Permanent Representatives) and the Council in all matters pertaining to the relationship with the UK. Established in May 2017, in advance of the Article 50 negotiations the Brexit Working Group was chaired exceptionally by the General Secretariat of the Council until 31 December 2020, with the same official in the role throughout both negotiations. The Working Group played a crucial role in linking the EU27 to the Commission Task Force as part of the system of governance created by the EU to manage the Brexit negotiations (see Kassim forthcoming). Since 1 January 2021, it has been chaired by the six-monthly presidency – France for the first six months of 2022 and Czechia for the second half. The Working Group on the UK plays a key role as a forum for member state discussion of post-Brexit issues. Indeed, though the European Commission represents the EU in TCA and WA bodies, positions taken in these bodies are considered by the Council of the EU. Where acts adopted by these bodies have legal effects, positions are adopted by the Council. Maroš Šefčovič reports to the Working Party before and after every meeting he has with his UK counterpart, and debriefs the Coreper.

The **EU has a diplomatic representation in London**, headed by an experienced EU civil servant, João Vale de Almeida, the first EU Ambassador to the UK. The **European External Action Service** has also created a UK Division. The current head of the UK division was previously the Brexit delegate at Belgium's Permanent Representation to the EU. **The European Parliament** has established its [delegation](#) to the EU-UK Parliamentary Partnership Assembly (D-UK), chaired by Nathalie Loiseau, French MEP and former French Minister for European Affairs from 21 June 2017 to 27 March 2019.

UK ORGANISATION FOR THE RELATIONSHIP WITH THE EU

At **ministerial level**, UK Foreign Secretary Liz Truss is responsible for the UK's relationship with the European Union. She took over from Lord Frost in December 2021, who had succeeded Michael Gove in February 2021. Truss is the UK's co-chair of the Partnership Council (TCA) and the Joint Committee (WA), where she leads the ongoing negotiations on the current operation of the Protocol on Ireland and NI. The Foreign and Commonwealth Office was already in charge of the negotiations on Gibraltar. The

current Minister for Europe and North America, James Cleverly, is [understudy](#) to Liz Truss for much of the work on the Protocol negotiations, the TCA and the broader relationship with the EU. James Cleverly took over the role on 8 February 2022, succeeding Chris Heaton-Harris who had been Minister for Europe since 19 December 2021.

At the Cabinet level, the [Global Britain \(Operations\) Cabinet Committee](#) is in charge of implementing the WA, supporting the implementation of the TCA, and delivering the policy and operational transition to new international trade relationships. Until his resignation, the Committee was chaired by Lord Frost; the deputy chair since early October 2021 is Paymaster General [Michael Ellis](#) who does not have a cabinet position. After Lord Frost's resignation in December 2021, it was unclear who chaired the Committee. On 8 February 2022, Jacob Rees-Mogg was [appointed Minister of State](#) for Brexit Opportunities and Government Efficiency in the Cabinet Office.

At official level, there are [three units or teams](#). The first is the **Europe Team**, which works closely with the UK Mission in Brussels (see below), that manages the long-run relationship with the EU – TCA, WA, including Protocol on Ireland and NI – and includes the Task Force on Northern Ireland. The second is the **Border and Protocol Delivery Group**, which was created in 2017 and initially hosted in HM Revenue and Customs. It now sits in the Cabinet Office. And third, the **Brexit Opportunities Unit**, was created in May 2021 with a [highly publicised recruitment call](#) for candidates to lead the Unit. After the resignation of Lord Frost, ministerial arrangements for the oversight of the [implementation of new Brexit border regimes](#) other than for Northern Ireland or for the Brexit Opportunities Unit were unclear. Jacob Rees-Mogg now oversees both. The [Brexit Opportunities Unit](#) has 31 members of staff, including a director since mid-April 2022 who was recruited from inside the civil service. Although it sits physically in the Treasury, it is a Cabinet Office unit.

Diplomatic structures were created in alignment with the UK's changed legal status. The UK Permanent Representation to the EU (UKRep) was replaced by the UK Mission to the EU (UKMis Brussels) on 1 February 2020 and is headed by Lindsay Appleby (for accounts of the traditional system, albeit now dated see Kassim, Odell and Wright (2013) and Kassim (2000, 2001)). The UK Mission to the EU has expanded its staff by a third compared to its predecessor. It is large compared to both EU members and non-members, with more than twice the number of officials of the UK embassy in Washington DC.

The structure of the new Mission reflects the new relationship. Four directors sit below the Head of Mission: Director, External Security and Development; Director, Economic and Finance Affairs; Director, UK-EU Partnership; and Director, EU Trade Policy and Northern Ireland. Of course, the UK no longer participates in internal EU negotiations. The role of the UK Mission is to gather intelligence and in

communicate EU developments in areas that are strategic for the UK back to Whitehall ([UKICE Report 'Whitehall in Brussels'](#)).

Aside from the Parliamentary Partnership Assembly under the TCA, the **UK Parliament** has reorganised its work to scrutinise ongoing government participation in TCA and WA bodies. The **House of Commons European Scrutiny Committee** monitors new EU legislation of legal and political importance (relevance of Northern Ireland Protocol). It also monitors implementation of the WA and TCA. The international Trade Committee and the Northern Ireland Affairs Committee also play a role in scrutinising the EU-UK relationship. The **House of Lords European Affairs Committee** was established in April 2021, with a [Sub-Committee on Protocol on NI and Ireland](#), which replaced the former EU Committee and Sub-Committees. It considers matters relating to the UK relationship with EU and EEA, including implementation of any UK-EU agreements and operations of structures established under agreements, any negotiations and further agreements between the UK and EU and operation of the Protocol on Ireland and NI.

Decisions taken by the UK government in the WA Joint Committee or TCA Partnership Council do not have to be approved by Parliament. The European Union (Future Relationship) Act 2020 does not contain any measures relating to scrutiny, though as Cabinet Minister Lord David Frost promised regular updates and to give evidence once [every three months](#) to both the Commons European Scrutiny Committee and the Lords European Affairs Committee. He did speak to the both between September 2021 and December 2021. Since Lord Frost's resignation, the Minister for Brexit opportunities, Jacob Rees-Mogg and the new Minister of State for Europe, James Cleverly, spoke to the House of Commons European Scrutiny Committee once, respectively on the [20 April](#) and the [28 April](#).

Parliamentary scrutiny post-Brexit is still [being developed](#) and current arrangements will likely continue to develop as the UK-EU relationship evolves. In particular, scrutiny of new international treaties is still in its infancy. The UK Government made pledges in October 2020 that Commons and Lords Committees will have a formal scrutiny role. In February 2022, the House of Lords Committee on International Agreements expressed [serious concerns](#) in a letter to the government at the delays in introducing a framework for scrutiny.

Finally, **intergovernmental relations** between Westminster and the three devolved authorities became very [troubled](#) since Brexit with [some arguing](#) that the Brexit mandate is used to justify a multi-faceted programme of executive centralisation. The question of what happens to powers that were formerly exercised at the EU level, but which fall within devolved competence, has been a recurrent source of disagreement between the UK Government and the devolved administrations, particularly in Wales and Scotland with Northern Ireland presenting its own specific case. Some progress has been made with

negotiating [UK-wide common frameworks](#) in areas of former EU competence, and the UK Government put forward a review of Intergovernmental Relations in January 2022 that ‘[carries the potential for significant improvements to the system](#)’. But problems remain in relation to the UK government’s [pledge](#) to match EU funding post Brexit and in relation to the so-called ‘[Brexit freedoms Bill](#)’.

The representation of the ***devolved governments and administrations*** in WA and TCA bodies varies. Understandably, the Northern Irish executive always speaks in the Committee on Northern Ireland. In a [letter](#) to the devolved administrations on 27 May 2021, Lord David Frost set out arrangements for representation of the devolved administrations in the Partnership Council and other TCA bodies. Where items to be discussed include matters of devolved competence, Lord Frost said the normal expectation would be that these should include representatives of the devolved administrations at similar seniority to UK Government attendees. The UK co-chair of the body concerned has the final say over who should attend. The lead UK Government department coordinates preparations for all such meetings, supported by the EU secretariat in the Cabinet Office. Lord Frost also pledged he would hold a collective meeting with responsible devolved administration ministers prior to Partnership Council meetings, thereby following the practice established for WA Joint Committee meetings. Representatives from the devolved administrations have indeed taken part in a number of the TCA Specialised Committees but not in all Committees, as evidenced by the [minutes](#) of the meetings of the Specialised Committees.

4. SUMMARY

To summarise, formally, the new relationship between the UK and the EU is conducted within two committee structures – one created by the Withdrawal Agreement (WA), the other by Trade and Cooperation Agreement (TCA). The new institutional arrangements put in place by the UK and the EU to manage the new relationship emerged largely as a result of the way each party organised their work during the Brexit negotiations.

The EU developed a dedicated and unique system of governance to cement cooperation between the European Commission Task Force and the EU27 in the Council. The Commission has a separate Unit and collaborates directly with the Council Working Party on the UK, established at the start of the negotiations.

On the UK side, Theresa May decided to break with the traditional set-up centred on the Cabinet Office, the Foreign Office, and the UK Permanent Representation (Kassim 2000). Responsibilities were shared between the Cabinet Office, and two new ministries, the Department for Exiting the EU (DexEU) and the Department for International Trade (DIT). The division of labour in the new system, particularly

between the Cabinet Office and DexEU, remained unclear. Further change took place when Lord David Frost took over the negotiations with the EU under Boris Johnson's government. As Minister for State in the Cabinet, Lord Frost concentrated responsibility for negotiations with the EU, operational implementation of the WA and the TCA and led a policy team to leverage opportunities that may arise from leaving the EU. Since his resignation in December 2021, relations with the EU, and negotiations pertaining to the WA and the TCA, became the responsibility of the Foreign Secretary Liz Truss, thereby [bringing the EU back into the realm of the Foreign Office](#). The Minister for Europe and North America acts as understudy to Liz Truss who has a very wide portfolio of responsibilities. Since February 2022 another Cabinet Minister, Jacob Rees-Mogg, is in charge of implementing the WA and the TCA (border control) and of the policy work on the benefits of Brexit. However, it is not yet clear how coordination with other relevant departments and with [devolved administrations](#) will take shape.

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