



2022/2188(INI)

19.7.2023

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Foreign Affairs and the Committee on International Trade

on the implementation report on the EU-UK Trade and Cooperation Agreement (2022/2188(INI))

Rapporteur for opinion (*): Frances Fitzgerald

(*) Associated committee – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Foreign Affairs and the Committee on International Trade, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

- A. whereas the Trade and Cooperation Agreement (TCA) concluded between the EU and the UK establishes preferential arrangements in areas such as trade in goods and in services, intellectual property, digital trade, road transport and aviation, public procurement, energy, social security coordination, law enforcement and judicial cooperation in criminal matters, fisheries, competition, mobility, investment, thematic cooperation and participation in EU programmes, along with a prudential carve-out;
- B. whereas the Withdrawal Agreement and the TCA constitute a common framework for the UK's relationship with the EU; whereas both agreements have been agreed upon and ratified by the EU and the UK and are legally binding treaties under international public law; whereas the TCA is of unprecedented scope and is predicated on the full implementation of the Withdrawal Agreement, now revised by the Windsor Framework;
- C. whereas the TCA is rightly underpinned by provisions that ensure a level playing field and respect for human rights; whereas these provisions are intended to prevent unfair competition and ensure that both the EU and the UK maintain high standards in areas such as labour rights, environmental protection and State aid;
- D. whereas the TCA does not cover any decisions relating to equivalence for financial services, or on the adequacy of the UK data protection regime, free movement of people and services, or the UK's sanitary and phytosanitary regime;
- E. whereas UK service suppliers, including in the area of financial services, no longer benefit from the 'country-of-origin' framework or 'passporting', which enables automatic access to the entire EU single market;
- F. whereas the automatic recognition of professional qualifications, such as for lawyers, accountants and actuaries no longer applies; whereas, instead, the agreement sets out a framework for cooperation between the EU and the UK on the recognition of professional qualifications, including the establishment of a dialogue to exchange information on recognition procedures and to develop guidelines for assessing qualifications; notes the particular difficulties that this creates on the island of Ireland;
- G. whereas under the TCA, service suppliers or investors from the EU must not be treated any less favourably than UK operators in the UK and vice versa; whereas the non-discrimination principle applies to a wide range of economic activities, including the provision of services, the establishment of businesses and the protection of intellectual property rights;
- H. whereas under the TCA, the possibility of temporary secondments of highly skilled employees and short-term business trips between the EU and the UK is maintained; whereas this allows for the temporary cross-border provision of services by professionals in certain circumstances, such as for short-term projects or consultancy

work; whereas professionals will still need to comply with relevant regulations in the country where they are providing services;

- I. whereas UK public procurement markets remain open to EU bidders and vice versa on an equal footing; whereas both parties must ensure that the procurement process is fair, transparent and open to competition; whereas the UK and the EU have also agreed to maintain their existing procurement commitments under the World Trade Organization's Agreement on Government Procurement, which further opens up their public procurement markets to businesses from other countries;
- J. whereas the EU and the UK are currently committed to maintaining regulatory and supervisory cooperation in the field of financial services, and this cooperative approach should underpin long-term EU-UK relations; whereas the Commission will extend its temporary permit allowing EU banks and fund managers to use UK clearing houses; whereas on 17 May 2023 the Commission adopted a draft UK-EU Memorandum of Understanding (MoU) on Financial Services Cooperation, which has been published and endorsed by the Council and has now been signed by the Commission on behalf of the EU;
- K. whereas the MoU makes it clear that the EU and the UK have the shared objective of preserving financial stability, market integrity and investor and consumer protection;
- L. whereas the TCA and the Withdrawal Agreement provide for an enforceable level playing field, including for State aid and social and environmental standards to prevent regulatory arbitrage against the interests of either side;
- M. whereas Article 774(3) of the TCA excludes its application in the territory of Gibraltar; whereas negotiations have been ongoing since 2021 between the UK and the EU with regard to Gibraltar; whereas the Political Agreement of 25 November 2018 between the Commission, the European Council and the Kingdom of Spain establishes the obligation that any decision that affects the territory of Gibraltar must have the prior agreement of the Kingdom of Spain;
- N. whereas under the Northern Ireland Protocol, Northern Ireland remains within the EU's Customs Union and single market for goods, while also being part of a third-country jurisdiction for trade purposes with the rest of the UK; whereas consequently, the Protocol requires Northern Ireland to remain aligned with certain EU rules and regulations, including those related to customs, goods and State aid; whereas previously threatened actions by the UK to remove the jurisdiction of the Court of Justice of the European Union over the Protocol, for which the Commission commenced infringement proceedings against the UK, would have been in violation of the TCA, particularly with respect to the Northern Ireland Protocol as contained in the Northern Ireland Protocol Bill 2022;
- 1. Notes that the Subsidy Control Act 2022¹, which establishes a framework for meeting the UK's international commitments on subsidy control, including those arising under the TCA, has received Royal Assent after being passed by the UK Parliament; echoes

¹ Legislation.gov.uk, '[The Subsidy Control Act 2022: Chapter 23](#)', 28 April 2022.

the Commission's concerns² about stated plans to introduce so-called free ports, which could risk contravening these commitments and could constitute impermissible State aid under the TCA³; calls for the Commission to monitor the situation closely, including with respect to money laundering, tax evasion and criminal activity, and commence further infringement proceedings, if necessary;

2. Stresses that, despite the implementation of the Subsidy Control Act 2022, further work by British authorities is necessary in order to fully meet the subsidy commitments under the TCA, including regulations or measures for specific sectors; notes that the EU Foreign Subsidy Regulation entered into force in July 2023⁴;
3. Notes the limited nature of the TCA in relation to financial services; recognises that this absence is a consequence of the desire of the UK not to discuss other areas of mutual interest as part of the TCA negotiations; welcomes the plans to establish a joint EU-UK Financial Regulatory Forum to facilitate dialogue and cooperation on financial services issues⁵; recalls that this forum would not constitute a formal part of the TCA and should not provide the same level of access or cooperation as a comprehensive financial services agreement;
4. Reiterates that decisions on equivalence are discretionary and do not form part of the TCA; notes also the UK's decisions on equivalence in respect of the EU and also in respect of other non-EU countries such as Switzerland, where mutual recognition status has been agreed; recalls that decisions on equivalence could benefit EU firms in terms of greater access to the UK market, including for banking, payment services, investment services and insurance; notes that the EU has only granted the UK equivalence status in one area – central counterparties – on a time-limited basis, recently extended until 2025; calls for further equivalence decisions to be considered where the outcomes are consistent with EU standards and objectives; notes, in this regard, that the Commission has previously indicated that equivalence assessments for the UK could resume once the MoU has been agreed⁶; notes that as of October 2021, the EU has granted the United States 22 equivalence decisions compared to 1 in the case of the UK⁷; recognises that while equivalence assessments are predominantly technical, broader political factors are relevant, and supports the Commission's position that decisions on equivalence should be made when they are in the EU's interests; encourages the Commission to discuss further equivalence decisions in order to provide greater market access benefits to both EU and UK firms;
5. Notes that the British Government's Future Regulatory Framework Review and the subsequently published Financial Services and Markets Bill⁸, which proposes to repeal, replace, or amend retained EU law in the area of financial services, as well as to

² Minutes of the Trade Partnership Committee meeting of 1st Dec 2022.

³ *The Financial Times*, '[EU to raise concerns over UK's freeports scheme](#)', 30 November 2022.

⁴ Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market (OJ L 330, 23.12.2022, p. 1).

⁵ Reuters, '[EU restarts work on EU-UK regulatory forum after Northern Ireland deal](#)', 8 March 2023.

⁶ <https://www.reuters.com/business/finance/britain-eu-edge-forward-with-financial-services-forum-plan-2021-02-23/>.

⁷ European Affairs Committee of the House of Lords, '[1st Report of Session 2022–23: The UK-EU relationship in financial services](#)', 23 June 2022.

⁸ UK Parliament, '[Financial Services and Markets Bill](#)', 11 May 2023.

delegate greater responsibility to UK regulators, demonstrates a desire to adopt divergent regulations from the EU in respect of financial services; underlines that excessive regulatory divergences may have a negative impact on financial cooperation between the UK and the EU and could undermine financial flows and the activities of financial entities; welcomes the EU's recent progress on legislation in respect of financial services, even where this may result in regulatory divergence from the UK, including with respect to cryptocurrencies, sustainable finance, taxonomy, listing and anti-money laundering; acknowledges, however, that the UK and the EU may adopt different regulatory approaches in the area of financial services and may not necessarily maintain a harmonised regulatory regime; supports the EU's legislative progress in this area; stresses, however, the benefits of future regulatory cooperation and of engaging in the development and integration of international standards;

6. Notes the ambition of the UK to establish itself as a global centre for digital finance and crypto assets through a number of regulatory and supervisory initiatives; stresses the importance of developing a coordinated approach and enhanced cooperation in the area of crypto regulation and supervision in order to effectively address and mitigate the risks for consumer protection, market integrity and money laundering, as well as their environmental impact, and in order to prevent regulatory arbitrage;
7. Stresses that in certain areas such as capital requirements in the banking sector, internationally agreed standards such as those stemming from the Basel Committee on Banking Supervision remain the regulatory baseline;
8. Notes that the TCA offers the EU an opportunity to develop and strengthen its own financial services infrastructure and expertise in order to promote business competitiveness, investment, economic stability and consumer protection; strongly supports the completion of the capital markets union and the banking union, based on an approach that is outward-looking, innovative and competitive; acknowledges that the City of London remains a global centre for financial services with a global reach that EU business could benefit from accessing⁹; recognises the importance of a strong financial services sector for both the EU and the UK and supports efforts to enhance the EU's financial services infrastructure and expertise;
9. Calls for the EU to work with international partners, including the UK and other major global financial centres, to promote common norms and standards in the financial services sector, in order to facilitate cross-border trade and ensure the stability of the financial system;
10. Supports the aims of the Commission's proposed review of the European Market Infrastructure Regulation (EMIR) in respect of improving EU-based capacity and infrastructure in the area of euro clearing; notes that the Union relies heavily on certain third-country Central Counterparty Clearing Houses¹⁰; recognises that the majority of

⁹ Reuters, '[London is top global finance centre but lags in key areas, says study](#)', 27 January 2022.

¹⁰ Commission staff working document of 7 December 2022 entitled 'Impact assessment report accompanying document Proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets and Proposal for a directive of the European Parliament and of the Council amending Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties and the

euro clearing taking place outside the EU represents a strategic risk including to financial stability; recognises also that any forced relocation could risk disruption, market fragmentation, retaliatory measures, loss of competitiveness and reduced liquidity; calls on co-legislators to support action in this area in a manner that is effective, proportionate and non-disruptive and aims at strengthening the Union's clearing capacities; advocates for a balanced approach that addresses the strategic risks, including to financial stability of euro clearing outside the EU, while minimising potential disruptions to the market;

11. Recognises that the Union's goal of open strategic autonomy should not become a barrier to the benefits of a globally interconnected financial system; cautions against the potential risks of overly focusing on strategic autonomy in a way that could lead to isolationism or protectionism in the financial sector, including the risk of trade disputes and retaliatory action;
12. Strongly supports continued cooperation between the EU and the UK in areas related to financial, economic and monetary affairs that are of mutual interest, including tackling international money laundering and terrorist financing, countering harmful tax regimes, implementing sanctions, tackling customs fraud, ensuring a level playing field and promoting global financial stability;
13. Recalls that Gibraltar is considered by the Commission¹¹ to be a territory that suffers from strategic deficiencies in its anti-money laundering and counter-terrorist financing system, which constitute significant threats to the financial system of the EU; urges the Commission to include provisions in the agreement with the UK on Gibraltar that guarantee anti-money laundering and terrorist financing standards equivalent to those of the EU;
14. Recognises that the close economic links between Ireland and Northern Ireland will continue despite the latter being part of a designated third country; supports an acknowledgement of these economic links, including with respect to the supervision of transactions between both jurisdictions; calls for measures to ensure that such links are not disrupted by any changes in regulatory or legal frameworks, particularly in respect of services provided to consumers and small and medium-sized enterprises, which cannot take advantage of being mobile; emphasises the importance of maintaining and further developing close economic ties and minimising disruption in the aftermath of Brexit, particularly with respect to this relationship;
15. Recognises that following the entry into force of the TCA, a number of financial services firms based in London announced intentions to establish a new presence in the EU and relocate some assets to the EU, with estimates suggesting 44 % of the UK's largest financial services firms announcing plans to move some staff or operations¹² though the number of jobs that have relocated out of London thus far is only

counterparty risk on centrally cleared derivative transactions (SWD(2022)0697).

¹¹ Nicaragua, Pakistan and Zimbabwe from that table. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0410>.

¹² Study – '[Recent trends in UK financial sector regulation and possible implications for the EU, including its approach to equivalence](#)', European Parliament, Directorate-General for Internal Policies, Policy Department for Economic, Scientific and Quality of Life Policies, 8 February 2023.

7 000 and far below the initial estimates of 75 000¹³; supports the efforts of the Member States to seek to attract post-Brexit business investment; notes that several EU cities have been the focus of financial service industry investment post-Brexit, including Paris, Frankfurt, Amsterdam, Luxembourg and Dublin; notes that the European Securities and Markets Authority (ESMA) ‘Peer review into the NCAs’ handling of relocation to the EU in the context of the UK’s withdrawal from the EU’¹⁴ has identified some shortcomings in relation to how Member States’ competent authorities have handled the relocation process; in this context, points to the best practices identified in the peer review report, as well as to ESMA’s sector-specific principles on relocations from the UK to the EU¹⁵; welcomes the European Supervisory Authorities’ continued monitoring of supervisory practices in assessing the relocation of firms to the EU¹⁶; stresses the need to continue working to complete the Banking Union and deepen the Capital Markets Union in order to prevent the further concentration of financial hubs and to reap the benefits of efficiencies of scale;

16. Recalls the commitment, in the first Joint Declaration accompanying the TCA, to signing an MoU on financial services regulatory cooperation between the EU and the UK, which would not be a legal document but would provide a basis for regular, structured engagement; notes that this memorandum has been finalised and adopted by the Commission; welcomes the successful signing of bilateral MoUs between EU and UK regulators and supervisors at both EU and Member State level, including between the Financial Conduct Authority and the European Banking Authority and ESMA, a multilateral MoU with EU and European Economic Area National Competent Authorities; and individual MoUs with National Competent Authorities¹⁷;
17. Welcomes the signing of the MoU on Financial Services Cooperation between the EU and UK by the Commission and HM Treasury, establishing a framework for financial services regulatory cooperation, including a new regulatory forum; welcomes the proposal for the forum to meet at least semi-annually; notes, inter alia, that the forum may discuss any issue relevant to regulatory cooperation in the area of financial services and may include the sharing of information on regulatory developments, exchanges of views on respective policies, rules and processes concerning deference regimes, such as equivalence, and dialogue about the risk analyses and potential economic impacts of proposed measures; calls for the participants to begin meetings of the forum as soon as possible;
18. Stresses that this forum must operate in a transparent manner with stakeholder engagement as appropriate; notes that, after several years of turmoil, institutions and investors in the EU and UK need clarity and legal certainty in order to make business

¹³ EY, ‘[EY Financial Services Brexit Tracker: Movement within UK financial services sector stabilises five years on from Article 50 trigger](#)’, 29 March 2022, London; European Affairs Committee of the House of Lords, ‘[1st Report of Session 2022–23: The UK-EU relationship in financial services](#)’, 23 June 2022.

¹⁴ ESMA42-111-7468, *Peer review into the NCAs’ handling of relocation to the EU in the context of the UK’s withdrawal from the EU* (https://www.esma.europa.eu/sites/default/files/library/esma42-111-7468_brexit_peer_review_report.pdf).

¹⁵ ESMA71-99-526.

¹⁶ https://www.esma.europa.eu/sites/default/files/library/esma42-111-7468_brexit_peer_review_report.pdf.

¹⁷ The Financial Conduct Authority, ‘[MoUs with European authorities in the areas of securities, investment services and asset management, insurance and pensions, and banking](#)’, 4 January 2021.

decisions and investments;

19. Stresses that the parties to the forum should engage in the spirit of sincere cooperation to ensure that the relationship is constructive and underpinned by the common objectives of safeguarding financial stability and consumer protection;
20. Welcomes the inclusion of exchanges of views on equivalence decisions within the remit of the Forum on Regulatory Cooperation; calls for regular discussion and examination of such issues, particularly with respect to financial and investment services, in the interests of increased trade and cooperation;
21. Calls on the parties to use the forum to identify and address mutual threats to financial stability and consumer protection, to prevent and combat money laundering and terrorist financing, as well as to address new developments and innovations in the markets, in order to promote a consistent approach where possible;
22. Notes the potential of the forum to provide a framework for dispute resolution between both parties in the area of financial services regulation; welcomes this potential and calls for both parties to engage constructively and in good faith;
23. Calls for the Commission to keep Parliament fully informed in relation to the operation of the forum and the MoU;
24. Strongly reiterates the importance of protecting the Good Friday Agreement in its entirety and supporting peace and reconciliation in Northern Ireland; commends the reaching of an agreement on the Windsor Framework¹⁸, which will ensure a flexible but effective implementation of the Northern Ireland Protocol and respect for the Good Friday Agreement, while safeguarding the integrity of the EU's single market, and the fact that the British Government has announced its intention to suspend work on the Northern Ireland Protocol Bill and to allow it to lapse; encourages the British Government to take the specific circumstances of Northern Ireland into account in any new laws or regulations it proposes to introduce;
25. Calls on the Commission, in coordination with the European Central Bank, the European Supervisory Authorities, the European Systemic Risk Board and the Single Resolution Board, to keep Parliament fully informed on the monitoring of the implementation of the TCA and on all relevant market developments in financial services, in order to identify potential market disruptions and threats to financial stability, market integrity and investor protection in a timely manner.

¹⁸ His Majesty's Government, '[The Windsor Framework: A new way forward](#)', February 2023.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Rule 58 – Joint committee procedure Date announced in plenary	15.12.2022
Date adopted	18.7.2023
Result of final vote	+: 58 -: 0 0: 1
Members present for the final vote	Rasmus Andresen, Anna-Michelle Asimakopoulou, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Engin Eroglu, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Claude Gruffat, José Gusmão, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Othmar Karas, Ondřej Kovařík, Georgios Kyrtos, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Siegfried Mureşan, Caroline Nagtegaal, Denis Nesci, Luděk Niedermayer, Dimitrios Papadimoulis, Lídia Pereira, Kira Marie Peter-Hansen, Eva Maria Poptcheva, Antonio Maria Rinaldi, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Inese Vaidere, Stéphanie Yon-Courtin, Roberts Zīle
Substitutes present for the final vote	Marc Angel, Herbert Dorfmann, Bas Eickhout, Gianna Gancia, Henrike Hahn, Chris MacManus, Ville Niinistö, Johan Nissinen, Erik Poulsen
Substitutes under Rule 209(7) present for the final vote	Paolo Borchia, Marco Campomenosi, Deirdre Clune, Christian Doleschal, Kinga Gál, Ska Keller, Liudas Mažylis, Maria Veronica Rossi, Günther Sidl, Stefania Zambelli

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

58	+
ECR	Michiel Hoogeveen, Denis Nesci, Dorien Rookmaker, Roberts Zīle
ID	Paolo Borchia, Marco Campomenosi, Gianna Gancia, Antonio Maria Rinaldi, Maria Veronica Rossi, Stefania Zambelli
NI	Kinga Gál
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Deirdre Clune, Christian Doleschal, Herbert Dorfmann, Markus Ferber, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Liudas Mažylis, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Inese Vaidere
Renew	Gilles Boyer, Engin Eroglu, Giuseppe Ferrandino, Ondřej Kovařík, Georgios Kyrtos, Caroline Nagtegaal, Eva Maria Poptcheva, Erik Poulsen, Stéphanie Yon-Courtin
S&D	Marc Angel, Marek Belka, Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Alfred Sant, Joachim Schuster, Günther Sidl, Pedro Silva Pereira, Paul Tang, Irene Tinagli
The Left	José Gusmão, Chris MacManus, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, Bas Eickhout, Claude Gruffat, Henrike Hahn, Ska Keller, Ville Niinistö, Kira Marie Peter-Hansen

0	-

1	0
ECR	Johan Nissinen

Key to symbols:

+ : in favour

- : against

0 : abstention