



Response by the Faculty of Advocates to the Scottish Parliament's Review of the EU-UK Trade and Cooperation Agreement

8. How trade in goods and services between the EU and UK is currently working and if there are areas where it can be improved.
Please provide your response in the box provided.

The Faculty does not seek to comment on matters of policy, and our response to this question is confined to matters falling directly within the Faculty's own experience. The Faculty notes that prior to the UK's withdrawal from the EU, members of the Faculty of Advocates had rights of audience before EU courts and tribunals (and by virtue of the UK's membership of the EEA, also before the courts and tribunals of those institutions). Related to rights of audience was the ability to provide advice on EU law that was subject to legal privilege recognised by the EU courts. The UK's withdrawal from the EU, combined with the terms of the TCA, has created a trade barrier, in that UK lawyers (including members of the Faculty of Advocates) can no longer provide privileged legal advice on EU law to parties based in the EU, and can no longer engage in advocacy before EU courts and tribunals. This also affects non-EU markets, in that UK lawyers were a natural port of call for advice on EU law for international businesses based elsewhere in the world (since the EU market remains one of the world's most significant). Although the TCA does not impact on the provision of advice by UK lawyers on EU law to such clients (providing the services are provided in the UK or outside the EU), such clients now have to be advised that the advice provided by a UK lawyer may not be considered to be privileged by the CJEU or the Commission (a point of importance in relation to advice, for example, on EU competition law).

9. Whether there is an interest in developing the trading relationship further e.g., through an agreement on sanitary and phytosanitary (SPS) measures or on the opportunities for UK nationals to provide services in the EU.
SPS measures ensure that food traded is safe to eat and animals and plants are free from pests and disease.
Please provide your response in the box provided.

N/A

10. Whether EU-UK relations in the future could build on elements of the Windsor Framework to encourage flexible and simple conditions for trade.
The Windsor Framework is a legal agreement between the EU and the UK announced on 27 February 2023 and formally adopted by both parties on 24 March 2023. It is designed to ensure the smooth movement of goods between Great Britain and Northern Ireland.
Please provide your response in the box provided.

N/A

11. Any other views on the TCA you might want to share with us.
Please provide your answer in the box provided

N/A