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*Submission to the consultation on Government engagement with
business and civil society groups on implementation of the Trade and
Cooperation Agreement*

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This document has been prepared by the Centre for Cross Border Studies in response to the public consultation launched by the Cabinet Office on government engagement with business and civil society groups on the implementation of the UK-EU Trade and Cooperation Agreement.¹

About The Centre for Cross Border Studies

The Centre for Cross Border Studies (CCBS), based in Armagh, Northern Ireland, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, between the island of Ireland and Great Britain, elsewhere in Europe and beyond.

The Centre empowers citizens and builds capacity and capability for cooperation across sectors and jurisdictional boundaries on the island of Ireland and further afield. This mission is achieved through research, expertise, partnership and experience in a wide range of cross-border practices and concerns (for more details visit www.crossborder.ie).

The short submission that follows, therefore, is closely informed by the Centre's particular knowledge of and experience in the establishment and maintenance of the engagement structures necessary for cross-border socio-economic development involving a range of sectors from both Northern Ireland and Ireland, including public bodies, business and civil society.

It is also centred on the Centre's ongoing efforts in engaging with the UK Government and European Commission in order to ensure proper monitoring of the extent to which the necessary conditions for North-South cooperation are being maintained following the UK's

¹ This response was authored by Dr Anthony Soares, Director of the Centre for Cross Border Studies (a.soares@gub.ac.uk).

withdrawal from the EU,² as well as the Centre's role in convening the Ad-Hoc Group for North-South and East-West Cooperation,³ which has also been engaging with the parties to the Protocol on Ireland/Northern Ireland. This short response will only focus on issues more immediately relevant to our work.

UK Government's formal engagement on the TCA through a Domestic Advisory Group

1. In terms of the nature of the Government's formal engagement, it is important to establish *what* it is engaging with. In this regard, it is essential that the UK Government ensures **any Domestic Advisory Group (DAG) has the same level of representation from the Community and Voluntary Sector as the other sectors of civil society**, especially given that the Community and Voluntary Sector does not have the same levels of representation as business and trade union bodies in the UK Government's Trade Advisory Groups. To more properly guarantee success in addressing this issue and many of those that follow in this response, **it would be judicious for the UK and European Commission to jointly agree to scheduling the first meeting of the Civil Society Forum at a time when the DAGs (UK and EU) and mechanisms for engagement are properly constituted and in place**. Therefore, it would be advisable for the UK-EU Partnership Council to reconsider its commitment to "facilitate establishing the Civil Society Forum as quickly as possible by adopting operational guidelines for the conduct of the Civil Society Forum as soon as possible to allow for a first meeting in 2021";⁴ this timeline is overly ambitious and, if pursued, would risk instituting an unsatisfactory and counterproductive engagement process.

2. It is imperative that **the UK Government, in consultation with civil society and the devolved administrations, also ensures equal representation in any DAG of the nations and regions that make up the United Kingdom**. This will provide the necessary means for the TCA's implementation to be monitored in a way that is attuned to different geographical and administrative realities, and for tailored and proportionate solutions to be found. **This will be of particular importance in relation to Northern Ireland in light of the numerous potential interactions and interdependencies between the evolving implementation of the TCA and the operation of the Protocol on Ireland/Northern Ireland**, and would go some way to addressing commitments made in the preamble to the Protocol in relation to East-West cooperation.⁵

² The Centre has responded to a range of relevant parliamentary inquiries and produced a number of Briefing Papers, which can be consulted at <http://crossborder.ie/category/research-and-policy/policy/consultation-responses/> and <http://crossborder.ie/category/research-and-policy/policy/briefings/>.

³ The views expressed in this submission are entirely those of the Centre for Cross Border Studies, and should not be seen as representing the opinions of the organisations supporting the Ad-Hoc Group for North-South and East-West Cooperation. For further information on the Ad-Hoc Group, see <https://crossborder.ie/ad-hoc-group-for-north-south-and-east-west-cooperation/>.

⁴ Minutes of the first meeting of the Partnership Council: 9 June 2021, <https://www.gov.uk/government/publications/minutes-of-the-first-meeting-of-the-partnership-council-9-june-2021>.

⁵ Specifically, the UK Government's commitment "to protecting and supporting continued North-South and East-West cooperation across the full range of political, economic, security, societal and agricultural contexts and frameworks for cooperation".

3. Given the unprecedented scope of the TCA and what it may mean for different parts and sectors of the United Kingdom, **the DAG should encompass thematic and/or geographic sub-groups**, with clear operation guidelines and appropriate support structures.

4. In order for the UK Government's formal engagement on the TCA with any DAG to become mutually beneficial for all concerned, and to avoid it resulting in frustration, unrealistic expectations, or undermining trust, it must be underpinned by a meaningful and transparent structure.⁶ Among other things, this means that **a list of the organisations involved, and the contact point for the groups must be published**,⁷ as well as agendas and minutes of meetings. **The scheduling of meetings, publication of agendas (with civil society organisations [CSOs] encouraged to present items for inclusion), as well as the circulation of minutes must be done in a timely manner**, allowing for CSOs (especially those who are membership organisations) to properly consult with their members and stakeholders both in advance of meetings and subsequently to them. These are constitutive elements of formal feedback chains that will be vital to the UK Government's formal engagement on the TCA, providing a structure for the UK Government to receive and respond to views submitted by any DAG, and for all parties to be aware of and react to progress on agreed actions.

5. If the UK Government's formal engagement on the TCA is to become effective and gather the confidence of civil society, **then yearly or even twice-yearly meetings with the DAG will prove insufficient**. This will be compounded if the DAG does not encompass thematic and/or geographic sub-groups. Digital platforms for engagement and the holding of meetings should be employed to support more frequent meetings of the DAG and any sub-groups.

6. To operate effectively **the DAG will require a properly resourced and staffed secretariat**, ensuring the proper functioning of formal feedback loops, which will include providing the necessary levels of transparency to allow for two-way communication with CSOs who may not be directly involved in the DAG and/or CSF. The secretariat could also function as the secretariat for the UK delegation to the CSF. Similarly, **the UK Government should also make financial resources available to CSOs** who, although with essential contributions to make, may not otherwise have the ability to participate in the DAG.

7. The operation of the UK Government's formal engagement, and of its formal feedback loops, must be responsive to the evolving needs of the DAG and to the introduction of agreed operational improvements.

⁶ The underlying principles are the same as those set out by the Centre for Cross Border Studies in relation to civic society engagement with the mechanisms of the Protocol on Ireland/Northern Ireland; see <https://crossborder.ie/reports/civic-society-engagement-in-maintaining-the-conditions-for-north-south-cooperation-2/>.

⁷ In this regard, the statement in the consultation document that "The Government will endeavour to publish the list of organisations involved, as well as the contact point for the group or groups" is insufficient; Cabinet Office, 'Consultation on government engagement with business and civil society groups on implementation of the Trade and Cooperation Agreement' (8 August 2021), p.2, <https://www.gov.uk/government/consultations/consultation-on-engagement-with-business-and-civil-society-groups>.

Composition of the UK delegation to the Civil Society Forum

8. A balanced representation of participants in the UK delegation to the Civil Society Forum must entail a selection of delegates that includes a balance of social and environmental interests beyond those immediately concerned with trade, as well as representation from the private and non-private sectors with knowledge and direct experience of matters relevant to the potential economic, social and environmental impacts of the evolving implementation of the TCA. Representation should also ensure the inclusion of those equipped to assess the TCA's impacts on cross-sectoral and cross-jurisdictional cooperation.

9. Just as is the case with the DAG (as set out in paragraph 2), **it is essential that all four parts of the United Kingdom are represented in the UK's delegation to the CSF**, and that the devolved administrations are involved in any selection process. This is of particular importance for Northern Ireland given the potential interdependencies between the operation of the TCA and of the Protocol on Ireland/Northern Ireland.

10. **Any selection process must be open and transparent**, capable of attracting the balanced representation necessary to articulate the realities of the evolving implementation of the TCA across the United Kingdom.

11. The **composition of the CSF should be sufficiently broad to enable it to take into account wider aspects of the TCA beyond those within the scope of Part II**. This capability should also be reflected in the CSF's operational guidelines, or in the implementation of the guidelines.

UK Government role in supporting interactions between UK and EU stakeholders

12. **The UK Government has an invaluable opportunity to ensure civil society here has equivalent structures for dialogue with government to those in place within the EU**, where institutionalised forms of engagement have been embedded through the European Economic and Social Committee, and through the European Commission's civil society dialogue procedures. It is an opportunity that, if properly grasped, would put in place a structure for engagement with civil society that could be useful beyond consultation on the TCA.

13. The development of such structures must involve consultation with and the involvement of the devolved administrations. These structures must always provide for the proper representation of civil society from all parts of the UK, and for representation from the Community and Voluntary Sector equivalent to other sectors of civil society.

14. Consideration should be given to how the establishment of structures for government engagement with civil society across the United Kingdom could also serve as the foundations for a wider platform for engagement encompassing the geographical composition of the British Irish Council. **The desire for dialogue and cooperation at civic society level is there, as articulated in the New Common Charter for Cooperation Within and Between these**

Islands,⁸ which was developed by community organisations in Northern Ireland and the Republic of Ireland, along with counterparts from England, Scotland and Wales.⁹

15. The UK Government's support for interactions between UK and EU stakeholders on TCA implementation will be evidenced in the extent to which it actively demonstrates its willingness to engage with civil society in a meaningful way, and through a continuous and structured process that goes beyond participation in formal meetings.

16. Crucially, the UK Government must also make available financial support to civil society organisations to allow them to redirect the required resources to such ongoing dialogues – dialogues with the UK Government and the EU, dialogues with other UK CSOs, as well as dialogues with EU counterparts.

⁸ The New Common Charter for Cooperation Within and Between these Islands can be downloaded from <https://crossborder.ie/site2015/wp-content/uploads/2020/12/New-Booklet-New-Common-Charter.pdf>.

⁹ For more on the development of the New Common Charter, visit <https://crossborder.ie/what-we-do/projects/common-charter/>.