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# **Culture, Tourism, Europe and External Affairs Committee**

## **Comataidh Cultar, Turasachd, na h-Eòrpa agus Gnothaichean a-muigh**

# **Legacy Report**



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# Culture, Tourism, Europe and External Affairs Committee

Remit: To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) proposals for European Union legislation;
- (b) the implementation of European Communities and European Union legislation;
- (c) any European Communities or European Union issue;
- (d) the development and implementation of the Scottish Administration's links with countries and territories outside Scotland, the European Union (and its institutions) and other international organisations; and
- (e) co-ordination of the international activities of the Scottish Administration.
- (f) culture matters falling within the responsibility of the Cabinet Secretary for Economy, Fair Work and Culture; tourism matters falling within the responsibility of the Cabinet Secretary for the Rural Economy and Tourism, and migration matters falling within the responsibility of the Minister for Public Finance and Migration.



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# Introduction

1. The Culture, Tourism, Europe and External Affairs (CTEEA) Committee, in Session 5 of the Scottish Parliament, has had an extremely broad and diverse remit which the Committee has sought to balance over the course of the parliamentary session. In particular, the impact of two events that were unforeseen at the beginning of the parliamentary session have significantly impacted and added to the complexity of the Committee's remit. These are the UK's exit from the European Union and the impact of the Covid-19 pandemic upon the culture and tourism sectors. Both these issues continue to evolve and are likely to feature prominently on the agenda of a successor Committee(s) in the next session of Parliament. This report considers the Committee's scrutiny workload in Session 5 and highlights a range of issues which successor Committee(s) may wish to consider in the next session of Parliament.

# UK Exit from the European Union

2. The Committee has undertaken extensive scrutiny of the Brexit process and its implications for Scotland since June 2016. This involved scrutiny of the [initial implications of the referendum result](#) prior to Article 50 being invoked, scrutiny of the [Article 50 process](#) and then of the [future relationship negotiations](#). In December 2020, the Committee reported on the [impact of the end of the transition period](#) and then considered, and [reported](#) on, a Legislative Consent Memorandum on the European Union (Future Relationship) Bill at the end of 2020.
3. During 2021, the Committee has scrutinised the initial impact of the EU-UK Trade and Co-operation Agreement (TCA) on key sectors of the Scottish economy. At the time of writing, the TCA has been implemented on a 'provisional application' basis by the European Union and remains the subject of scrutiny within the European Parliament. The Committee notes that the TCA requires additional checks on agri-food products entering the UK to be implemented in April and then on all goods in July.<sup>i</sup> Furthermore, negotiations remain on-going with regard to the degree of access financial services companies in the UK will have to the EU market.
4. The Committee has heard calls from a variety of sectors for an extension to existing 'grace periods'. The evidence the Committee has taken in 2021 indicates that the new 'trading relationship' with the EU is having a significant impact on key sectors of the Scottish economy and this is likely to intensify in the coming months. The combination of the UK's exit from the European Union combined with the impact of Covid-19 has created significant challenges across the Scottish economy with the impact being most profound for small and medium-sized enterprises.
5. The implications of the Protocol on Ireland / Northern Ireland on the trading relationship between Scotland and Northern Ireland has been an issue of considerable interest to the Committee. The Protocol establishes a border in the Irish Sea between Great Britain and Northern Ireland. The initial implementation of the Protocol has allowed a 'grace-period' to the end of March with regard to the import of food products from Great Britain to Northern Ireland. The Committee notes that the EU and UK Government are currently discussing the operation of the Protocol in terms of the initial issues which the Protocol has resulted in for trade between Great Britain and Northern Ireland.
6. The impact of the Protocol upon trade via the port of Cairnryan has been a key scrutiny issue. Prior to the pandemic, the Committee undertook a fact-finding visit to the South West of Scotland, including the port of Cairnryan, to consider the impact of the Protocol. Recently, the Scottish Government has announced that it will establish a 'Border Control Post' at Cairnryan.
7. The Committee notes that the implementation of the TCA and Protocol has yet to take full effect and that full implementation of the legal terms of these agreements between the EU and UK Government will continue over the course of 2021 and beyond. To date, the new relationship between the EU and UK has resulted in a

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<sup>i</sup> Following the Committee agreeing this report, the UK Government [announced](#) on 11 March 2020 that it would delay the introduction of full border controls on imports from the EU into Great Britain until 1 January 2022.

myriad of issues impacting upon all aspects of Scottish economy and society. These have ranged from the impact of new trade barriers on the export of goods to the ability of cultural performers to work in the European Union. The Covid-19 pandemic has lessened the full impact of the initial stages of implementation of the TCA and Protocol. As Scottish society and economy emerges from the pandemic these issues are likely to intensify as the TCA is fully implemented.

8. **The UK's new relationship with the EU, as a third country outside the EU Single Market and Customs Union, is a dynamic and evolving situation. The Committee therefore recommends that scrutiny of this new relationship, including the operation of the Protocol on Ireland / Northern Ireland, should be an early and urgent priority for a successor Committee.**

9. The exit of the UK from the European Union has raised a wide range of issues which the Committee has scrutinised over the course of the parliamentary session. The main issues the Committee has considered and further issues which, in the Committee's view, will require to be addressed in Session Six are detailed below.

## TCA: Governance

10. The TCA establishes a complex governance structure, headed by a 'Partnership Council', co-chaired by the European Commission and the UK Government, to oversee the implementation of the agreement. The Partnership Council will be supported in its work by nineteen Specialised Committees and four working groups. The Specialised Committees will consider issues which are devolved competences such as fisheries, law enforcement and judicial co-operation. At present, it is not clear whether the devolved administrations will be represented at any level within the TCA governance structures. <sup>ii</sup>

11. **The Committee has previously recommended that the Scottish Government, at Ministerial and official level as appropriate, should be present at meetings taking place under the governance framework that deal with devolved policy areas. The Committee re-iterates that recommendation and recommends that a successor Committee pursue this recommendation.** <sup>iii</sup>

12. The TCA governance structure also establishes a 'Parliamentary Partnership Assembly' and a 'Civil Society Forum'. The Parliamentary Partnership Assembly (PPA) is proposed to consist of Members from the European Parliament and UK Parliament. The Committee has previously recommended, given the governance framework deals with devolved competences, that representation from the Scottish Parliament be included on the PPA. <sup>iv</sup>

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<sup>ii</sup> Dean Lockhart MSP and Jamie Halcro-Johnston MSP dissented from this paragraph.

<sup>iii</sup> Dean Lockhart MSP and Jamie Halcro-Johnston MSP dissented from this paragraph.

<sup>iv</sup> Dean Lockhart MSP and Jamie Halcro-Johnston MSP dissented from this



13. **The Committee reiterates this recommendation and emphasises the importance of Scottish Parliament and Scottish Government representation in the TCA governance structures to a successor Committee. The Committee notes that committees in the Northern Ireland Assembly and Welsh Parliament, with equivalent remits to this Committee, have called for representation from their respective legislatures on the PPA. The Committee recommends that a successor Committee pursue the issue of Scottish Parliament representation on the PPA.<sup>v</sup>**

## Trade Agreements

14. Schedule 5 of the Scotland Act 1998 states that the regulation of international trade is reserved. However, the Scotland Act 1998 requires the Scottish Parliament and Scottish Ministers to implement international, ECHR and EU obligations relating to devolved competences. The 1998 Act also enables the Scottish Government to assist the UK Government in relation to international relations, including the regulation of international trade, as it relates to devolved matters. Prior to UK exit from the European Union, responsibility for the negotiation and scrutiny of trade agreements rested primarily with the European Union. Trade policy represents a new area of policy-making for UK legislatures and governments.
15. The Committee has sought to scrutinise the implications of trade agreements that the UK Government has entered into aside from the TCA. To date, these agreements have largely tended to seek to mirror or 'rollover' the provisions of current EU trade agreements. However, it is possible that the UK Government will seek to negotiate trade agreements during the next session of Parliament which will diverge from EU agreements. Currently, the UK Government is negotiating with a view to future trade agreements with a range of governments including Australia, New Zealand and the United States of America.
16. The UK Parliament is currently in the final stages of scrutinising the UK Government 'Trade Bill'. The Bill currently provides for UK Government and Scottish Ministers to have powers to make regulations in order to implement new international trade agreements. These powers, in terms of Scottish Ministers, apply to devolved competences. The Bill does not give a role to the devolved governments and legislatures in the scrutiny of trade negotiations and agreements. Nevertheless, new trade agreements entered into by the UK Government have the potential to significantly impact upon devolved competences and upon the trading relationships that Scottish companies are subject to.

17. **The Committee recommends that scrutiny of new international trade agreements should be an on-going area of scrutiny, along with scrutiny of any regulations proposed by either UK or Scottish Ministers which**

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paragraph.

<sup>v</sup> Dean Lockhart MSP and Jamie Halcro-Johnston MSP dissented from this paragraph.

**intersect with devolved competences, for a successor Committee.**

## Erasmus+

18. The Committee undertook an Inquiry into Scotland's participation in the Erasmus+ programme and reported on this issue in March 2018. The Committee's report recognised the excellent work being done by Scottish institutions and organisations using Erasmus+ as a means of raising attainment and in particular the advantages of participation in Erasmus+ for young people from disadvantaged communities. The Committee recommended that it was 'imperative that the UK seeks to negotiate programme country status for the next programming period of the Erasmus+ programme'. In the event that the UK Government was not able or willing to negotiate programme country status, the Committee recommended that the Scottish Government should explore whether Scottish institutions and organisations could continue to participate in Erasmus+ post-2020.
19. UK participation in the Erasmus+ programme was not included in the EU-UK TCA agreed at the end of last year. The Committee is aware that the European Commission does not consider that it is possible for jurisdictions within the UK, such as Scotland and Wales, to participate in Erasmus+ without an over-arching UK wide agreement on participation. The Committee understands, however, that institutions and organisations within Northern Ireland will be able to participate in Erasmus+ as a result of measures that have been undertaken by the Government of the Republic of Ireland to facilitate continued participation for Northern Ireland. The Committee is also aware of substantial support within the European Parliament for Scottish participation in Erasmus+. The UK Government has proposed the 'Turing Scheme' as a replacement for participation in Erasmus+.
20. **The Committee recommends that a successor Committee continue to scrutinise the implications of non-participation in Erasmus+ and the options that may be available for future participation by Scottish institutions and organisations in the programme. The Committee considers that such scrutiny should also include consideration of the adequacy of the UK Government's Turing Scheme as an alternative to Erasmus+.**

## Migration

21. The Committee has considered the implications of the ending of freedom of movement and the new UK immigration system with regard to the extent to which the UK policy would respond to Scotland's demographic and skills needs. The Committee has also taken a significant interest in the rights of EU citizens resident in Scotland in a post-Brexit environment. Over the course of the parliamentary session, the Committee has taken evidence from UK and Scottish government ministers as well as the UK Government Migration Advisory Committee and the Scottish Government's Expert Advisory Group on Migration and Population on this

issue. The implications of the new UK immigration system will take effect during the next session of Parliament.

22. **The Committee therefore recommends that a successor Committee should continue to scrutinise the impact post-Brexit of UK immigration policy upon Scotland's demographic and skills needs and upon EU citizens resident in Scotland in the next session of Parliament.**

## Impact on the Devolution Settlement

23. Membership of the European Union was a central pillar underpinning the devolution settlement. The process of the UK leaving the European Union has resulted in a substantial range of UK Government legislation being passed which has re-shaped the devolution settlement and substantially increased the complexity of the settlement. For example, twenty-four of the thirty-six clauses in the European Union (Future Relationship) Act 2020 engaged the legislative competence of the Scottish Parliament.
24. The Scotland Act 1998 required the Scottish Parliament to align with the requirements of the EU regulatory regime where it intersected with devolved competences. This Committee had responsibility for monitoring EU legislation and highlighting any relevant EU legislative measures with implications for devolution to subject committees. The Scottish Government provided a weekly 'Explanatory Memorandum' report providing details of forthcoming legislation. This information was provided to the Scottish Government by the UK Government. Latterly, the House of Lords EU Select Committee also provided the Committee with its 'Chair's sift report' of EU legislation on a regular basis. The Scottish Government would also report to this Committee, on a bi-annual basis, on occasions where it had given consent for the UK Government to transpose EU legislation into domestic law on its behalf.
25. During Session Five, the Committee has sought to focus on the external impacts of the Brexit process in terms of EU-UK negotiations and the economic impacts of the new EU-UK relationship. The Committee has considered, during this Parliamentary session, that internal UK constitutional arrangements to have been primarily a matter that are the responsibility of the Finance and Constitution Committee. However, in the next session of Parliament, responsibility in devolved policy spheres will be increasingly blurred and shared between the Scottish and UK Government. Many of the powers provided to Scottish and UK Ministers in Brexit-related legislation are vested in secondary legislation and there will be an on-going scrutiny challenge for the Scottish Parliament in this regard. The Committee would encourage a successor Committee to foster and develop good relations with other legislatures across the UK and with ministers from other governments in the UK including UK Government ministers relevant to the remit of a successor Committee.

26. **The Committee considers that the extent to which there is alignment with or variation from the EU regulatory regime is likely to be a key scrutiny**

**challenge in the next session. There are now a range of statutory and non-statutory requirements which will determine the extent to which it is possible to remain aligned or diverge from the EU regulatory environment.**

27. For example, the UK Internal Market Act 2020 provides for 'market access principles' relating to trade in goods and services. In addition, a series of common frameworks are being negotiated inter-governmentally between the Scottish and UK governments covering a range of policy spheres. Lastly, the Scottish Government's 'UK Withdrawal from the European Union (Continuity) (Scotland) Act 2020' includes a power to enable Scottish Ministers to keep devolved legislation in line with EU law 'so far as appropriate'. The Committee welcomes that the Scottish Government has committed to working with the Parliament to agree an appropriate and proportionate decision-making framework for future alignment with EU law.

28. **In order to scrutinise this policy landscape, we recommend that a successor Committee will need to monitor EU policy and legislative developments in order to assess the extent to which a future Scottish Government is remaining aligned with EU law and the implications of the policy approach being taken.**

## Inter-parliamentary working

29. During the process of scrutinising the Brexit process, the Committee has engaged with a range of inter-parliamentary processes in order to share information and knowledge between elected Members tasked with scrutinising the Brexit process. Inter-parliamentary working has taken a variety of forms over the course of the parliamentary session.
30. The Convener and Deputy Convener have participated in meetings of the 'Inter-Parliamentary Forum on Brexit' which brings together representatives from legislatures across the UK engaged in scrutinising Brexit. The Committee has also had constructive engagement with representatives from scrutiny committees dealing with Brexit from the European Parliament and the Parliament of the Republic of Ireland. Prior to the UK leaving the European Union, the European Parliament established a 'Friends of Scotland group'. The Committee has acted as the primary point of contact within the Scottish Parliament for this group.
31. **Given the complexity of the scrutiny landscape considered above, the Committee recommends that a successor Committee utilise inter-parliamentary working as a key means of adding value to scrutiny of the EU-UK relationship in the next session of Parliament. Accordingly, the Committee recommends continued engagement with the forms of inter-parliamentary working that have been developed during this session of Parliament.**

## Standing Orders

32. As noted above, membership of the European Union was a central component underpinning the operation of the Scotland Act 1998. Accordingly, the Scottish Parliament's Standing Orders contain a range of rules which derive from membership of the European Union. For example, Rule 6.8 relates to the remit of the Committee in relation to European Union legislation and Chapter 10A of Standing Orders to Proposals for European Union legislation.

33. **The Committee highlights to a successor Committee that there requires to be a range of Standing Order rule changes early in the next parliamentary session as a result of the UK leaving the European Union.**

## Committee resources

34. Scrutiny of the Brexit process has represented a considerable scrutiny challenge for this Committee during Session Five. This scrutiny challenge has been a consequence of the complexity of the issues involved as well as these issues frequently relating to policy areas that have not been the subject of significant scrutiny, such as trade policy, as these were in effect EU competences.
35. The Committee has adopted a range of measures in order to enhance the capacity of, and provide expert advice to, the Committee in order to enhance scrutiny of the Brexit process. This has involved the appointment of Committee advisers, establishing an external expert panel to provide advice to the Committee and the commissioning of external research. During the Parliamentary session the Committee external advisers were Dr Filippo Fontanelli, Dr Anna Jerzewska, Professor Michael Keating, Professor Tobias Lock, Professor Sionaidh Douglas Scott and Dr Fabian Zuleeg. In this regard, the Committee's current advisers, Dr Fabian Zuleeg on EU Constitutional Law and Dr Anna Jerzewska on International Trade, have provided an overview of issues which, in their view, a successor Committee may wish to consider. This is provided at **Annexe A** to this paper.

36. **The Committee anticipates that scrutinising the new EU-UK relationship in the next session of Parliament will also be a significant challenge. The Committee therefore strongly recommends the use of these methods in order to build capacity and obtain expert advice in Session Six.**

## External Affairs

37. The Committee launched an [Inquiry](#) into the Scottish Government's external affairs policy in June 2019. The Committee received a range of written submissions in response to a 'call for views' and had commissioned external research. The Committee was due to commence taking oral evidence when the Covid-19 pandemic resulted in substantial change to the Committee's work programme and the Committee postponed this area of scrutiny.

38. **Accordingly, scrutiny of the Scottish Government's external affairs policy may be an area of scrutiny which a successor Committee may wish to undertake in the next session of Parliament.**

# International Development

39. The Scottish Government initiated, in September 2020, a review of its International Development programme in terms of the impact of Covid-19 on the ability of the International Development programme to deliver in the Scottish Government's partner countries. The Scottish Government stated that the review was intended to ensure that the International Development review was aligned with the following 'key principles'—
- supports partner-led development;
  - takes an inclusive approach that breaks “white gaze”, in line with concerns raised recently by the Black Lives Matter movement; and
  - is future-proofed in relation to both Covid-19 and climate change.
40. The Committee took evidence on the review from the Minister for Europe and International Development in December 2020. The Minister [wrote](#) to the Committee, on 3 March 2021, on the outcome of the review. The Minister stated—
- ” Responding to the results of the Review, we are going to implement a range of cross-cutting changes to how we work in future in terms of our International Development Fund (IDF) Programme, and to take a more targeted approach in certain partner countries. This Review, necessitated by unprecedented change at a global scale, is the start of the process of aligning our programme with our new Principles to realise our ambitions to have the best impact possible for our partner countries.<sup>vi</sup>
41. **The Committee suggests that a successor Committee may wish to consider the outcomes from the recent Scottish Government review of the International Development programme in the next session of Parliament.**

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<sup>vi</sup> Letter from the Minister for Europe and International Development to the Committee, 3 March 2021.



## Covid-19: Culture and Tourism

42. In response to the Covid-19 pandemic, the Committee undertook a [rolling programme of scrutiny](#) to examine the impact of the virus on Scotland's culture and tourism sectors in recognition of the fluid nature of the response to the pandemic. To inform the inquiry, the Committee launched a call for views, receiving over 150 responses.
43. The Committee held regular meetings with the Scottish Government, stakeholders and public bodies, such as Creative Scotland, to scrutinise the pandemic response and wrote regularly to both the UK and Scottish Government's to highlight key issues. In light of the ongoing challenges posed by the pandemic, the Committee also focussed its 2021/22 budget scrutiny on the pandemic response, highlighting outstanding areas of concern and looking ahead to recovery.
44. Prior to the end of the parliamentary session, the Committee took evidence from Scottish Government Ministers with responsibility for culture and tourism on the proposed 2021-22 budget. The Committee wrote in response to Scottish Ministers setting out the Committee's position on the proposed budget settlement and the support being made available to the culture and tourism sectors to cope with the impact of the Covid-19 pandemic. These letters<sup>vii</sup> represent the Committee's final position on the support available prior to the end of the parliamentary session.
45. Following the introduction of lockdown restrictions in March of 2020, the Committee's scrutiny of the pandemic response concentrated on gaps in support and addressing the immediate needs of both sectors. As the inquiry evolved, it was clear that the pandemic would have a profound longer-term impact bringing to the fore a range of systemic issues which will require a longer-term strategic response.

46. **The Committee recognises that, despite the support that has been made available by the Scottish and UK governments, the culture and tourism sectors of the Scottish economy have been amongst the most significantly impacted by the pandemic. The Committee considers that successor Committee(s) will want to take stock of the position of the culture and tourism sectors early in the next session of Parliament.**

## Covid-19: Culture

47. Throughout the Committee's scrutiny of the impact of the pandemic upon the cultural sector, stakeholders frequently suggested that the pandemic provided an opportunity to review the kind of support offered to the sector where specific interventions were needed to aid recovery. A prominent strand of evidence was the importance of the role freelancers fulfil within the sector. Scotland's culture sector relies on an extensive network of freelancers, many of whom were unable to access government support because they didn't meet the relevant eligibility criteria. The

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vii These letters can be accessed at— [https://www.parliament.scot/S5\\_European/Inquiries/20210218\\_ConvenerToCabSecEFWC.pdf](https://www.parliament.scot/S5_European/Inquiries/20210218_ConvenerToCabSecEFWC.pdf) and [https://www.parliament.scot/S5\\_European/Inquiries/20210218\\_ConvenerToCabSecRET.pdf](https://www.parliament.scot/S5_European/Inquiries/20210218_ConvenerToCabSecRET.pdf).



Committee welcomed the announcement on 11 February 2021 that an extra £9m would be distributed as a top-up to the Creative Freelancers Hardship Fund bringing the total value of support for creative freelancers to £17m. However, throughout our inquiry there was recognition that more needed to be done to support this important but vulnerable group. More broadly, the Committee recognises the significant impact of the pandemic on the cultural sector particularly in terms of the viability of cultural venues and infrastructure, such as theatres, and the need for a strategy to enable cultural assets to emerge sustainably from the pandemic.

48. The Committee also considered the impact of the pandemic upon print journalism during its Covid-19 scrutiny.

49. **The Committee highlights to a successor Committee that the Scottish Government established a short-life working group to consider ways to help support the long-term sustainability of public interest journalism during the Committee's scrutiny of this issue.**

50. When scrutinising the 2021-22 Scottish Government budget in respect to the culture portfolio, the Committee noted assurances from the Cabinet Secretary that the budget provides much needed stability for the sector. However, the Committee also considered that the Scottish Government was in effect using annual funding to address long-term issues arising from the pandemic. The Committee considers that there is an opportunity, in the coming months, for the Scottish Government to work in partnership with the cultural sector to learn lessons arising from the pandemic and to develop a longer-term strategy. In the Committee's view, this strategy should aim to provide a framework to assist the sector to recover, where possible, from the pandemic and also adapt to new ways of working.

51. **The Committee highlights the findings of this Committee's scrutiny of the impact of the pandemic upon the cultural sector to a successor Committee.**

## Covid-19: Tourism

52. Prior to 2020, the Scottish tourism sector had been performing well, with overnight stays in 2019 the highest in a decade and the sector directly contributing to around 229,000 jobs, 8.8% of all Scottish employment. The Committee's scrutiny of the tourism aspect of its remit has been focussed in Session Five upon the impact of, and governmental response to, the pandemic.
53. Unfortunately, this reliance on the tourism sector makes Scotland particularly vulnerable to the consequences of a global pandemic, with many businesses and organisations experiencing an unprecedentedly challenging period. The Committee welcomed the sector specific support provided by the Scottish and UK governments. However, the Committee also emphasised the need for a longer-term approach which would build on the work of the Scottish Tourism Recovery Task Force (STRT) and the 2020 Tourism strategy.

54. In response to the STRT's recommendations, the Scottish Government committed to a five-year strategy based on a green recovery, fair work, and place-based principles. Although in its initial stages, the proposed focus of the recovery strategy on business support, skills development and the development of an improved evidence base to inform decision making, complemented many of the Committee's previous recommendations. However, the Committee noted at the time of proposal that if the strategy is to be successful, it needed to be accompanied by adequate financial support and industry expertise.
55. **The Committee highlights the findings of this Committee's scrutiny of the response to the pandemic upon the tourism sector. The Committee notes that a successor Committee will have a role in monitoring the progress of a recovery strategy for the tourism sector.**

# Culture

56. The Committee has undertaken extensive scrutiny of the culture aspect of its remit during Session Five. There are four main areas of scrutiny within the culture remit that the Committee considers will continue to be of importance in Session Six and wishes to bring to the attention of a successor Committee. These are—

- Arts funding;
- Support for the screen sector;
- Glasgow School of Art; and
- Census 2022.

## Arts funding

57. The Committee's initial interest in arts funding was instigated by scrutiny of Creative Scotland's Regular Funding process for the period 2018-21. This scrutiny led to the Committee having serious concerns<sup>viii</sup> regarding the decision-making process for the funding period and with regard to a range of strategic issues related to the application process for the funding round. This scrutiny process also highlighted wider issues which the Committee considered required further consideration. Accordingly, the Committee undertook an Inquiry into arts funding which was the first inquiry to consider this issue undertaken by the Scottish Parliament.

58. The Committee's inquiry coincided with the publication of Creative Scotland's funding strategy review and the Scottish Government's culture strategy. The Committee considered a range of challenges facing Scotland's arts funding system including fluctuations in National Lottery income, wider pressures on public finances and a lack of clarity about the direction of the UK's future relationship with the European Union. The Inquiry focussed on two main themes of inquiry as follows—

- What would a sustainable model of arts funding look like; and
- How should that funding be made available to artists?

59. The Committee received a large volume of written evidence and commissioned comparative external research considering arts funding models in other jurisdictions. The Committee also undertook fact-finding visits to Ayr and Dunfermline where we spoke with artists at different stages of their careers, local authority representatives and people otherwise working in and with the arts to deepen its understanding of arts funding in Scotland. Lastly, the evidence gathered was scrutinised in detail over seven evidence sessions.

60. The Committee's [report](#) recommendations focused on putting artists at the centre of Scotland's arts funding system. In the Committee's view, public funding of the arts will only be sustainable if artists are paid a fair wage and the Committee called on

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<sup>viii</sup> The Committee's findings from this process of scrutiny can be accessed at—  
[https://www.parliament.scot/S5\\_European/General%20Documents/CTEER\\_2018.06.14\\_Letter\\_to\\_Creative\\_Scotland.pdf](https://www.parliament.scot/S5_European/General%20Documents/CTEER_2018.06.14_Letter_to_Creative_Scotland.pdf).

the Scottish Government and Creative Scotland to take urgent, robust action on this issue. The Committee also suggested that Creative Scotland should change the way it allocates funds by putting artists at the centre of its approach. The measures suggested by the Committee included incorporating peer review into application processes; creating a tiered application process to reduce the burden on applicants who are unlikely to progress to later stages of the process; and introducing funding programmes, such as bursaries and stipends, aimed at supporting artists and arts organisations at different stages of their development.

61. The Committee recommended that the Scottish Government develop a new indicator within the National Performance Framework to monitor the number of self-employed artists and cultural freelancers who are paid a fair wage. The Committee also proposed that the Scottish Government should give serious consideration to setting a baseline target for national arts funding, on a cross-portfolio basis, above 1% of its overall budget. The Committee considered that Creative Scotland should take steps to ensure greater transparency in the amount of funding it awards that goes directly to artists producing artistic work. The Committee also expressed significant concerns regarding the geographical distribution of Creative Scotland 'regular funding' and emphasised that Creative Scotland's revised funding approach should improve on the geographic spread of funding being delivered prior to the pandemic.

62. **The Committee considers that the impact of the Covid-19 pandemic has placed even greater pressure upon the arts, including funding, than was the case when the Committee's inquiry was undertaken. This results in the Committee's recommendations remaining highly relevant in the next session of Parliament. The Committee highlights the findings of its arts funding inquiry and recommends that a successor Committee continue to monitor how funding is being used to support the arts including if government portfolios are strategically aligned to fund the arts in a way that supports and delivers national outcomes.**

## Screen Sector

63. The Committee undertook an inquiry examining the state of Scotland's screen sector. The Inquiry was focussed on how to best implement the recommendations of Screen Sector Leadership Group's (SSLG) report on strengthening and developing the Scottish screen sector. The SSLG was established following recommendations made by the Session 4 Economy, Energy and Tourism (EET) Committee. The EET Committee considered that the separate and distinct remits of Scottish Enterprise and Creative Scotland were acting as a barrier to effective working by the public sector to support the film industry.
64. Over the course of the inquiry, the Committee took a range of evidence that considered that the proposal for the new Screen Unit, within Creative Scotland, may not mitigate concerns surrounding the public sector fragmentation, leadership and accountability. The Committee published an interim report in May 2018 which made the case for a standalone agency rather than an inter-agency model. This recommendation was not accepted by the Scottish Government on the grounds that

an inter-agency model was already in the process of being established and citing the cost implications of a stand-alone approach.

65. Subsequently, Screen Scotland was established within Creative Scotland. Despite having a skilled crew base, Scotland's screen industry had long lacked a dedicated, purpose-built screen studio. The Committee had recommended as a matter of urgency that additional studio capacity be introduced. The Committee welcomes the progress that has been made by Screen Scotland in developing dedicated studio capacity in Leith and Glasgow.
66. Public Sector Broadcasters, and in particular the BBC, occupy a central role in supporting the Scottish screen industry. The Committee expressed concerns about the volume of commissions awarded in Scotland and the practice of 'lift and shift' whereby a production is moved from one location to another to fulfil 'out of London production quotas', although this practice was within the rules set by OFCOM. In our most recent evidence sessions, producers expressed mixed views about the volume of network commissioning from Scottish based companies. The Committee understands that new guidance from OFCOM on this issue came into force in January and a successor committee may wish to consider this in the next parliamentary session.
67. The Committee welcomed, during the current parliamentary session, the introduction of the new BBC Scotland channel and the agreement of a Memorandum of Understanding between the BBC and Screen Scotland. The Committee took evidence recently from a panel of experienced Scottish producers regarding the role of public sector broadcasters in commissioning Scottish content. While generally supportive of the progress made by Screen Scotland and the BBC Scotland Channel, producers remained concerned about the role of commissioners and the centralisation of decision making to London. In their evidence, producers called for greater autonomy for Scottish commissioners to 'greenlight' projects in Scotland.

**68. The Committee recommends that a successor Committee scrutinise public sector broadcasters, and the broadcasting landscape generally, regarding commissioning of Scottish content and the role of commissioners based in Scotland.**

69. The global demand for content, which has been further accentuated by the pandemic, continues to drive the screen production sector. The Committee, whilst recognising that progress has been made, continues to emphasise the need for more major productions being made in Scotland.
70. A key recommendation from the Committee's inquiry was the importance of developing domestic talent. Accordingly, the Committee emphasised the need for a strategic approach to training and development within the sector. The Committee understands that Screen Scotland will publish its Skills Strategy in April 2021. Screen Scotland has stated that the strategy will be open-ended and provide for the delivery of flexible tactical interventions devised and delivered with industry through the establishment of a series of outcome-focused working groups.

71. **The Committee recommends that a successor Committee continue to monitor the progress of Screen Scotland in the next session of Parliament. The Committee recommends that a successor Committee scrutinise the relationship between all the public agencies involved in the Memorandum of understanding underpinning Screen Scotland's operation.**

## Glasgow School of Art

72. Following a second fire, in five years, at the Glasgow School of Art's (GSA) Mackintosh building in 2018, the Committee undertook an inquiry to ascertain what lessons could be learned. The inquiry did not focus on the underlying cause of the fire, which was a matter for the Scottish Fire and Rescue Service (SFRS), but rather on the wider management and custodianship of the Mackintosh building and its collections.
73. The Committee concluded that despite having identified the risks posed by fire, the GSA appeared not to have addressed specifically the heightened risk of fire to the Mackintosh building. In addition, the Committee was not convinced that an adequate risk management approach had been taken by the art school. The Committee recommended that the Scottish Government, SFRS and Historic Environment Scotland undertake a review of Category A Listed buildings with unique cultural or historic significance to ascertain if any additional interventions might be introduced to mitigate the risk of fire.
74. Overall, the Committee considered that the breadth of the issues raised during the inquiry warranted wider scrutiny. Accordingly, the Committee recommended that after the conclusion of the SFRS investigation into the cause of the fire that the Scottish Government should establish a public inquiry with judicial powers into the 2014 and 2018 fires at the Glasgow School of Art. SFRS, in their most recent written submission to the Committee, observed that their Fire Investigation Report remains in draft form until such times as the forensic examination is complete. An approximate time scale for the clearance of the remainder of the GSA site is late August 2021.
75. **The Committee highlights the recommendation, to a successor Committee, that after the conclusion of the SFRS investigation, the Scottish Government should establish a public inquiry with judicial powers into the 2014 and 2018 fires at the Glasgow School of Art. The inquiry should also examine the risks posed by fire in historic buildings nationally and the ability of custodians to manage these properties, drawing on the lessons learned from the GSA.**
76. **In response to the Committee's report, the Scottish Government committed to explore what options there may be to carry out a fire mitigation review of A listed buildings in public and major institutional ownership. The**

**Committee understands this work is ongoing and is being carried out in conjunction with Historic Environment Scotland. Our successor may consider it appropriate to write requesting an update regarding this work.**

## **Census 2022**

77. The Committee was the lead Committee scrutinising the Census (Scotland) Amendment Bill and subsequently on associated secondary legislation required for the delivery of the Census in 2021. As a result of the Covid-19 pandemic, the Scottish Government decided to postpone the Census until March 2022. The postponement of the Census has resulted in additional cost associated with the delivery of the census. The Scottish Government's most recent assessment of the overall cost of delivering the Census over the lifetime of the census programme was £138.6m.
78. The Committee had several evidence sessions which discussed the proposed guidance for answering the sex question, although the Committee had no remit with regards to the content of the guidance. We note recent legal developments in England have resulted in different guidance from that proposed in Scotland.

79. **The Committee recommends that a successor Committee continue to monitor progress in delivery of the Census in 2022 and, in particular, to scrutinise the cost of delivering the Census and how the data from the Scottish Census will be comparable to other census data in the UK.**

## Concluding Remarks

80. Session Five has been an extraordinarily challenging session of Parliament. The issues of Brexit and the impact of a pandemic on the culture and tourism sectors have been of direct relevance to the Committee's remit. This resulted in a significant scrutiny workload and stretched the capacity of Members and officials given the extremely broad and diverse nature of the Committee's remit. The constraint of being a committee that met on a Thursday also places a practical time constraint upon the range of evidence that can be taken prior to Chamber business commencing.
81. The Committee expects that Session Six of the Parliament will be equally challenging including issues which cannot be foreseen at this stage. The Committee wishes a successor Committee(s) our best wishes for Session Six and trusts that the issues highlighted in this legacy report will be of assistance in determining the scrutiny priorities of successor Committees dealing with the issues of Culture, Tourism, Europe and External Affairs in Session Six.



# **Annexe A: Note from Committee**

## **Advisers: Dr Fabian Zuleeg and Dr Anna Jerzewska**

82. This note was written by Dr Fabian Zuleeg and Anna Jerzewska, Advisers to the Culture, Tourism, Europe and External Affairs Committee of the Scottish Parliament. The purpose of this note, written at the beginning of March 2021, is to identify issues that a future committee may want to examine in the context of the EU-UK relationship, building on the evidence heard by the Committee in February and March 2021. Any thoughts expressed in this note are the responsibility of the authors alone.

### **Dr Fabian Zuleeg: EU-UK Economic and political relationship post-Brexit**

83. This note focuses in particular on the political economy of the EU-UK relationship, including on the implementation of the Withdrawal Agreement (WA) and the Trade and Cooperation Agreement (TCA), as well as the wider political relationship between the EU and the UK. Specific reference is made to the role of Scotland within these relationships.

#### **Economic relationship**

84. With regard to trade, and in particular exports from the UK to the EU, the exit from the transition period to the arrangements under the TCA did not give businesses sufficient time to adjust. In addition, the new requirements added an extra burden, causing considerable friction. In some areas, there appear to be indications that, while still having a negative impact overall, the situation has become more manageable. However, the key question remains whether these new requirements are teething problems as claimed by the UK Government (UKG) or whether they will persist over time as a direct consequence of leaving the Single Market and Customs Union.
85. On the fisheries, aquaculture and seafood sector, there is significant dissatisfaction with the deal (TCA) reached including fishing quota arrangements and the ability to get product to the EU market quick enough. The UKG's claims that the TCA is a good deal for UK fishing has been roundly rejected by the industry; how the implementation of the fisheries deal has works in practice will show which side had the more accurate assessment. For exporters the lack of quick access to EU markets increasingly poses an existential problem; again, it will be important to distinguish between teething problems and the long-term nature of the impact on exports and livelihoods in this sector.
86. The impact of the TCA on trade in the other direction, i.e. imports from the EU to the UK, cannot be assessed at this moment, given that there are 'grace periods' on the UK side for the implementation of the necessary checks. However, any added bureaucratic burden will have an impact on UK supply chains and might negatively impact on the availability of EU products in the UK, in particular for perishable

goods that are most affected by time delays. It is also important to note that, through logistics, problems arising for exports will impact on imports and *vice versa*, for example increasing costs associated with lorries being delayed or having to drive without freight on one leg of the journey.

87. All trade at the moment is taking place at much reduced volumes, given the impact of COVID-19. It is likely that increased volumes will also increase friction. Even more importantly, it will be important to monitor what trade doesn't take place anymore because it has become economically unviable, so a close examination of trade, pre- and post-Covid, in different sectors would be illuminating.
88. The development of trade in services is highly uncertain at this moment. There is likely to be a significant reduction in trade in services, given that the TCA is relatively thin with respect to services, but the scale of reduction will also be dependent on unilateral EU decisions, in particular equivalence in financial services, the recognition of UK data protection mechanisms, and potential legal challenges to these decisions.

## Economic Impact

89. The exact scale of the economic impact of moving from membership/transition to the TCA is not clear, not least because there will be different short term and long-term impacts. However, the overall direction seems clear – a significant reduction in GDP in line with pre-Brexit estimates for a hard Brexit. In the short term, there will be disruptive effects in particular from increased trade friction but the long-term effects are most likely more significant, in particular dynamic effects on productivity linked to movement of people and supply chains.
90. The long-term economic impact will also depend on the degree of divergence between the UK and the EU. The greater the degree of divergence (for example, on rules and standards), the higher the friction, the greater the cost. But even if, as the UKG states, the UK has no interest in diverging from the vast majority of EU rules and standards, the end of the transition period has already created significant divergence, not least in the implementation and enforcement of EU rules, which are no longer guaranteed in the UK by the EU legal system.
91. The negative impact of Brexit might, in part, be mitigated by public support for UK and in particular Scottish businesses. However, any support scheme has to be in line with the state aid provisions in the TCA. It also remains to be seen what kind of support is available and whether it can make a significant difference for businesses on the ground.

## Movement of people

92. The reduction in volume for trade in goods due to COVID-19 also applies to the movement of people, both for the purposes of business and for private trips. When it comes to business travel and the delivery of services on each other's territory, there appears to be a large degree of uncertainty on how the agreed rules will work in practice. For tourism, there is likely to be more disruption and friction for both

sides travelling into each other's territory, which is even more the case for those who want to move on a semi-permanent or permanent basis. This is aggravated by national competence issues, with many relevant legal frameworks not unified at EU level but differing member state by member state.

## Northern Ireland

93. The situation in Northern Ireland (NI) is of particular concern to the EU. The EU's erroneous decision to trigger Article 16 of the Northern Ireland Protocol in the context of vaccine trade (reversed in a matter of hours) has highlighted the fragility of current arrangements, triggering a strong response in NI and the rest of the UK. However, the current threat by the UKG to unilaterally extend grace periods for checks amounts to a breach of the protocol and is triggering strong reactions on the EU side. It is being seen as breaching international law, in line with the previous threats contained within parts of the UK Internal Market Bill (subsequently withdrawn). It remains to be seen how implementable the Protocol will prove to be and how both the EU and the UK will deal with the arising frictions.

## TCA Implementation

94. For the moment, the TCA has been provisionally applied, pending European Parliament (EP) ratification. The initial timetable was extended to end of April to give the EP sufficient time for scrutiny but the expectation was that the process would be rather smooth and that ratification itself would not be in question (with the proviso that the EP would insist on being closely involved in future implementation). However, with the developing row on NI, ratification has been postponed indefinitely and, if no solution is found, could *in extremis* result in the TCA folding.
95. This highlights concerns over the overall stability of the agreement. Not only with respect to the NI Protocol (which already includes a potential political revision point), there are a number of reviews built into the TCA. In addition, there are a range of areas where there might be conflict, for example on the level playing field conditions, which could ultimately lead to a suspension or the collapse of the TCA. How precarious the TCA will be in practice will depend on how well its mechanisms and governance are working but even more so on political will on both sides to work through the areas of friction.
96. The governance of the TCA is rather complex, with a plethora of different bodies dealing with specific issues. There is an attempt to 'bureaucratise' the relationship, dealing with conflicts and friction at a technical rather than political level. Whether that is successful remains to be seen. There is also the question of the involvement of Scotland in TCA governance, including in the foreseen Parliamentary Partnership Assembly.
97. The UK has left many EU programmes, including Erasmus, and will no longer be part of EU spending programmes such as European Structural and Investment Funds. Across these areas, the scale, nature and efficacy of UK replacement programmes will be in question. In addition, when it comes to Horizon Europe, which the UK has become associated with, there will be questions around

differences arising from the difference in status, and in particular whether Scottish Universities will be as successful as in the pre-Brexit era.

## Political cooperation

98. In the wider political arena, the degree of trust and the will for cooperation will be crucial, including for COP26 and G7. There are many areas where the EU and the UK continue to share interests and challenges, including foreign policy, internal and external security, combatting crime, environmental protection and in the digital world. For the moment, the political rhetoric at UK level seems to indicate a separation, although at technical level much cooperation is happening. On the EU side trust in the UKG is very low but there is a recognition that cooperation is preferable to perpetual conflict.

## Scotland's role

99. For Scotland much, but not all, of the cooperation with the EU will be through the lens of the EU-UK relationship. The level of exchange and cooperation on this issue between Edinburgh and London will thus be crucial, ensuring that Scottish interests are taken into account in the EU-UK relationship.
100. At the same time, the representation of Scottish interests in the EU will be crucial for businesses but also at a policy level. Paradoxically, leaving the European Union will require a higher degree of investment into these relationships, as Scotland has lost the automatic right to be at the table, which it previously enjoyed via the UK as a member state. How the Scottish Government approaches its representation in Brussels will be of particular interest.

## Dr Anna Jerzewska: Trade

101. There are a wide range of trade issues which a successor Committee may wish to consider. The principal issues I would identify, as of March 2021, are as follows—
- **The implementation and readiness for the introduction of new controls in April and June.** The UK will introduce new SPS and customs control on imports from the EU in April and June as part of the phased introduction of border processes. During previous Committee evidence sessions, a number of witnesses have expressed an opinion that businesses were not sufficiently prepared due to late guidance, lack of familiarity with the new IT systems and the last-minute deal. What efforts will the UK and Scottish governments undertake to ensure UK companies are ready for the introduction of these controls?
  - **Prioritisation of flow over revenue.** The UK government has announced that it plans to prioritise flow over revenue in terms of inbound trade. Meaning that business will not be penalised for genuine mistakes resulting from confusion or lack of understanding. However, no details have been provided and it is

uncertain how this would be assessed. A number of companies were unaware of their responsibilities as importers. Under the simplified import procedures introduced by the UK, many companies have brought goods in without any control and have either not kept the documents and records or brought the goods in under incorrect code or origin. In July, when full controls will be introduced the scale of this problem will become visible. How will the Government deal with the issues of compliance resulting from the lack of sufficient preparation for the end of the Transition Period?

- **Simplification of SPS controls.** Following the evidence from stakeholders regarding e-certificates and simplification of the processes, what efforts has the government undertaken to simplify the process of obtaining Health Certificates required for SPS controls?
- **Northern Ireland Protocol.** The discussions around the implementation of the NI Protocol have intensified at the beginning of 2021. The full controls have not yet been introduced by the UK and UK businesses are awaiting further guidance on the implementation of the processes. The UK has unilaterally extended the grace period for SPS controls, however, a permanent solution still needs to be agreed with the EU.
- **Impact on services.** The TCA had very limited provisions for trade in services. A further agreement on trade in services was planned for early 2021. The Committee might wish to look into any such negotiations and the impact on the service sector.
- **Long-term impact on businesses.** The UK Government referred to the problems that businesses faced in January and February as teething problems although some of them were the result of permanent changes in the way companies trade with the EU, for example, rules of origin. What long-term impact has the increased administrative cost and burden had on companies in Scotland and the rest of the UK. Were they able to maintain their profit margins?
- **Impact on supply chains.** Have UK businesses been losing market share in the EU as a result of the new barriers to trade? Have the initial disruptions as well as the increased cost and time led to EU clients finding alternative suppliers? There have been some, mostly anecdotal, evidence of that happening before 1 January 2021 due to uncertainty. The Committee might wish to explore the long-term effect of the new border.
- **Additional support and guidance for businesses.** At the beginning of 2021, the UK Government introduced a new support fund for SME's. This fund is supposed to support SMEs in navigating the new border procedures. A fund for the fish and seafood industry has also been introduced. The Government is also considered providing additional guidance for businesses in areas they found most challenging - notably rules of origin. The Committee might wish to explore whether or not these efforts were successful. Has the Scottish Government introduced any additional support for SMEs or vulnerable industries that are particularly affected by Brexit (whether in terms of funds or guidance)?

- **Impact of the new immigration rules on businesses.** A number of businesses rely on seasonal workers (hospitality, agriculture). How have the new immigration rules impacted these businesses?
- **IT systems.** A successor Committee may wish to consider the functioning of the various UK IT systems that have been operational at the beginning of 2021, namely, the two customs systems designed to deal with the increased volume of customs declarations (CDS and CHIEF), the new SPS UK system (IPAFFS) as well as the systems responsible for managing the UK borders (GVMS). When introduced in January 2021, GVMS was only able to perform basic functions. However, based on the Border Operating Model, additional functionality will be gradually introduced throughout 2021. The Committee might also wish to review the impact of provisions on groupage and end of easement for parcel operators in Northern Ireland.

