Foreign, Commonwealth & Development Office

International Academy

Europe Faculty

Working with Europe and the EU
– A New Context

Practitioner Level Training Closed Course
for the Department of Business and Trade
organised by the European Institute of Public Administration (EIPA),
Maastricht on behalf of
the Foreign, Commonwealth and Development Office (FCDO)

London, 8-10 January 2024

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1.1

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Working with Europe and the EU – A New Context
8 – 10 January 2024

Day 1
How does the EU work, and how can the UK try to shape its policies?

Edward Best, External expert, EIPA

Day 2
How does the new framework of UK-EU relations work?

Alexander Tuerk, Professor, King's College London

Day 3
How can the UK and the EU work together on global issues?

Wolfgang Koeth, Expert, EIPA

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Working with Europe and the EU – A New Context
8 – 10 January 2024

Day 1

Introduction, review of essentials and framing questions

Who does what in the EU institutional system?
Group exercise and debriefing

Case study

How can non-EU countries try to influence EU policies?

Workshop: How to work with the EU and Europe in practice

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Framing questions (1)

- **SLIDO** RANKING EXERCISE – SELECT 5 IN ORDER OF IMPORTANCE

- **What are the UK's main interests and priorities ref. the EU?**

  - cooperation in security and defence
  - partnership in leading on climate action
  - joint defence of democratic values
  - controlling migration to the UK
  - competitive advantage for UK in new technologies
  - market access to the EU
  - ensuring UK benefits from international regulatory norms

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slido

What are the UK's main interests and priorities regarding the EU?

ⓘ Start presenting to display the poll results on this slide.

Dimensions of UK-EU relations: continua of cooperation

Regulation	alignment v. divergence
Functional cooperation	association v. alternative
Foreign and security policy	ad hoc cooperation (same values and interests?)
Global goals (climate, SDGs)	parallel action (different means to same ends?)

Themes in the UK-EU relationship and points for discussion

Politics and policies:

    a new climate after the Windsor Framework

From principled positions towards pragmatic problem-solving?

- reasoned divergence, managing differences and rebuilding cooperation?
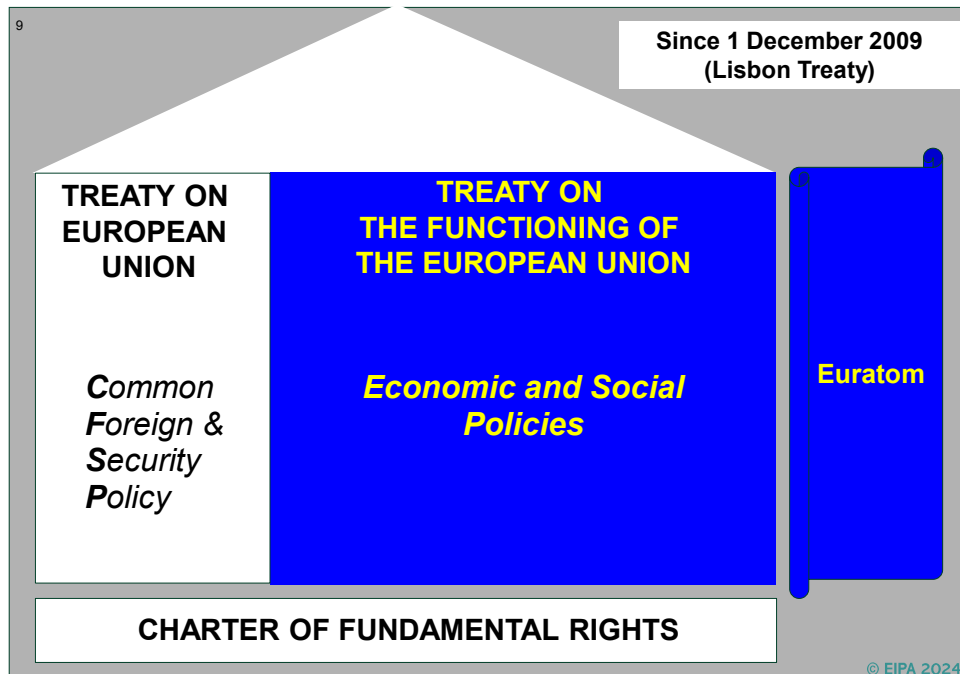
Policies and practice:

  working with the EU in a changing Europe and challenging world

Understand the EU system, set UK priorities, build relationships with EU institutions and capitals, coordinate UK strategy vis-à-vis EU

Build on points of common interest and benefit in global leadership and influence

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Framing questions (2)

• What are the UK's main interests and priorities ref. the EU?

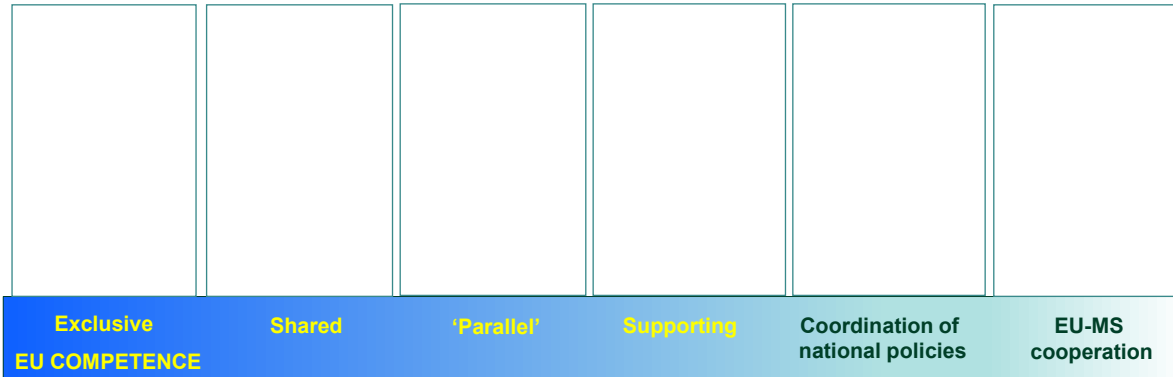• **What can the EU do?**   *EU law and other modes of governance*

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9

	Since 1 December 2009 (Lisbon Treaty)

TREATY ON EUROPEAN UNION

Common Foreign & Security Policy

TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Economic and Social Policies

Euratom

CHARTER OF FUNDAMENTAL RIGHTS

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Competences: what can the EU do? (1)

European Union				Member States

Exclusive competences	**Shared competences**	**Supporting competences**	**Coordination of national policies**	**Cooperation EU/ Member States**
Only the EU can legislate and adopt binding acts.	If an EU norm is in force, Member States cannot exercise national competence. Exceptions = 'parallel' competences	The EU cannot harmonise national laws. EU support does not affect national competence.	Member States shape their policies around common objectives and guidelines.	Member States agree to take joint actions and positions.

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Exercise

NB – non-exhaustive list of policy areas

Exclusive **EU COMPETENCE**	**Shared**	**'Parallel'**	**Supporting**	**Coordination of national policies**	**EU-MS cooperation**

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Medicines					
Public Health	Employment				
Migration	Common Commercial Policy	Economic policy	Space		
Border assistance	Customs cooperation	Conflict prevention	Research	Environment	Competition
Transport	Energy	Customs Union	Consular protection	Development cooperation	Sport	Education

EU COMPETENCE

https://learning.eipa.eu/course/view.php?id=855

Exclusive	**Shared**	**'Parallel'**	**Supporting**	**Coordination of national policies**	**EU-MS cooperation**

Exclusive competences

Article 3 TFEU

- Customs union
- Competition rules for internal market
- Monetary policy
- Conservation of marine biological resources
- Common commercial policy
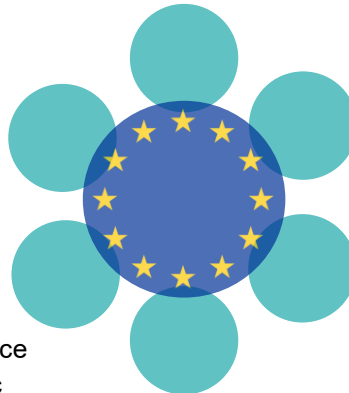
- International agreements*

when provided for in a legislative act, necessary to exercise internal competence, or if its conclusion may affect common rules

13

Shared competences

While EU is acting, MS cannot act

Article 4 TFEU

EU & MS can act in parallel

- Internal Market
- Social policy
- Economic, social and territorial cohesion
- Agriculture and fisheries
- Environment
- Consumer protection
- Transport
- Trans-European networks
- Energy
- Area of freedom, security and justice
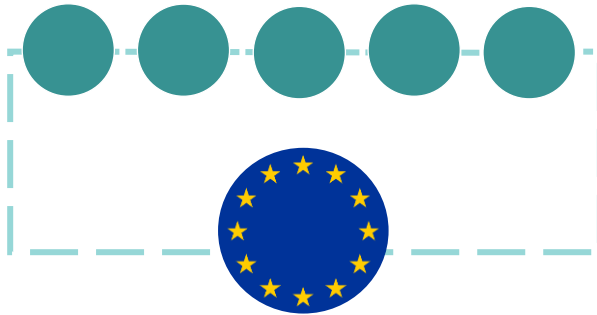- Common safety concerns in public health matters

- Research
- Technological development
- Space
- Development policy
- Humanitarian aid

14

Competences to support, coordinate or supplement

Article 5 TFEU

- Protection and improvement of human health
- Industry
- Culture
- Tourism
- Education, training, youth, sport
- Civil protection
- Administrative cooperation

no harmonisation of Member States' laws or regulations

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The range of EU methods*

Rules

Binding supranational acts (*primacy* of EU law)

Range of hard (binding, detailed) to soft (flexible) commitments for MS

Resources

Common budget to enable EU policies and support innovation and cohesion across EU

EU funds and programmes; often shared management and co-financing

Recommendations

MS should shape their *national policies* to pursue common *EU objectives*

Annual cycle of reporting, review and **recommendation** (European Semester)

= '**policy coordination**'

Packages and linkages

Mix of policy instruments

*Excluding CFSP   © EIPA 2024

Policy coordination, convergence and reform

The European Semester	*Recommendations*
Stability and Growth Pact (debt, deficit…)	*Opinions*
Macroeconomic Imbalance Procedure	
Employment Guidelines	*Guidelines*
Social Pillar	*Incentives*
Structural Reform Support	*Funding*
Recovery and Resilience Facility	*Linkages and conditionalities*

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EU – Member State cooperation

Political commitment by Member States

main area = **Common Foreign and Security Policy**

- 'The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union's action.'

- 'identification of questions of general interest' and 'ever-increasing degree of convergence of Member States' actions'

- Member States decide by unanimity

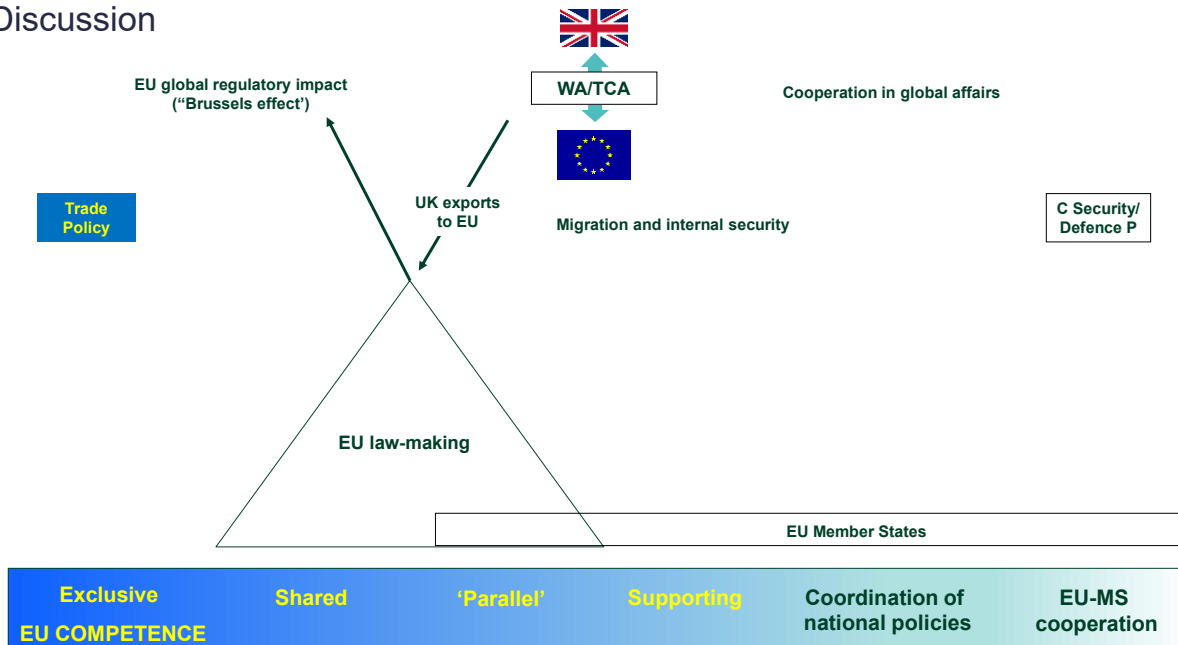- no powers for the supranational institutions

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Framing questions (3)

- What are the UK's main interests and priorities ref. the EU?

- What can the EU do?

- **How do EU policies affect the UK?**

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Discussion

EU global regulatory impact
("Brussels effect')

WA/TCA

Cooperation in global affairs

Trade Policy

UK exports to EU

Migration and internal security

C Security/ Defence P

EU law-making

EU Member States

Exclusive EU COMPETENCE	Shared	'Parallel'	Supporting	Coordination of national policies	EU-MS cooperation

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Regulatory alignment v. divergence

*Arguments
for divergence?*

*Possible costs
of divergence?*

Regulatory alignment v. divergence

*Arguments
for divergence?*

- show UK sovereignty
- address UK-specific concerns / different regulatory approaches
- freeing business from EU rules may foster:
  - greater productivity / innovation
  - international competitive advantage

*Possible costs
of divergence?*

- barriers to EU market access / loss of competitiveness in EU
- burden for business (e.g. duplication)
- intra-UK divergence

Trends in the UK-EU regulatory relationship

			Q2	Q3
Divergence	**active**	**(new UK rules that diverge from EU)**	11	6
	passive	**(UK does not adapt to new EU rules)**	8	9
Convergence	**active**	**(UK adapts to new EU rules)**	0	5
	passive	**(EU adopts new rules similar to new UK rules)**	2	
'Managed Divergence' ? *	(e.g. proposals on competition, financial services, migration)		3	

See **UK in a Changing Europe**, *Regulatory Divergence Tracker, 8th ed. July 2023* and 9th ed. Oct. 2023*

https://ukandeu.ac.uk/wp-content/uploads/2023/07/Divergence-Tracker-8-FINAL.pdf
https://ukandeu.ac.uk/wp-content/uploads/2023/10/Divergence-Tracker-9.pdf

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The broader context of the UK – EU regulatory relationship

International norms and requirements for business
(EU rules often set global norms)

Bilateral limits – Level Playing Field

UK – EU regulatory relationship

Standards Conformity

Internal impact in UK
(managing intra-UK divergence)

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External impact of EU policies

- **uploading European standards into international regimes**
  ('vertical policy export')

'the EU will further engage in active regulatory cooperation, including in international norm setting organisations, by leveraging its financial and regulatory power to help shape global norms and standards.'
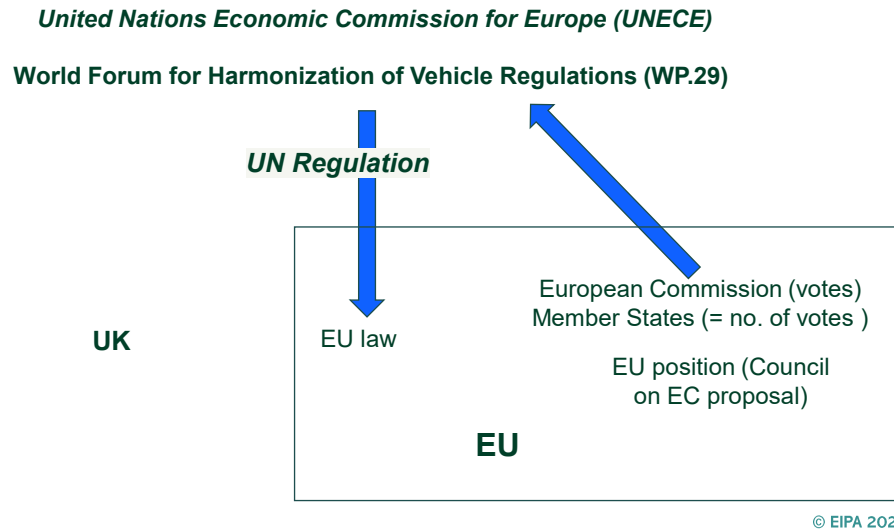
Joint Communication HR/Commission on strengthening the EU's contribution to rules-based multilateralism, 17 February 2021

- **de facto (some de jure) global regulatory impact** ('the Brussels effect')

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Potential technical barriers to trade

Technical regulations

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Example: vehicle regulations – new EU measures on Automated Vehicles, 2022

United Nations Economic Commission for Europe (UNECE)

World Forum for Harmonization of Vehicle Regulations (WP.29)

UN Regulation

UK

EU law

European Commission (votes)
Member States (= no. of votes)

EU position (Council
on EC proposal)

EU

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Twelfth Report of Session 2022–23   **5**

'the UK appears to have already fallen behind the EU and its Member States in providing the requisite legal certainty for the manufacture of advanced Avs'

- first, EU vehicle legislation—including in relation to automated vehicles—remains applicable in Northern Ireland (NI) under the terms of the Northern Ireland Protocol;

- second, by the Department for Transport's own admission, the EU has significant influence over international vehicle standards through the United Nations Economic Commission for Europe (UNECE), which the Government says will underpin technical UK legislation in this area;[11] and

- third, the UK and EU automotive industries are closely interconnected and the EU is the largest export market for British manufacturers of vehicles and their components.[12] The automotive sector itself has explicitly expressed a preference for the UK and EU rules to remain convergent, to avoid the need for separate manufacturing requirements when selling AVs in both Great Britain and the EU.[13]

House of Commons, European Scrutiny Committee, 11 January 2023

Potential technical barriers to trade

Technical regulations

Standards

Conformity assessment
- no Mutual Recognition Agreement (MRA)

EU Standardisation Strategy, 2022

Commissioner for the Internal Market, Thierry **Breton**, said: *"Technical standards are of strategic importance. Europe's technological sovereignty, ability to reduce dependencies and protection of EU values will rely on our ability to be a global standard-setter. With today's Strategy, we are crystal-clear on our standardisation priorities and create the conditions for European standards to become global benchmarks. We take action to preserve the integrity of the European standardisation process, putting European SMEs and the European interest at the centre".*

Amending Regulation, October 2022 "requiring **decisions concerning European standards following mandates from the Commission to be taken only by national standardisations bodies from the EU and EEA member states**. This will reinforce the role of member states and avoid the undue influence of foreign actors during the development of standards for key areas, like cybersecurity or hydrogen fuel. "(EP Press Release)

Example: the proposal for an EU Cyber Resilience Act (CRA)

Procedure 2022/0272/COD

COM (2022) 454: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020

UK businesses "may incur costs" to adapt to these new obligations (in particular if there is divergence between the requirements for the same products under the EU CRA and the UK's Product Security and Telecommunications Infrastructure Act 2022).

House of Commons, European Scrutiny Committee
Seventeenth Report of Session 2022–23
Documents considered by the Committee on 19 April 2023

Even if the substantive cyber-security requirements for a particular device were the same in the UK and the EU, there would still be **administrative hurdles**. In particular, **the EU has not indicated it intends to recognise an assessment of the cyber-security performance of a particular product carried out in the UK as valid for assessing compliance with the obligations under the Cyber Resilience Act**. The Minister […] is "look[ing] forward to further **discussions with the EU on the prospect of mutual recognition [of conformity assessment] ahead of the CRA being brought into force**". If such talks are successful, that could allow UK-based bodies to carry out conformity assessments on goods destined for the EU market for the purposes of the CRA. The "discussions" to which the Minister refers **may be part of a wider exchange of views between the UK and the EU on the mutual recognition of conformity assessments** as part of the review of the EU/UK Trade and Cooperation Agreement in 2025.
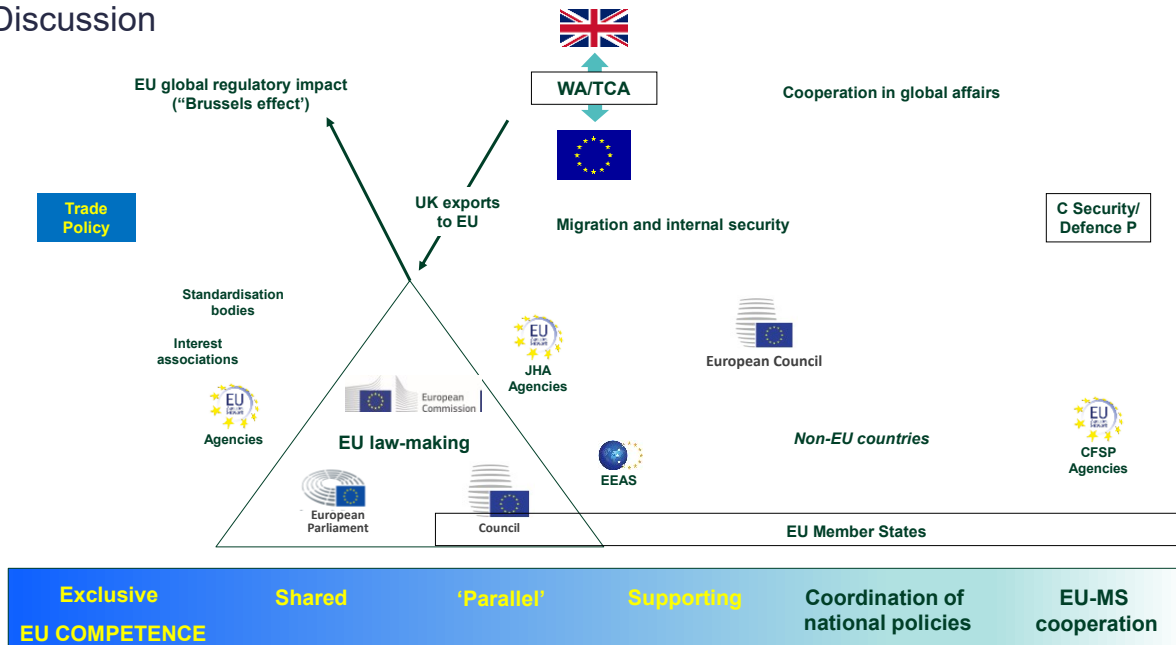
House of Commons, European Scrutiny Committee
Seventeenth Report of Session 2022–23
Documents considered by the Committee on 19 April 2023

Framing questions (4)

- What are the UK's main interests and priorities ref. the EU?

- What can the EU actually do?

- How do EU policies affect the UK?

- **How can the UK try to shape EU policies?**
- **Which EU and other European actors are most relevant?**

33

Discussion

EU global regulatory impact ("Brussels effect")

WA/TCA

Cooperation in global affairs

Trade Policy

UK exports to EU

Migration and internal security

C Security/ Defence P

Standardisation bodies

Interest associations

JHA Agencies

European Council

Agencies

EU law-making

EEAS

Non-EU countries

CFSP Agencies

European Commission

European Parliament

Council

EU Member States

Exclusive EU COMPETENCE	Shared	'Parallel'	Supporting	Coordination of national policies	EU-MS cooperation

Framing questions (5)

- What are the UK's main interests and priorities ref. the EU?

- What can the EU actually do?

- How do EU policies affect the UK?

- How can the UK try to shape EU policies?
- Which EU and other European actors are most relevant?

- **How does the new UK-EU bilateral relationship work? = Day 2**

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Framing questions (6)

- What are the UK's main interests and priorities ref. the EU?

- What can the EU actually do?

- How do EU policies affect the UK?

- How can the UK try to shape EU policies?
- Which EU and other European actors are most relevant?

- How does the new UK-EU bilateral relationship work? – Day 2

- **How can the UK and the EU best work together in the world? = Day 3**

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