

SUBMISSION

Constitution, Europe and External Affairs inquiries

Inquiry into the Scottish Government's international work

The UK Internal Market

Continuity Act - Policy Statement and Annual Report

Participation in international fora

COSLA has very close relationships at political and policy level with our fellow organisations from the rest of Europe. Following the UK's departure from the EU we continue engaging with them via our pan-European organisation the Council of European Municipalities and Regions (CEMR), where several of our spokespersons have an equivalent role in Europe, the worldwide United Cities and Local Governments (where the COSLA President is Scotland's member of its World Council).

COSLA also nominates and sends representatives (as the Scottish Parliament does) to the Congress of Local and Regional Authorities of the Council of Europe (which met our leadership only last July to monitor the application of the European Charter of Local Self Government in the wake of the European Charter Bill being passed at the Scottish Parliament) and to the UK-EU Committee of the Regions (CoR) Contact Group, which is the internal body of the CoR providing a forum for continued political dialogue with the EU post-Brexit.

Furthermore, through our European and International membership bodies COSLA gets to participate in a number of international fora such as the United Nations High Level Forum for Sustainable Development, the UN climate summits (as indeed we will host our international peers in COP26) and various other bodies of the UN and the OECD.

COSLA has been scoping the international engagement opportunities available to Local Government with councils for some time. That informs a number of the points in this submission.

Partnership working with the Scottish Government

There are a wide range of decisions taken in international fora which impact on the responsibilities of the Scottish Government and local authorities.

While international participation often depends for the UK Government, both Scottish Government and COSLA have the ability to proactively engage through on their own capacity. However, there is also scope for a more strategic approach, working together, that is mutually reinforcing, in the public interest, and can enhance Scotland's international reputation.

Recent examples that show the value of such cooperation (both with the Scottish Parliament, as with the Scottish Government) are the European Charter of Local Self Government (Incorporation) (Scotland) Bill and preparations for the recent visit of the Council of Europe delegation monitoring the application of the Charter in Scotland and elsewhere in the UK.

Not all international engagement of the Scottish Government is suitable for partnership with Local Government; likewise not all Local Government international engagement happens through COSLA. Still, there is scope to ensure, that our respective engagement is coordinated and mutually reinforcing when it is in the Scottish public interest to do so.

For instance, we are aware that the Scottish Government is engaging at OECD on a range of matters such as rural innovation whereas we also engage at OECD, Council of Europe and various agencies of the UN system through our own means: for instance, COSLA's Environment and Economy Spokesperson spoke at the last UN High Level Forum on Sustainable Development.

Similarly, COSLA and the Scottish Government have their own direct links with the UK Government on international engagement, something that, if anything, will be even more relevant post-Brexit than was previously the case. We have argued during the preparation of the Integrated Review that a more joined up, partnership based approach between central, devolved and local governments is necessary.

We believe that the eventual renewal of the Scottish Government's International Framework and European strategy would benefit from our input, if we were given the opportunity to do so, just as we are developing with councils a Scottish Local Government international engagement strategy.

Finally, it is in our common interest to monitor closely and influence any new UK rules and guidance following EU withdrawal that might affect the way local authorities and Devolved Administrations operate abroad.

Repatriation of EU powers – Continuity Act 2021 Consultation to Local Government

COSLA and the Scottish Government have had productive cooperation during the legislative passage of the UK Internal Market Act 2020 and related matters that concern not just the consequences of EU Exit but its repercussions on Scotland such as the Common Frameworks, replacement of EU funding, future of rural areas or subsidy control.

COSLA particularly welcomed the introduction of Section 9 (7)(a)(ii) in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. This section provides for the consultation of Local Government in the EU Continuity Act 2021 whenever a Scottish Minister is keen to use the "keep pace" powers to align with new EU targets. This provision is an excellent example of partnership working between the Scottish Parliament, Scottish Government and local authorities through COSLA.

However, despite some initial conversations at officer level last year, this has not led to joint work to develop the specifics of the consultation arrangements with Local Government through COSLA. We have some good precedents of cooperation, so we are keen to start that work.

Town Twinning

COSLA was very pleased that the Scottish Government's Programme for Government indicated it was keen to build upon existing town twinning partnerships. These have existed for decades and COSLA, similar to other national associations of local authorities in Europe, supporting on behalf of our local authorities. Indeed, town twinning in its present form is an

initiative that dates back to the founding of the Council of European Municipalities and Regions 71 years ago, and for which COSLA currently acts as coordinator, working in partnership with our peers from the other European countries.

We will be happy to coproduce with the Scottish Government a new post-Brexit town twinning approach. While it is welcome that the Scottish Government is taking an interest, it is important to build on the work that COSLA, councils and community councils have been doing over several decades.

We are developing the same approach with the UK Government, which is starting to support financially such town twinning activities. Thus, it is only right to do the same and ideally have an even deeper national partnership model in Scotland, not just for trade issues but also for the wider partnership that the Scottish Government and indeed COSLA is already actively pursuing with our European counterparts.

Finally, we welcome the Scottish Government offer of support for trade missions via the Scottish Chambers of Commerce, which we assume will be complementary to those carried out by the Scottish Cities Alliance with the funding of the Scottish Government.

UK internal Market and Devolution

COSLA has long sought involvement in the various UK-wide Common Frameworks to deal with repatriated EU powers that require UK-wide arrangements, that directly intersect with Local Government powers.

The UK and Devolved Administrations have agreed a new framework on Public Procurement, which sets out how they should work together where they agree that there are benefits to consistent approaches to procurement policy. This is the only Common Framework where some consultation has been carried out with Local Government, albeit at a very late stage.

While we can understand the triple pressures of 2020 (transition period, uncertain success of UK-EU negotiations, COVID work pressures), this must not be the case moving forward.

We continue to urge both Governments to fully involve us in developing post-EU exit UK and Devolved policy, including the Common Frameworks.

As mentioned previously we expect that the abovementioned consultation requirements to Local Government, introduced of the European Union (Legal Continuity) (Scotland) Act 2021, will help to address this need for proper consultation.

The UK Government made a statement at the House of Commons on 18 March 2018 promising a similar formal consultative arrangement for Local Government, but this is yet to be set up.

There are a few other pending Common Frameworks relating to Local Government such as waste, air quality and trading standards, and we have asked both Scottish and UK officials for a predictable calendar so, as a minimum, we can provide meaningful input, even if our stated aim remains for meaningful involvement from the outset.

Alignment and Divergence with the EU under the Trade and Cooperation Agreement (TCA)

In our successive policy positions on issues such as state aid and procurement we have never refrained from asking to maximise the flexibilities that the new EU-UK Trade and Cooperation Agreement (TCA) provides in terms of policy divergence.

Quite clearly COSLA expects that the UK and its constituent parts honour the level playing field provisions of the TCA (and as such we have a regulatory discussion with our EU peers through the UK-Committee of the Regions Contact Group, to which the Scottish Parliament also sends representatives).

That said many EU rules were created as a one-size-fits-all, lowest common denominator for 28 very different economies, with very different attitudes towards transparency, fair trade and enforcement of rules. Thus, it is right that the UK and Scotland, which are sophisticated economies with robust legal systems be able to make use of these new flexibilities.

Two key issues that we consistently argued for are "buy local" clauses in procurement, and more localised and simpler state aid/subsidy control rules.

That said, these new flexibilities must both respect the level playing field across the UK and the EU and our trading partners. For instance, we welcome the UK Procurement Green Paper proposals for "buy local" clauses in UK Government procurement operations. However, procurement is devolved to Scotland and it is up to the Scottish Parliament to legislate if and how it decides to define "buy local" clauses in those areas governed by Scottish procurement regulations.

A yet untested but potentially important risk is the impact of the non-discrimination clauses of the Internal Market Act 2020, as the fear of potential remedial action being launched might deter one part of the UK from significantly departing from what other parts of the UK will be doing with these EU returned powers.

Level Playing Field and UK-EU regulatory dialogue

It is notable that the first meeting of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development under the EU-UK Trade and Cooperation Agreement, on 12 October, covered a significant number of issues such as the UK's Subsidy Control Bill, the UK renewable energy schemes and their equivalent in the EU.

Given that many of these issues concern local and devolved competences, it seems appropriate, as COSLA has previously called for that we are part of or at least able to feed into that regulatory dialogue. We already do to an extent via the UK-EU Committee of the Regions Contact Group but, unlike the Parliamentary Assembly, this is an informal group that, unlike similar EU trade agreements, has not been included in the TCA. The UK Mission to the EU has also been useful as a point of information on these talks to the Brussels UK Offices and Organisations Group, of which COSLA and the Scottish Government EU offices are members.

This is in any case no substitute for a proper mechanism to feed into the UK Government engagement at a formal level. Interestingly, the Department for International Trade has started some useful engagement with respect to emerging trade deals with other countries that might be a useful starting point to consider for the TCA.