The Bar Council

House of Lords European Affairs Committee
Inquiry into Dynamic Alignment
Bar Council Written Evidence

About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Executive Summary

1. The Bar Council welcomes the opportunity to contribute to this important discussion on the nature of Dynamic Alignment with EU law as it will apply to the EU-UK relationship going forward, including to any new agreements that are currently envisaged or may be so in the future. We note in the call for evidence that it is "part of the Government's 'reset' of relations with the EU including "new agreements with the bloc" and that it would "enable the UK to contribute to 'decision-shaping' of the EU law to which it had committed to align, and would involve a UK financial contribution to the costs of the EU's work in the relevant policy area".[1]

2. The Bar Council does not take a position on the merits of the specific areas where it is currently envisaged that the UK and EU may agree to dynamic alignment. We note, but do not comment further on, the Government's recently stated policy that: [2]

> *"Where it is in our national interest to align with EU regulation, we should be prepared to do so – including in further areas of the single market. The principles we apply when we judge our national interest are crucial, so let me tell you exactly what they are.*
>
> - *First – that a decision to align should mean higher growth and investment, more jobs and consumer benefits for the long term.*
> - *Second – that the future direction of policy should be sufficiently stable and compatible in terms of values and objectives.*
> - *And third – that the UK's economic and national security and resilience should be preserved or enhanced.*
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> *When those principles are satisfied, alignment should be forward looking and durable, providing the certainty that businesses on both sides need to invest and grow. Now there are areas in which regulatory autonomy may be necessary – for sectors with unique characteristics or strategic importance for the UK. But that should be the exception, not the norm."*

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[1] House of Lords European Affairs Committee "Dynamic alignment call for evidence launched by European Affairs Committee" 13 March 2026

[2] By way of example: Rt Hon Rachel Reeves MP, Mais Lecture 2026, 17 March 2026

3. In summary, we are broadly supportive of the concept of Dynamic Alignment with EU law and policy as explored below, and where the Government's three stated objectives are met. Based on our experience with EU institutions, in order to maximise the opportunity to contribute to the shaping of EU law and policy, we encourage the Government to commit significant expertise and resources to monitoring and influencing these developments in advance, during, and after the EU legislative processes, and to do so transparently and in close consultation with expert stakeholders. Further, some form of inter-institutional dispute resolution mechanism is likely to be included in such agreements, and we call for members of the Bar of England and Wales to be recognised as expert advisers on such matters, with rights of representation and audience before any and all judicial, quasi-judicial or arbitral procedures that may be involved.

Question 1: What is dynamic alignment? How does dynamic alignment operate under EU agreements with non-EU countries other than the UK?

4. The Bar Council understands dynamic alignment to entail a commitment for existing and new UK domestic law to give effect to EU legislative, policy and administrative developments in the particular subject area, including future rulings of the Court of Justice of the European Union (CJEU), on an ongoing basis. There are different mechanisms for implementing and overseeing alignment, with different levels of domestic legislative scrutiny. The extent and degree of alignment may vary, for instance being limited to specific policy areas or pre-conditions. In no case, however, would "dynamic alignment", whether for the UK or any other third country, lead to "full participation" in the EU Internal Market within the meaning of Article 26(2) of the Treaty on the Functioning of the EU (TFEU).

5. The "introduction of dynamic alignment" is described as "a significant change to the nature of the UK-EU relationship, as it was established under the Trade and Cooperation Agreement (TCA) reached at the end of 2020". In any event, even if limited to specific areas, the re-introduction of an ongoing commitment for the executive and judiciary to ensure consistency with EU law and a partial recognition of the supremacy of EU law in certain areas will be a departure from the most recent position set out in European Union (Withdrawal 2018 (as amended by the Retained EU Law (Revocation and Reform) Act 2023). This Act repealed the doctrine of EU supremacy, replacing it with a concept of domestic supremacy, and empowered appellate courts to disregard not only post Brexit Court of Justice of the European Union (CJEU) case law but also depart from pre-Brexit CJEU case law that would otherwise be binding on UK courts.

6. Whilst acknowledging that the introduction of a formal commitment is indeed a significant change, variations on the theme of dynamic alignment underpin several areas of the existing EU-UK relationship. Notably, as Question 2 below acknowledges, the formal arrangements for Northern Ireland as set out in the Ireland and Northern Ireland Protocol to the Withdrawal Agreement (INIP)/Windsor Framework, extend even beyond dynamic alignment, directly applying certain EU laws and regulations in the territory with provision for adding new ones. Northern Ireland is a very specific case. The above arrangements were seen as necessary in order, essentially, to avoid border checks on the island of Ireland by treating it as part of the EU Single Market - a unique set of circumstances that justified the direct application of EU law in a non-EU territory, subject to the jurisdiction of the CJEU.

7. In the rest of the UK, one could argue that different levels and forms of dynamic alignment are already operating in practice, though they may more accurately be described as "equivalence". The TCA itself contains Level Playing Field commitments to maintain environmental, social, labour and tax transparency standards – so-called "non-regression provisions". If either side diverges significantly, the TCA provides for a rebalancing mechanism allowing the other to retaliate with "necessary and proportionate" measures (not necessarily in the same sector). These provisions do not actively require UK law to track EU law "as is", and the UK legislator has chosen not to do so in some material instances, such as subsidy control and procurement law. But those examples where the domestic legislator has re-set its industrial policy agenda with an entirely new legislative regime are relatively rare. Even then, many of the core concepts in the new domestic frameworks, although worded in different terminology and wrapped in different enforcement mechanisms, are broadly similar to their EU counterparts.

8. Outside legislative developments, there are already instances where domestic regulators are, as a matter of policy, actively following EU law developments in practice, to ensure a level playing field and regulatory certainty. Examples of these closely aligned fields include competition law (where s.60A of the Competition Act 1998 provides for the Competition and Markets Authority (CMA) and the Competition Appeal Tribunal to determine questions of competition law in the same way as the CJEU or EU Commission and ensure that there is no inconsistency with pre-Brexit case law), consumer protection and product safety. For example, in its recent policy announcements, the Department of Transport and the Driver and Vehicle Standards Agency (DVSA) have stated that, as a matter of policy, in exercising their market surveillance powers overseeing vehicle emissions, they will adopt recent post-Brexit case law from the CJEU and follow guidance issued by the EU Commission in 2023.

9. Moreover, there are also many instances of what some describe as "unilateral dynamic alignment", such as the so-called "Brussels effect" (of companies often adopting EU rules globally to maintain access to the EU Single Market and to reduce the compliance cost of multiple standards). Thus, in certain sectors, UK manufacturers and suppliers, seeking to continue to export into the EU's Single Market without having to comply with two different sets of regulations, have in practice chosen to adhere to EU standards that, e.g. allow them to carry the CE kite mark. Similarly, many companies adhere to the EU product safety regime and apply RAPEX standards and risk assessment requirements in the UK - meaning that their products are in fact EU compliant. A strong commercial and economic case for UK law to follow relevant aspects of EU law in practice is therefore apparent. Reflecting that, increasingly we are seeing dynamic alignment provisions in UK legislation,

such as the 2024 Product Safety and Metrology Bill as tabled, though in this instance, the provisions were somewhat watered down in the final Act[3][4].

10. A key difficulty here, and one of the reasons why such “voluntary” practice falls short of dynamic alignment in the strict sense, is that unilateral alignment both lacks the obligatory element, and importantly, does not guarantee market access into either territory. Dynamic alignment in the sense now envisaged in new EU-UK agreements, whether currently under negotiation (including that for a Sanitary and Phyto Sanitary Agreement (SPS, essentially food standards; and Electricity Trading (ETS)), or as yet to be defined, is designed to overcome this hurdle.

11. Dynamic alignment in this sense builds on these existing arrangements, formalising the same and adding the following features, the precise ambit and details of which may vary:

(i) A legal obligation to align to current and future EU laws and regulations on an ongoing basis, with penalties for non-compliance and recourse to an independent dispute settlement system with the CJEU as the ultimate arbiter on the interpretation of EU law; [5]

(ii) The possibility for the UK to contribute to the “decision-shaping” behind the laws and regulations to which it is committing to dynamically align;

(iii) A financial contribution to the EU’s budget in the area of alignment;

(iv) The combination of these features opens the door to the ultimate goal: guaranteed mutual market access for compliant products / services which are the subject of the agreement. That reduces the barriers to trade impeding the export of UK products to our largest trading partner and reduces the burden of “red tape” costs to business.

(v) Some means of effective dispute resolution, either involving an arbitral panel and/or ultimate involvement of the CJEU.

Question 2: In developing its arrangements for dynamic alignment, are there lessons that the UK should draw from:

a) the other countries that engage in, or are preparing to engage in, dynamic alignment with the EU—namely the European Free Trade Association (EFTA) countries of Iceland, Liechtenstein and Norway, within the European Economic Area (EEA); and Switzerland?

and/or

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[3] For the sake of completeness, the UK is in effect committed to maintaining its data protection standards in line with those of the EU, and vice versa, in order to maintain ‘adequacy’. The 2021 EU Adequacy decisions have recently been renewed for a six-year period. Nonetheless, it remains the case, albeit unlikely in practice, that adequacy could be withdrawn unilaterally at any time. Thus, the incentive to maintain equivalent protections remains.

[4] Product Regulation and Metrology Act 2025

[5] The Bar Council is seeking express reference in all such future arrangements where the CJEU is so-designated, to representation rights for UK qualified lawyers with rights of audience, including members of the Bar of England & Wales, before the Court of Justice of the EU (CJEU and the General Court) dealing with cases arising from those agreements - akin to the representation rights reserved by Article 91 of the Withdrawal Agreement 2019.

b) the experience of a form of dynamic alignment with respect to Northern Ireland under the Withdrawal Agreement Protocol/Windsor Framework?

12. The programme for several of the visits by Chairs of the Bar to Brussels since the Brexit referendum has included meetings with both the EFTA Surveillance Authority (ESA) and the Swiss Mission to the EU. We sought this contact to learn from their experience of the formal agreements that the EFTA/EEA States, and separately, Switzerland (EFTA only), enjoy with the EU. Below is a snapshot of the relevant arrangements and some lessons to be learned / parallels to be drawn from each.

The European Economic Area (EEA) Agreement

13. The European Economic Area (EEA) consists of the Member States of the European Union (EU) and three European Free Trade Association (EFTA) States: Iceland, Liechtenstein and Norway (Switzerland is an EFTA state, but not part of the EEA). It was established by the EEA Agreement, an international agreement, in force since 1 January 1994, which enables the three EFTA states to participate in the European Internal (or Single) Market, though not, as averred to at paragraph 4 above, to "full participation" within the meaning of Article 26(2) of the Treaty on the Functioning of the EU (TFEU).

14. The purpose of the EEA Agreement is to guarantee, in the 30 EEA States, the free movement of goods, people, services and capital. As a result of the agreement, EU law on the four freedoms is incorporated into the domestic law of the participating States. New EU legislation that is designated EEA-relevant is introduced through the EEA Agreement so that it applies throughout the EEA, ensuring uniform application of laws relating to the internal market.

15. The Agreement seeks to guarantee equal conditions of competition, and equal rights to participate in the internal market for citizens and economic operators in the EEA. It also provides for co-operation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture.

16. The successful operation of the EEA Agreement depends upon consistent implementation and application of the common rules in each of the 30 EEA States. Under the EEA Agreement, there is no direct applicability or direct effect, but the EFTA States practise the principle of 'homogeneity'; they decide whether and how to implement the EU principles into their legal system as part of a dual system and then ensure consistent application and enforcement within their own domestic legal system. A two-pillar system of supervision has been established: EU Member States are supervised by the European Commission, while the participating EFTA States are supervised by ESA.

17. The influence over EU law and policy enjoyed by the three EFTA States that are members of the EEA flows from the structure of the EEA agreement itself, which affords them membership of Council committees governing the internal market. They are each represented in financial agency structures, as well as energy, competition and merger control, etc. Thus, these States take part in comitology[6] on all EEA-relevant rules. Indeed,

[6] European Commission "Comitology"

they can be present at meetings all the way up to the Coreper (meeting of national Permanent Representatives (ambassadors to the EU) in Council, which prepares and often agrees Council ministerial positions ahead of their formal endorsement the national ministers). There are also regular meetings between the ESA and the European Commission at Directorate General level, as well as multiple opportunities for informal exchanges.

18. However, the EEA Agreement does not give these three States voting rights in Council meetings. Nor do they have elected members of the European Parliament, the other co-legislator on the majority of EU legislation and rulemaking. In summary, they have a right to be heard, a right to influence the EU agenda, but no right to vote, or of veto, on EU legislative initiatives.

19. Nonetheless, the Bar Council's discussions with the ESA secretariat leadership on these topics suggests a significant level of satisfaction on all sides with this structure. We understood that merely being at the table is often sufficient to sway the direction of EU/EEA policy, even if excluded from the actual vote. Moreover, in areas where an EFTA state is seen as having particular expertise (e.g. historically Norway on antibiotic resistance in veterinary science or Lichtenstein on finance) its influence is likely to be that much greater. It should be emphasised that this arrangement is based on a long-established foundation of mutual trust and stability. Against that background, it seems clear that that level of access combined with the rigour of coming to the table well-prepared and with relevant expertise can be effective.

Bilateral agreements (under EFTA, but not EEA membership) e.g. Switzerland

20. Switzerland, though an EFTA State, is not part of the EEA Agreement. Instead, until last year, it had over 120 bilateral agreements with the EU, negotiated over many years, that gave access to the EU's Single Market for goods, but not most services. In 1999 the EU and Switzerland signed an agreement on freedom of movement under which each gave the other's citizens the right to enter, live and work in its territory. In addition, Switzerland was an associate member of Europe's border-free Schengen area and a full participant in the Dublin system for dealing with asylum claims. That network of agreements was complex and sometimes incoherent, and it was long recognised that the EU side, in particular, found it unsatisfactory. Negotiations to replace this with a "common institutional framework" agreement were launched in 2014.

21. At the end of 2024 the European Commission and the Swiss government concluded negotiations on a new package of separate agreements, each with built-in institutional provisions, which individually and collectively establish clear conditions for granting privileged single-market access to Switzerland.

22. The parallels with what the UK is currently negotiating with the EU are striking. The package of new and/or updated EU-Swiss treaties include a new agreement establishing a 'common food safety area' under which Switzerland will dynamically align with most EU food-safety rules and participate in the European Food Safety Authority. A second new agreement integrates Switzerland into the EU internal electricity market, and a third restores Swiss participation in several EU programmes, including Horizon and Erasmus+.

23. In terms of understanding the extent of dynamic alignment to which Switzerland has agreed, the new institutional mechanisms include provision for Switzerland to dynamically align with EU rules through decisions of the Joint Committee (responsible for overseeing these agreements, and which may allow a degree of negotiated flexibility); a dispute resolution mechanism that uses an independent arbitration panel, with the CJEU as ultimate arbiter on questions concerning EU law; and a commitment by Switzerland to interpret agreements consistently with CJEU case-law (including, as we understand it, ongoing decisions of the CJEU if approved by the Joint Committee). In addition, Switzerland has had to commit to continued acceptance of the free movement of persons, ongoing financial contributions towards EU cohesion and other such EU priorities such as tackling migration challenges.

24. These commitments are balanced by provisions that allow Switzerland greater influence over the development of EU law and policy, through being granted a consultative role in the EU's pre-legislative processes, akin to the 'decision-shaping' rights of EEA members described above. We understand that Switzerland considers that the new comitology nonetheless enables the Swiss Parliament and its broader democratic institutions to have the ultimate say on whether or not an area of dynamic alignment is followed or rejected in Switzerland. Whilst such a rejection could be met with proportionate countermeasures imposed by the EU, the significant point here is that Switzerland considers that these new arrangements allow it to say no.

25. These new EU-Swiss arrangements are entirely untested - in practice it may take several years for the new package to be ratified and enter into force. Nonetheless, it is clear that the EU sees this new and more flexible approach to granting access to the EU Single Market as a model for similar arrangements with other (close) third countries without their having to become full EEA members, provided that an 'overall balance of rights and obligations' is maintained.

26. Before leaving this topic, it should be borne in mind that the EU's relations with the four EFTA States (and those between them) are a free trade area (FTA) rather than a customs union. Normally, in a "classical" FTA, members retain regulatory autonomy provided this does not create barriers to trade. This is not the case in the EEA, although it is the case for Switzerland. This distinction may be important. Viewed alongside other long-standing binding arrangements alluded to above, it should perhaps temper UK expectations as to the likely influence it may hope to wield on draft EU legislation and policy-making, by comparison to that enjoyed by the EEA states as described above.

Question 3: Can formal 'decision-shaping' by non-EU states, under agreements with the EU, deliver real influence over the EU law to which it applies? If so, what institutional arrangements and resources should the UK Government have in place—in London, Brussels and national capitals around Europe—to ensure that it can participate in EU 'decision-shaping' as effectively as possible?

27. We refer to our response to question 2 above, in which we set out our understanding of the "decision-shaping" arrangements in place under the EEA Agreement and how they are perceived by the non-EU EEA States to work in practice. Even pending comparable

formal arrangements being put in place as between the EU and the UK in the new draft agreements, however, we note that UK officials are increasingly being invited to participate in discussions at EU level where their contribution is seen to be valuable. For example, in the justice and home affairs field, even on the civil side (which is not covered by the TCA), in meetings of the European Judicial Network. As noted above, provided UK representatives are expert on the topics on the table and well-prepared, the lack of voting rights may have a diminished impact in practice. However, on particularly sensitive or political issues where other considerations may be at play, there is no substitute for being a full EU Member State, with all that that entails. The Swiss option, which appears to permit the retention of an ultimate sovereign power to decline to follow dynamic alignment for one or more specific areas, may be considered advantageous, therefore.

28. Above and beyond those arrangements, it is open to the UK, both at official and stakeholder level, to respond to EU consultations and feedback requests; send experts to participate in public events organised by the EU institutions; itself organise conferences and events that attract the participation of EU and Member State politicians, officials and stakeholders; and generally make its voice heard through informal as well as formal channels. There may also be Memorandums of Understanding between sector-specific or other UK and EU regulators which align regulatory practice, exchange of information and cooperation on policy development.

29. At stakeholder level, the Bar Council, in maintaining a Brussels office despite Brexit, has thereby retained the opportunity to, inter alia:

- Take part in meetings with representatives of other national Bars in Brussels; discussing both EU and non-EU developments of mutual interest;
- Bring together the Chair of the Bar with the Presidents of EU national Bars to brainstorm issues of common concern, including in the context of EU legal developments;
- Continue to co-host events with those other national Bars, both social and substantive, including in recent years, a seminar on the new Luxembourg Convention on the Protection of the Profession of Lawyers, and separately, one on Third Party Litigation Finance. In principle, there is nothing to prevent us seeking to jointly host such events on topics of relevance to the present subject-matter should the occasion present itself.

30. In addition, the Bar Council, together with the other professional bodies representing the UK legal profession (including those without specific Brussels representation), continue to make their presence felt through membership of the Brussels-based Council of the Bars and Law Societies of Europe (CCBE); the European Services Forum (ESF); membership of the Domestic Advisory Group (DAG) under the TCA and myriad other routes. Similar EU engagement can be seen across all UK business and services sectors.

31. There are, however, in our view, some simple but important steps the UK Government should take in order to maximise the opportunities to influence EU law and policy that are opening up, particularly, but not only, if these prove to mirror the "decision-shaping" arrangements the EEA States enjoy:

- The UK Mission to the EU in Brussels should be larger and with a bigger budget than in the days when it was the UK Representation of an EU Member State. Its staff, including those on secondment, should include experts in the detail of the areas that will be the subject of future EU-UK agreements that include decision-shaping arrangements. Whilst not taking away from the skill and expertise of officials from e.g. the Foreign or Cabinet Offices, it is clear that, even without a vote, non-EU state representatives at Council Working Group or other meetings are at their most influential when they are truly knowledgeable and have good ideas about the matters in hand. Anecdotally, we have heard laments around the absence of UK officials at Council meetings and within European Parliamentary bodies. Their expertise and pragmatism are missed. That is a solid foundation on which to build.
- Such local expertise should be augmented by expert officials from the relevant ministries in London, who should be sent across to Brussels and/ or EU capitals whenever the occasion demands.
- More transparency and stakeholder engagement of all EU-facing government bodies, whether that be ministries or, for example, bodies set up under the TCA - with a greater willingness to consult and involve expert stakeholders and brief them, both before and during negotiations, and not merely well in advance and afterwards.
- Enhanced parliamentary scrutiny - see response below.

Question 4: Are current arrangements for parliamentary scrutiny of UK-EU relations adequate for scrutinising dynamic alignment? What would an ideal system for parliamentary scrutiny of UK dynamic alignment comprise?

32. The Bar Council gave evidence and provided responses to the several Government and Parliamentary inquires and consultations that sought to shape the post-Brexit domestic legal framework, including as regards the much debated, but ultimately resolved, question of retained EU law. We highlighted the democratic legitimacy of the work by former House of Lords EU Committees and Commons EU Scrutiny Committee over the years of UK membership, and stressed the fact that the EU legislative process, whilst no doubt capable of improvement, itself contains democratic checks and balances. For the vast bulk of EU subordinate legislation, the co-legislators, both of whom must adopt the final text by (normally weighted) majority, are the Council, comprised of elected ministers from the Member States, and the European Parliament, elected by universal suffrage, and whose membership included democratically elected UK representatives until 2020. We also stressed the need for any transparent, democratic processes to be preceded by time spent gathering evidence through ample stakeholder consultation and impact assessments.

33. In a scenario where the UK is proposing to align with areas of EU law that are the subject of dynamic alignment, in our view the arrangements that were in place pre-Brexit should be significantly reinforced and scaled up. In the days of EU membership, the House of Lords EU and Commons EU Scrutiny Committees were examining texts that had potentially been:

- Prepared by Commission officials of UK origin; possibly with input from Commission expert groups including UK experts (the Bar fielded many practitioners as experts to such groups pre-Brexit);

- Debated and examined line by line in Council Working Groups attended by UK civil servants;
- Debated and examined line by line in European Parliamentary Committees, including by UK MEPs who might also have held the pen as Committee rapporteur / Shadows;
- Debated and examined line by line through trilogue negotiations and/or Comitology to agree final texts / supplementary regulations;
- Debated and adopted by Council Ministers and MEPs in plenary, again including UK elected politicians and/ or ambassadors.

34. No matter how ambitious and effective any "decision-shaping" the UK eventually secures in the context of the current and future EU-UK agreements, it will not compare to that level of pre-Brexit UK influence on EU law and policy. Heightened investment with expertise in the decision-shaping process and scrutiny arrangements will thus be even more important.

35. In this regard, we endorse the importance of the wording of the Call for Evidence itself, in stressing the fact that "any such arrangements put in place from 2026 for the first new agreement(s) with the EU are likely to set precedents that may be followed with respect to any subsequent agreements that extend UK dynamic alignment to further areas". It will be important to establish effective decision-shaping opportunities and scrutiny arrangements from the outset, as well as the commitment to maintain them long term.

Question 5: What impact are the three new UK-EU agreements that are currently in prospect likely to have on UK GDP? (the three agreements being on: the creation of a Common Sanitary and Phytosanitary (SPS) Area; the linkage of the UK and EU Emissions Trading Schemes (ETSs); and UK participation in the EU's internal electricity market)

36. Whilst confident that these new arrangements will significantly contribute to UK GDP due to the reduction of barriers to trade they will bring about in their areas of application, we believe this question is better answered by experts in those sectors who can provide the substantive and practical insights sought.

Question 6: To what extent are the drawbacks and benefits of these prospective agreements for the UK, including with respect to GDP, likely to depend on their precise terms—for example, with respect to the scope and operation of, and exemptions from, dynamic alignment?

37. As for question 5, this question is better dealt with by sectoral experts. It is worth noting that the greater the reduction in trade friction, the greater the scope for growth from the operation of a more open EU single market.

Question 7: Should the UK make a financial contribution to the EU or EU policies as part of its dynamic alignment agreements? Is there a level of contribution that would mean that such agreements do not represent value-for-money for the UK?

38. This question is again beyond our specific expertise. However, we believe that the EU is unlikely to agree to a reduction in trade frictions leading to growth opportunities for UK business, which is a clear benefit for the UK, without clear countervailing benefits for EU business, and/or a fee.

Question 8: What are the implications of the three prospective agreements with the EU, and of the Government's general policy of dynamic alignment with the bloc, for the UK's trade relations with countries outside the EU—with respect especially to the United States, and the UK's membership of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)?

39. The fact that there has been a proliferation of regional, preferential trade agreements in the decade since the collapse of the (World Trade Organisation) Doha Round, has greatly added to the complexity, costs and uncertainty of global international trade for economic operators and regulators alike, especially in areas such as rules of origin, standards, technical regulations and even professional qualifications. Arrangements such as those envisaged by the EU and UK in these new agreements seek to reduce that complexity in targeted areas of EU-UK trade, which overall accounts for some 40% of the UK's total external trade in goods and services.

Question 9: What issues does prospective UK dynamic alignment raise for the UK's devolved administrations and legislatures? How should the UK Government and Parliament engage with the devolved administrations and legislatures in a system of dynamic alignment?

40. We note that the operation of the provisions of the United Kingdom Internal Market Act 2020 has already raised serious issues in relation to the exercise by Senedd Cymru (the Welsh Parliament) of its legislative powers within its areas of competence under section 108A and Schedules 7A & 7B of the Government of Wales Act 2006. These issues have not yet been resolved by the Courts[7].

41. In those circumstances, and in order to avoid any practical problems arising in future in relation to the operation of the internal market within the United Kingdom, in our view any issue of potential UK dynamic alignment with EU Single Market legislation in areas of devolved competence, should at least be discussed in advance with the new Welsh Government following the forthcoming Senedd elections on 7 May 2026.

42. Pending clarity on the legislative priorities of the new Welsh Government, it is difficult to predict with any certainty which areas are likely to raise problems, though we consider that environmental and consumer protection should be among those that are closely monitored for this issue.

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[7] See R (on the application of Counsel General for Wales)-v-Secretary of State for Business, Energy and Industrial Strategy [2021] EWHC 950 (Admin); [2022] EWCA Civ 118.

Question 10: What actions need to be taken and arrangements put in place—in legal, institutional and practical terms—before UK dynamic alignment under the three prospective agreements is operating fully and smoothly? How long might this process take?

43. See our answers to questions 3 and 4 above.

The Bar Council (European Committee)
May 2026