Published 11 December 2020
SP Paper 888
7th Report, 2020 (Session 5)

The Scottish Parliament
Pàrlamaid na h-Alba

Culture, Tourism, Europe and External Affairs Committee
Comataidh Cultar, Turasachd, na h-Eòrpa agus Gnothaichean a-muigh

EU-UK Government Future Relationship Negotiations: The Impact of the End of the Transition Period

Published in Scotland by the Scottish Parliamentary Corporate Body.

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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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Recommendations

The Committee makes the following recommendations as a result of its scrutiny of the negotiation of the EU-UK Government future relationship negotiations:

Recommendations

The end of the transition period marks a significant challenge which will bring disruption to Scottish business, in particular to SMEs, who have said they will struggle to adapt in the short-term. The Committee therefore considers it imperative, and re-iterates its call, that the UK Government seek a six month 'grace period' in agreement with the European Union, in order to give business some scope to minimise the damage which will be caused to the economy at the end of the transition period.

The Committee is seriously concerned by the difficulties and challenges faced by most businesses in preparing for the end of the transition period on 31 December 2020. The Committee notes that evidence the Committee has taken, has emphasised that the impact of Brexit is likely to be, proportionately, most severe for small and medium-sized enterprises. The Committee agrees that it is important that companies that require it can access financial support when the transition period ends. This may require additional funding from the UK Government.

The Committee also recommends that the Scottish Government undertake a programme of research and evaluation of the impacts of Brexit. This should also include evaluation by the Scottish Fiscal Commission on the impact of Brexit on the Scottish economy and public finances.

The Committee also recommends that the Scottish Government should be benchmarking performance across all portfolios against performance in EU Member States in order to assess the economic, social and cultural impacts of the loss of EU membership and ensure that a broader comparative perspective is not lost in Scottish policy-making. In addition, the Committee considers that in order to minimise divergence and ease trading relationships for Scottish companies that the Scottish Government should maintain alignment with EU rules and regulations wherever possible. In this regard, the Committee notes the inclusion of a 'keeping pace' power in the European Union (Continuity) (Scotland) Bill.

Introduction

1. The United Kingdom of Great Britain and Northern Ireland entered into the current transition period as part of the Withdrawal Agreement (WA), agreed in October 2019[i], which came into force on 1 February 2020. The transition period will come to an end on 31 December 2020. At that point, the UK will leave the regulatory framework of the EU Customs Union and Single Market. Whilst negotiations remain ongoing between the EU and UK Government, the possible outcomes range from a minimal trade agreement, which in all likelihood will ensure largely tariff-free trade albeit non-tariff barriers and customs checks will apply, to a no deal Brexit resulting in trade between the EU and UK being governed by World Trade Organisation rules.

2. At the end of the transition period, the terms of the Ireland and Northern Ireland Protocol which was agreed as part of the Withdrawal Agreement will take effect. From a customs perspective, Northern Ireland will remain part of the UK customs territory. However, the Protocol requires that there will be no customs checks or controls on the island of Ireland and no customs declarations, tariffs or quantitative restrictions for the trade in goods between Northern Ireland, Ireland and the rest of the EU.

3. The Protocol also means that Northern Ireland will effectively remain part of the Single Market in goods. As a result, all goods entering or exiting Northern Ireland (NI) will have to comply with EU product regulations and other technical regulations. This also means that certification, authorisation, assessments, registration and approval for NI products are all affected. As a result, we understand that customs formalities will be required on goods entering Northern Ireland from Great Britain. In addition, based on the position set out in the UK Government Command Paper on Northern Ireland, we understand that no paperwork or formalities will be required on goods moving from Northern Ireland to Great Britain except in a few, pre-defined cases.

4. The Committee[ii] has scrutinised the future relationship negotiations over the course of 2020[iii]. In recent weeks, the Committee's focus has been on considering the impact on key sectors of the Scottish economy arising from the end of the transition period. This report considers the key themes to have emerged from the evidence gathered in recent weeks regarding the immediate impact, in early 2021, of leaving the European Union regardless of whether agreement has been reached between the EU and UK or not.

5. The Committee had intended to scrutinise the content of any deal between the EU

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i The EU-UK Withdrawal Agreement can be accessed at—https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement

ii Dean Lockhart MSP and Gordon Lindhurst MSP, who was attending the meeting as a 'substitute' Member for Oliver Mundell MSP, dissented from this report and are not signatories to the report.

iii Full details of the Committee's scrutiny of the future relationship negotiations can be accessed at— https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/114740.aspx and UK, and the corresponding implications for Scotland, prior to the end of transition. This report was finalised on 10 December 2020, three weeks before the end of the transition period, and seeks to take account of either outcome which may emerge from the negotiations. These are either an agreement in line with the stated objectives of the UK Government or a 'no-deal' Brexit. **The Commitee regrets that the Scottish, UK and European Parliaments will not have the opportunity to adequately scrutinise any agreement before the end of the transition period.**

6. The Committee wishes to thank all the individuals and organisations that have contributed to the Committee's scrutiny of the future relationship negotiations. The Committee also thanks their advisers on EU Constitutional Law and International Trade, Fabian Zuleeg and Anna Jerzewska.

The Economic Impact of an Agreement

7. In November 2018, the UK Government produced a detailed economic analysis of a range of scenarios for the UK leaving the EU[iv]. In the event of the UK leaving with no deal, and with no change to current migration arrangements, the UK Government predicted a reduction in GDP, over 15 years, of 7.7% increasing to 9.3% if there are no net inflows of EEA workers. The equivalent figures analogous for the type of deal currently being sought by the UK Government, termed 'modelled average FTA', were -4.9% and -6.7%[v]. In the event of a No Deal scenario, the UK Government analysis observed that "all nations and regions of the UK would have lower economic activity in the long run compared to today's arrangements"[vi]. Specifically, in relation to Scotland, the UK Government analysis found that "Northern Ireland, Wales and Scotland would all see sizeable reductions in their level of economic output"[vii].

8. This pattern of forecasts of the impact of no deal being more detrimental than an agreement involving leaving the Customs Union and Single Market has been a consistent trend. In this sense, there is a hierarchy of negative economic impacts depending on the form Brexit takes. These outcomes range from the most severely negative impact being associated with a no deal Brexit, followed by a 'low' or 'thin' deal of the kind being sought by the current UK Government, a more comprehensive deal of the kind considered in the Political Declaration accompanying the WA and lastly, membership of the Single Market and Customs Union. The Office of Budget Responsibility (OBR) recently considered the economic implications of Brexit as part of its Economic and Fiscal Outlook (EFO) document published at the same time as the recent UK Government Spending Review. The OBR publication included a table detailing forecasts of the impact of a free trade agreement or trading upon WTO terms (i.e. No Deal) upon UK GDP. These forecasts, reproduced in the table below, are unanimous that a No Deal outcome from the current negotiations will have a more detrimental outcome than an agreement. However, the economic forecasts provided in the OBR publication are also unanimous that both outcomes will be detrimental to the UK economy.

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iv UK Government (2018) 'EU Exit: Long-term economic analysis'. Accessible at— https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760484/28_November_EU_Exit_-_Long-term_economic_analysis__1_.pdf

v Ibid, p.11.

vi Ibid, p.63.

vii Ibid, p.63.

Estimates of the Long Run Effect on GDP on Additional Barriers on Trade with the EU

Organisation	Free Trade Agreement	WTO	Difference
Mayer et al (2018)	-2.4	-2.9	-0.5
Netherlands CPB (2016)	-3.4	-4.1	-0.7
UK in a Changing Europe (2019)	-2.5	-3.3	-0.8
Felbermayr et al (2018)	-1.8	-3.2	-1.4
Bank of England (2019)	-3.5	-5.0	-1.5
UK in a Changing Europe (2019)	-6.4	-8.1	-1.7
NIESR (2018)	-3.8	-5.5	-1.7
IMF (2018)	-2.0	-3.8	-1.8
Whitehall Study (2018)	-4.9	-7.6	-2.7
Netherlands CPB (2016)	-5.9	-8.7	-2.8
World Bank (2017)	-10.0	-13.0	-3.0
IMF (2018)	-3.3	-6.4	-3.1
OECD (2016)	-2.7	-7.7	-5.0
Average	**-4.0**	**-6.1**	**-2.1**

Source: Office of Budget Responsibility (2020) Economic and Fiscal Outlook, p.199.

9. The OBR also considered the impact of a No Deal Brexit which the OBR estimated for the UK “would reduce real GDP by around a further 2 per cent in 2021"[viii]. The evidence the Committee has received has also strongly emphasised the importance of avoiding a No Deal scenario whilst recognising the considerable challenges that will still arise in the event of an agreement being reached in line with the stated objectives of the UK Government. The Scottish Government highlighted research undertaken by the University of Warwick Economic Research Centre which considered that the Scottish economy in 2019 was nearly £4 billion lower, or £736 per person, as a consequence of the Brexit process[ix]. The Scottish Government referred to its modelling of the economic impact of a deal in line with that being sought by the UK Government was that—

> Scottish GDP is estimated to be 6.1% lower by 2030 compared to continued EU membership. This equates to a cost to each person in Scotland of an equivalent to £1,600.[x]

10. The importance of avoiding a No Deal outcome from the negotiations has been emphasised in the evidence the Committee has taken. For example, Scotland Food and Drink emphasised that it was imperative that No Deal was avoided “because it would be catastrophic for the sector”.[xi] NFU Scotland highlighted avoiding a no deal outcome as a key priority for the organisation[xii].

11. Richard Carter, of BASF Limited, commented in the following terms on the impact of

viii OBR, EFO, p.29.

ix Fetzer, T and Wang, S, Measuring the Regional Economic Cost of Brexit: Evidence up to 2019’ CAGE working paper no.486, July 2020, p.41.

x Correspondence from the Cabinet Secretary for the Constitution, Europe and External Affairs to the Committee, 12 November 2020, p.1.

xi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.2.

xii NFU Scotland, Written Submission, p.1.

No Deal for the chemicals sector—

> I mentioned that no deal would potentially put a cost of £1 billion on the UK chemical industry to re-register substances. Re-registration does not bring about any benefit to human, animal or environmental health. It would be a burdensome cost and it would reduce our activity and our global competitiveness.[xiii]

12. The focus of this report is upon the potential impacts arising from the end of the transition period. However, there has been a consistent strand of evidence emphasising the impacts taking place since 2016 arising from the process of preparing to leave the European Union. For example, the NFU Scotland highlighted, in written evidence, the results of a survey of its members conducted in the summer of 2019 which found that—

> At that time, 45% had already experienced Brexit-related impacts (direct and indirect) since the referendum – of that, the main issues were increased costs of inputs (54%); putting off new investments (51%); putting off expansion in the business (35%) and difficulty in recruiting and/or retaining staff (12%).[xiv]

13. **The Committee recognises that the economic impact of a no deal outcome from the negotiations would be considerably more severe than the impact of agreement being reached with regard to free trade. Nevertheless, the Committee also recognises that either outcome would result in a significantly negative economic impact to both the Scottish and UK economy.**

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xiii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.35.
xiv NFU Scotland, Written Submission, 12 November 2020, p.2.

Preparing for the End of Transition

14. Given the limited time remaining prior to the end of transition, the Committee sought views on the extent to which different sectors of the economy had been preparing for the end of transition. Inevitably, the position varied considerably both between and within sectors. The Committee heard evidence that some sectors had used the period since 2016 to prepare for the UK leaving the European Union on the basis of a no deal outcome. This appeared to be particularly the case with regard to financial services where the Committee had previously received evidence that financial services firms in Scotland were moving operations out of Scotland and into the financial centres within the EU. For example, Professor Hall of Nottingham University stated in evidence to the Committee in June 2020 that—

> Some financial institutions in Scotland, in common with those in the UK have begun to initiate their Brexit plans by moving assets, and or employees, to European hubs including Amsterdam, Paris, Frankfurt, Dublin, and Luxembourg. They are doing this to maintain single market access when passporting rights end at the end of the transition period.[xv]

15. Specifically, Professor Hall cited the examples of Scottish Widows moving its European portfolio to Luxembourg, Standard Life moving services to Dublin and expanding its Luxembourg office, and the Royal Bank of Scotland opening a banking entity in Amsterdam. SPICe noted that the Economist had recently considered the impact of Brexit upon financial services in the City of London and found that for assets “banks have announced the shifting of £1.2trn-worth, equivalent to 14% of British-based banks’ total assets, in preparation for Brexit; more may have been moved unannounced”[xvi]. Stephen Phillips, of CMS, who advises financial services firms on Brexit, summarised the position of financial services firms in Scotland in the following terms—

> From the perspective of the Scottish financial services sector …. in some senses it depends on what part of the sector a business is in, as some are far more heavily exposed to Europe than others. Asset management firms and others that are exposed to Europe have operated on the basis of a no-deal Brexit and have implemented plans on that basis. Some companies have opened offices in Dublin and Luxembourg and are not waiting to see what happens with the negotiations.[xvii]

16. Whilst some financial services companies most exposed to the impact of Brexit have been able to prepare for exit from the EU on the basis of planning for a no deal outcome, other sectors of the economy have found the process of preparing for the end of transition more problematic. For example, Allie Renison of the Institute of Directors (IoD) commented on the extent of preparedness amongst IoD member organisations that—

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xv Professor Sarah Hall, Written submission, p.8.
xvi SPICe, Briefing on financial services and Brexit, p.20, 12 November meeting.
xvii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.29.

> We have a solid chunk of about 30 to 40 per cent of members who have said consistently over time that they cannot prepare in advance and will only be able to react and adjust. That is to be expected. For most European regulations, there is a two-year adjustment period.[xviii]

17. Most witnesses from the primary and manufacturing sectors stressed that where information was available then preparations were being made. However, given the lack of certainty about the trading position of the UK in January 2021, witnesses also emphasised that it was not clear what businesses should be preparing for. Richard Carter, representing the chemicals business BASF Limited, summarised the approach of his company in the following terms—

> The question about preparedness is the key one. The question is: what are we preparing for? We are still preparing for various scenarios. Because we do not have certainty, our teams are working on different scenarios, which means that we are still at a very high level.[xix]

18. Mr Carter went on to state that—

> In a nutshell, we are still in waiting and we are still preparing for the various scenarios, but the longer this goes on, the less time we will have to prepare for whichever scenario is agreed on. We are covering our bets but, obviously, the sooner we get clarity, the sooner we can pursue a more detailed analysis of whatever agreement is put into place.[xx]

19. For other witnesses the notion of being prepared for EU exit was considered implausible given the uncertainty regarding the negotiations and as a result the unknown nature of the future trading relationship and lack of guidance regarding the border procedures which will apply. Rod McKenzie, from the Road Haulage Association, summarised the degree of preparedness of the road haulage sector in the following terms—

> Are we prepared? Absolutely not. This is a shambles. It has been a shambles from beginning to end, and the information that we have is incomplete, inadequate and quite often totally incomprehensible.[xxi]

20. A prominent strand of evidence heard from witnesses was the impact of the end of transition upon small and medium sized enterprises (SMEs) and upon the supply-chains supporting SMEs. Whilst larger businesses may have the capacity to adapt to a post-transition trading environment, such a process may be more problematic for SMEs. For example, larger businesses may find it easier than SMEs to access customs professionals or have the resources to recruit in-house customs specialists. This position appears to have been recognised by the UK Government

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xviii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.30.
xix Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.28.
xx Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.28.
xxi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.4.

which in a 'reasonable worst case scenario' for borders at the end of transition assumed that 50-70% of larger businesses and 20-40% of SMEs would be ready for border procedures [xxii]. Given the importance of SMEs within the structure of the Scottish economy, this degree of lack of preparedness is of considerable concern. Jimmy Buchan noted in relation to the impact on seafood companies that—

> Smaller businesses will find it extremely challenging, to the extent that I fear that they may not be able to trade any longer with the new rules and regulations that will be imposed on them. That is purely down to the paperwork and the cost of that. In effect, small consignments will become unviable, and that market might well be lost.

21. Widespread concern regarding the impact of the end of transition was expressed by most witnesses the Committee heard from. However Elspeth MacDonald, from the Scottish Fishermen's Federation, was more optimistic in emphasising the need for EU Member States to continue to access products from the UK. She contended that—

> It is important that we recognise and acknowledge that a large number of businesses and jobs in the EU market depend on our product, too. They will also be making efforts at their end, to ensure that the product can get to them. If we take fish processing as an example, we know that Boulogne-sur-Mer is highly dependent on fish from the UK. We know that infrastructure has been put in place in France to ensure that seafood lorries from the UK will be channelled directly from Calais to Boulogne.
>
> There are challenges on this side, but we should also recognise that efforts will be being made in our markets on the continent to try to ensure that the product can get there. Those businesses and the customers and consumers on the continent want our products and there are businesses and jobs that are dependent on them.[xxiii]

22. Uncertainty and concern regarding what trading environment would be in place at the end of the transition period was further exacerbated by the impact of Covid-19 upon businesses. Scotland Food and Drink summarised the position for the sector in the following terms—

> We are 50 days away and we do not quite know the detail of many issues, although that was what the transition period was meant to be about. Given that businesses are still focusing on surviving Covid, are desperately using up their cash reserves and are focused on their Christmas trade, they need the comfort of having a bit longer to adjust to the rules without fear of more disruption and losses. The main ask is for that grace period of six months to give businesses sustainability and help them to adapt. Of course, they will try and adapt anyway, but they need the comfort of knowing that there will not be any repercussions if they get things wrong through no fault of their own or a human error.[xxiv]

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xxii UK Government Cabinet Office, 23 September 2020, 'Reasonable Worst Case Scenario for borders at the end of the transition period on 31 December 2020, p.4.
xxiii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.11.
xxiv Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12

23. In evidence to the Committee, the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell MSP, compared the ability of businesses to prepare for the end of transition during a pandemic to previous Brexit deadlines during the Article 50 process. Mr Russell observed that—

> I know from discussions that I have had with businesses over the past few months that many of them have been completely absorbed by the challenge of Covid, because they are fighting for their lives, and it is incredibly difficult. We knew from previous no-deal preparations, of which there have been two sets in the past few years, that businesses took a long time to wake up to the threat of no deal. Those two things coming together have been, and still are, very worrying and problematic. There is some evidence that the take-up and preparation activity has fallen off rather than increased in recent weeks because, with a new lockdown in England and new regulations in Scotland, people are very focused on survival.[xxv]

24. The Committee wrote[xxvi] to the Chancellor of the Duchy of Lancaster on 13 November recommending that the UK Government put in place a six month ‘grace period’ to allow businesses to adapt to the new customs controls and processes which will come into effect at the end of the transition period. Such an approach would be similar to the relaxing of border controls at the UK border for a six-month period in recognition that systems and processes will not be in place by January 2021. However, in the event of agreement being reached with the EU, then the Committee recommended that a six-month period should be sought that would apply to both EU Member States and the UK. The Committee recognised that the implications of no agreement being reached would be “hugely detrimental to the Scottish economy”.[xxvii]

25. **The Committee notes that with less than a month until the end of the transition period, the business community still does not know what trading environment or trading relationship with the EU it will be transitioning to. As a consequence, the necessary systems and processes to deal with customs requirements are not in place. Even when that position becomes clearer, the impact of the pandemic has significantly eroded the capacity of business to respond and adapt to the UK’s post-transition trading environment.**

26. **The end of the transition period marks a significant challenge which will bring disruption to the Scottish business, in particular to SMEs, who have said they will struggle to adapt in the short-term. The Committee therefore considers it imperative, and re-iterates its call, that the UK Government seek a six month ‘grace period’, in agreement with the European Union, in order to give business some scope to minimise the damage which will be caused to the**

November 2020, Col.2.

xxv Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 19 November 2020, Col.6.

xxvi Culture, Tourism, Europe and External Affairs Committee to the Chancellor of the Duchy of Lancaster, 13 November 2020. Dean Lockhart MSP and Oliver Mundell MSP were not signatories to the letter.

xxvii Culture, Tourism, Europe and External Affairs Committee to the Chancellor of the Duchy of Lancaster, 13 November 2020, p.2.

economy at the end of the transition period.

Key Issues Following the End of the Transition Period

27. The end of the transition period will result in varying impacts across all aspects of the economy and society. The focus of the Committee's scrutiny has been primarily on economic impacts in terms of key sectors of the Scottish economy and the resultant effect upon employment. Despite the varied and often highly technical nature of the issues which affect different sectors of the Scottish economy, there were four main issues raised in evidence which were common to all sectors that the Committee took evidence from. These were—

- Access to the EU Market;
- Implementation of the Protocol on Ireland / Northern Ireland;
- Impacts arising from the end of freedom of movement; and
- Access to EU programmes.

28. It should be noted at the outset, that these issues are primarily predicated on an agreement being reached by the EU and UK Government. Clearly, in the event of no deal, there would be a longer list of issues relating to topics such as the impact of tariff barriers with the EU.

Customs and Regulatory Barriers

29. The degree of access to the EU Single Market and Customs Union has been the key concern for exporters throughout the process of the UK Government seeking to negotiate exit from the European Union. Given the stated objectives of the UK Government from the negotiations, it is clear that the UK will have, at best, less preferential access to the single market and customs union. The Committee's adviser on International Trade produced a report for the Committee detailing the customs relationships that the EU has a with a range of 'third countries'. Broadly, borders checks and procedures are grouped into three main categories as follows—

- Safety and security procedures and anti-smuggling;
- Customs clearance; and
- Standards and regulatory procedures.

30. The Committee's adviser summarised the purpose of these categories of borders procedures and checks and this is reproduced below:

Safety and security procedures and anti-smuggling

Before the goods enter the EU, a safety and security declaration needs to be submitted. Such pre-notifications contain information which is used for risk analysis and screening. It is also used for anti-smuggling purposes. Carriers and other logistics providers are responsible for submitting prenotifications before import. Further Border Force anti-smuggling and safety checks ensure that dangerous, prohibited or counterfeited goods are not smuggled into the country. Such checks are performed on a small percentage of imported goods – determined as a mix of random checks and risk-based criteria checks.

Customs clearance

Goods coming from non-EU countries cannot be released from the border without being customs cleared (excluding cases where importers are authorised to clear the goods inland). In the simplest form, a customs declaration is a dataset of information about the goods which is submitted to customs authorities at the time of import or export. Imported or exported goods need to also be accompanied by appropriate paperwork. At this point, customs duties, import VAT and other taxes, such as excise duties or antidumping duties, are calculated. There are also occasional physical checks on imported goods. This involves, for example, checking that the goods have been correctly declared. Not all imported goods go through physical inspections.

Standards and regulatory procedures

Sanitary and phytosanitary (SPS) requirements are measures designed to protect humans, animals, and plants from diseases, pests, or contaminants. Goods subject to these measures are food products, live animals, products of animal origin, animal feed as well as plants and plant products. SPS procedures and checks may vary depending on the product. In most cases, a veterinary or phytosanitary certificate is required prior to importation. SPS border procedures can also take various forms. Goods also need to be pre-notified to the relevant authorities and need to enter the EU through a designated border import post (BIP) or border control post (BCP). SPS border checks range from document inspection, to further inspections, controls and testing.

The final type of checks is related to technical regulations, standards, and conformity assessments. Similar to SPS requirements, TBT measures will vary depending on the product and the country of export. Auto manufacturers will need to comply with

different regulation than companies in the chemical sector that are subject to REACH regulation or pharmaceutical firms. In order to place the product on the EU market, the manufacturer needs to attest that the product complies with all applicable EU regulation. This includes completing a conformity assessment procedure which might differ depending on the type of the product. The responsibility of complying with the EU regulation and ensuring that the product has a conformity assessment falls on the producer (although the importer can end up being liable). As such, the border is not necessarily where the checks take place.

Source: Anna Jerzewska, 'Research into the checks on goods imported into the European Union', p.2-3. Accessible at— https://www.parliament.scot/S5_European/Inquiries/20200901_CTEEA_ExternalResearch.pdf

Access to the UK Market

31. The evidence the Committee received has been consistent in emphasising the importance of regulatory alignment with the EU. The Association of the British Pharmaceutical Industry (ABPI) and BASF Limited from the chemicals sector both represent sectors that are heavily regulated within the EU. Both organisations stressed the importance of close alignment with the EU regulatory regime. ABPI stated—

> If we do not get to a point where we have a mutual recognition agreement and we end up duplicating testing and all sorts of other processes, we will be adding red tape as we leave the EU, not removing it. Ultimately, that will impact on the gross domestic product of the whole region at a time when the UK and the EU are desperately trying to find R and D-intensive innovative industries to fuel economic growth and fuel recovery from the current crisis.[xxviii]

32. In terms of the chemicals sector, BASF Limited emphasised the need for alignment with the EU REACH framework on chemicals. Scottish Engineering commented on the implications of moving away from EU regulatory frameworks in the following terms—

> For a number of reasons, the status quo is absolutely the best outcome for the manufacturing and engineering sector, and I would say that an Australia-type agreement is a pretty long way away from that. The further we get away from what we have now—or what we had—the more impactful that will be in costs, resource and an extra burden of administration.[xxix]

33. With regard to financial services, the Committee again heard evidence seeking clarity from the UK Government with regard to the regulatory regime that the UK Government is seeking vis-à-vis the EU. The current 'passporting' arrangements for financial services are part of the EU Single Market. Given current UK Government policy, these arrangements will not be available to financials services firms in the UK. Stephen Phillips commented on the consequences of this policy decision for the financial services sector as follows—

> When it comes down to it, we are not going to be in the single market. I should imagine that the FS sector wishes to have as much access as possible. From that perspective, not being part of the single market means that companies need to make alternative arrangements, which they have done by setting up subsidiaries. That is not necessarily the end of the world; it just adds to cost and means that certain people have to be transferred out of Scotland to service those companies.[xxx]

34. The Scottish Fishermen's Federation (SFF) emphasised the opportunities from the UK being an 'independent coastal state' to increase the share of catch caught by

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xxviii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.32.
xxix Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.2.
xxx Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.29.

UK boats in UK waters. Elspeth MacDonald from the SFF stated—

> The fishing industry would clearly benefit from the ability to catch a much fairer share of the fish in our waters, which would surely have upstream and downstream benefits for other sectors and for the communities in which our fishing fleets are based. This is a once-in-a lifetime opportunity to redress a very unfair settlement for fishing under the common fisheries policy and to reinvigorate the Scottish fishing industry and the communities in which it is located.[xxxi]

35. NFU Scotland noted the flexibility which could result for the agriculture sector from not being party to the EU Common Agricultural Policy. Charlie Adam from NFU Scotland commented that—

> Setting a new policy provides an opportunity to move away from the common agricultural policy's one-size-fits-all approach. In some respects, that will allow us to put in place greening, environmental and climate measures, for example, that are perhaps more appropriate for Scotland's particular circumstances. If we have that, we can deliver more.[xxxii]

36. Representatives from primary sector producers also tended to emphasise the need to comply with customs processes and procedures following the end of the transition period. In a similar vein, the Chancellor of the Duchy of Lancaster, Michael Gove MP, wrote to UK Government Ministers highlighting the need for 'traders' to be ready for the processes that will require to be put in place at the end of transition. Mr Gove commented on the potential for 'disruption' to businesses in the following terms—

> The biggest potential cause for disruption is traders not being ready for controls implemented by EU Member States on 1 January 2021. Irrespective of the outcome of the negotiations between the UK and EU, traders will face new customs controls and processes. Simply put, if traders both in the UK and EU, have not completed the right paperwork, their goods will be stopped when entering the EU and disruption will occur. It is essential that traders act now and get ready for new formalities.[xxxiii]

37. In evidence to the Committee, Scotland Food and Drink highlighted the importance of 'Export Health Certificates'[xxxiv] (EHCs) which will be required for the export of animals and animal products post-transition. Scotland Food and Drink noted that 70% of Scottish food exports currently go to EU markets. John Davidson of Scotland Food and Drink considered at length the importance of EHCs and the impact for the food and drink sector of complying with the customs procedures for the export of primary produce post-transition. He stated—

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xxxi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.6-7.
xxxii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.7.
xxxiii Chancellor of the Duchy of Lancaster, 22 September 2020.
xxxiv For a full discussion on 'Export Health Certificates' see SPICe blog, 'After the Transition Period - Export Health Certificates', 30 November 2020. Accessible at— https://spice-spotlight.scot/2020/11/30/after-the-transition-period-export-health-certificates/.

> The requirement to produce export health certificates is an enormous undertaking for the seafood sector and others. Excluding the salmon sector, many businesses really only supply the European market, so at the moment they do not have to produce export health certificates for their products that go to that market.
>
> It is estimated that the number of export health certificates that are required will increase from zero at the moment to around 150,000. Pressure will be put on businesses to produce and pay for those documents; pressure will also be put on local authorities—normally, the certificates are facilitated by local authority environmental health officers—to respond to that significant demand. Unfortunately, there is not sufficient capacity in the system to be able to respond as rapidly as the sector needs to get those certificates out.
>
> Local authorities, along with others—Food Standards Scotland, for example—are trying to develop systems to respond to that challenging situation. They are considering hub models, in which environmental health officers would be located in one place to facilitate the certificates. However, it is complicated. We have never really done this before at any scale, and businesses will rely on the certificates to ensure that their product gets to market when it needs to. Therefore, we are concerned that the system is not ready.[xxxv]

38. The Cabinet Secretary for the Constitution, Europe and External Affairs detailed the procedures the Scottish Government considered will come into effect from 1 January 2021 for primary sector products. He observed that—

> Third-country status will mean that full sanitary and phytosanitary, SPS, procedures must apply in exporting to the EU. If anybody is in doubt about that, they should look at, for example, some of the information that shellfish companies in my constituency have been bringing to the table….. Along with other demands, businesses face export health or phytosanitary certification, pre-notification of arrival, presentation at border control points, documentary and identification checks, and risk-based physical checks and sampling. There will be fees for certifier time and a fee for clearance and checks at border control posts. New UK Government guidance suggests that those costs and controls will be applicable to all SPS trade—the essential trade of food, animals and plants—including from Great Britain to Northern Ireland.[xxxvi]

39. The Chancellor of the Duchy of Lancaster responded in writing to the Committee with regard to the border procedures which would be required for primary products. Mr Gove stated—

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xxxv Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.8.
xxxvi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 19 November 2020, Col.2.

> Regarding agrifood movements … SPS controls for the import of goods from the EU will be introduced in stages from January 2021 to July 2021, allowing additional time for business to adjust whilst maintaining effective biosecurity controls. Checks for live animals will continue to be carried out at destination until July 2021. From July 2021 infrastructure will be in place to perform the necessary physical and identity checks at the border. In regards to supporting agrifood producers, the Border Operating Model provides extensive information for agri-food producers to help them prepare for the end of the Transition Period. This includes information on the new Sanitary and Phytosanitary (SPS) checks that will apply to movements of animals and products of animal origin; and high-priority plants and plant products between the UK and EU.[xxxvii]

40. The critical role of hauliers in transporting goods to EU markets was also recognised by the Chancellor of the Duchy of Lancaster in his letter of 22 September. Mr Gove noted that "hauliers are also key to minimising the risk of disruption as they can ensure that the goods they carry have completed the necessary EU Member State processes"[xxxviii]. Rod McKenzie, from the Road Haulage Association, highlighted the issue of the limited number of permits, known as 'European Conference of Ministers of Transport (ECMT) permits', that are required for the transport of goods to and from the EU[xxxix]. He considered that the lack of availability of permits meant that "the current default position is that we are effectively stopping the best part of 90 per cent of companies from trading with Europe"[xl]. Again, clearer information and guidance was sought from the UK Government regarding the requirements that will be made of hauliers transporting goods to the EU. Mr McKenzie stated—

> if the mechanisms do not exist that enable hauliers and traders to understand clearly what needs to be done – they need an end-to-end or A to Z process that sets out that they have to do this, then this and then this – you cannot blame traders if they are not ready. The information is not clear.[xli]

41. The issue of ECMT permits was temporarily addressed by the EU prior to previous Brexit deadlines. However, there are no indications that the EU will introduce any simplifications for the end of transition on this occasion. The Committee also understands that around 85% of trucks entering the UK are non-UK owned and these companies may wish to avoid travel to the UK during a period of disruption at borders and re-evaluate their business model based on the position which emerges

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xxxvii Correspondence from the Chancellor of the Duchy of Lancaster to the Committee, 31 October 2020, p.2.

xxxviii Chancellor of the Duchy of Lancaster, Correspondence to UK Ministers, 22 September 2020, p.1.

xxxix For discussion of ECMT permits, see the SPICe blog 'After the transition period: Road haulage licences and permits', 1 December 2020. Accessible at— https://spice-spotlight.scot/2020/12/01/after-the-transition-period-road-haulage-licences-and-permits/.

xl Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.5.

xli Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.5.

between the EU and UK. Another consequence of leaving the EU and relying on ECMT permits is that these permits cannot be used for 'cabotage' (loading and unloading goods for hire between two points in a country by a vehicle that is not registered in that country).

42. Both Scottish Engineering and the Road Haulage Association (RHA) highlighted that companies will need to rely on customs advice and expertise in order to comply with the new customs processes and procedures. In this regard, the RHA estimated that "an additional 50,000 customs intermediaries will be required to handle the 'paperwork' be that physical or electronic forms". The Committee understands that currently private sector organisations in the UK are experiencing significant difficulties obtaining access to customs brokers.

Implementation of the Protocol on Ireland / Northern Ireland

43. The complexities of exporting goods to and from the EU post-transition are further amplified when considering the goods moving to and from Scotland to the island of Ireland. As noted earlier, the Protocol on Ireland / Northern Ireland, agreed alongside the Withdrawal Agreement in order to avoid a border on the island of Ireland, requires that no customs procedures take place on the island of Ireland. In addition, the Protocol effectively results in Northern Ireland remaining in the EU Single Market for goods and thereby comply with EU product regulations and other technical regulations. In this sense the Protocol creates a customs border, in the Irish Sea, between Great Britain and Northern Ireland.

44. The transfer of goods to and from the island of Ireland is an issue of considerable importance to Scotland, particularly with regard to the port of Cairnryan. For example, the ABPI highlighted[xlii] that 80% of all medicines supplying Northern Ireland are transported via Cairnryan. Allie Renison, of the Institute of Directors, commented on the extent to which IoD Members will be impacted by the provisions of the Protocol in the following terms—

> Almost to our surprise, given that our membership is two thirds services and a third in goods, 41 per cent of our members in GB alone said that they were involved in some way in trading goods to or from Northern Ireland. That is a much higher share than most people expect.[xliii]

45. Prior to the Committee's recent evidence sessions, the Committee wrote to the Scottish Government and the UK Government raising a range of issues and seeking clarity with regard to the implementation of the Protocol. The Chancellor of the Duchy of Lancaster replied, in writing, to the Committee stating that he did "not accept"[xliv] that it was not clear how the Protocol would be implemented. Mr Gove said with regard to the Protocol that—

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xlii Association of the British Pharmaceutical Industry, Written Submission, p.3.
xliii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.41.
xliv Correspondence from the Chancellor of the Duchy of Lancaster to the Committee, 31 October 2020, p.1.

> Regarding the movement of food and agrifood from Great Britain to Northern Ireland …. that there will be no new customs infrastructure in Northern Ireland (or in Great Britain ports facing Northern Ireland). There will be a proportionate expansion by the Northern Ireland Executive of agri-food facilities at existing Northern Ireland ports, building on what already happens at ports like Belfast and Larne. The Government is committed to exploring further support to agri-food businesses engaging with new SPS processes, with further detail to be set out in due course, to bringing down the level of checks to a proportionate and pragmatic level that recognises the high standards across the UK, and to minimising electronic documentary requirements. We are in discussions with the Scottish Government regarding facilities at Cairnryan. The matter of goods deemed 'at risk' is under discussion in the Withdrawal Agreement Joint Committee.[xlv]

46. In contrast, the Cabinet Secretary for the Constitution, Europe and External Affairs detailed his perspective on the implementation of the Protocol as follows—

> Does not address matters related to the Northern Ireland Protocol making it impossible to practically prepare for trade across the Irish Sea. Crucial issues such as how to check which goods are 'Northern Ireland Qualifying Goods' under the terms of the Prime Minister's commitment on 'unfettered market access' remain undefined. Despite this, businesses including the agrifood sector and haulage and logistics firms are expected to prepare for the unknown. There are staffing, pricing, supply chain, IT and training decisions which depend on having sufficient clear indication of which systems will be in use and assurances that UK systems and EU systems will work in concert. None of this information has been adequate.[xlvi]

47. It was evident from the sectoral stakeholders that there was widespread uncertainty and concern regarding how goods would be transported from Scotland to the island of Ireland and vice-versa. This uncertainty was widely attributed by stakeholders to the detail of how the Protocol would apply not having been agreed. The Road Haulage Association emphasised that "there is a huge level of uncertainty about the requirements for the movements of goods under the Irish protocol and a very high chance that goods simply will not be ready to move"[xlvii]. As noted above, 80% of medicines in Northern Ireland are transported via Scotland. The ABPI stressed two key concerns with regard to supply of medicines to Northern Ireland. Firstly, that there is a "lack of clarity on batch testing, release and other importation checks means that we do not know how that will work"[xlviii]. Secondly, the ABPI stressed that it was not clear how the EU 'Falsified Medicines Directive' would operate under the Protocol. As a consequence, the ABPI stated that they were seeking at least a 12 month 'phase-in period' to enable the sector to adapt to whatever the new arrangements for the supply of medicines will be in 2021. The ABPI summarised the position as follows—

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xlv Correspondence from the Chancellor of the Duchy of Lancaster to the Committee, 31 October 2020, p.1-2.
xlvi Correspondence from the Cabinet Secretary for the Constitution, Europe and External Affairs to the Committee, 12 November 2020, p.3.
xlvii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.16.

> There is a real challenge in understanding how the Northern Ireland Protocol will be interpreted for medicines. Without that clarity, there may be a risk of disruption to supplying Northern Ireland. We are taking all sorts of steps to mitigate the risks in the short term, but we cannot rely on emergency measures for ever, so we really need that clarity.[xlix]

48. In terms of the primary sector, NFU Scotland stated that they did not have a "full understanding"[l] of what the implications of the Protocol would be for agriculture. In a similar vein, Elspeth Macdonald from the Scottish Fishermen's Federation observed that—

> I am not sure that we yet have a full understanding of the practical consequences of that, but some detail has been set out.[li]

49. The Cabinet Secretary for the Constitution, Europe and External Affairs described the transport of goods from Cairnryan as "a difficult and complex area"[lii] and that he was seeking clarification from the UK Government regarding the operation of the Protocol in this regard. The Cabinet Secretary confirmed that infrastructure would need to be in place to conduct SPS checks at Cairnryan. In addition, the Cabinet Secretary also noted that—

> We might have to put in place separate arrangements for traffic because, as we know, the space that is available at Cairnryan is limited. All those arrangements will have to be resolved, as will the question of who will pay for them.[liii]

Impacts Arising from the End of Freedom of Movement

50. The end of free movement and the replacement immigration system proposed by the UK Government has been an on-going area of scrutiny for the Committee. Evidence from sectoral stakeholders reinforced previous evidence taken by the Committee in highlighting the impact of the ending of freedom of movement upon many sectors of the economy. Scottish Engineering stressed the benefits of free movement for occupations at all skill levels within the sector. Scottish Engineering drew comparison with the proposed UK Government system and stated that "what

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xlviii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.39.
xlix Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col. 27.
l Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.16.
li Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col. 16.
lii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 19 November 2020, Col. 17.
liii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 19 November 2020, Col. 18.

we had was absolutely the best for the sector and industry in Scotland"[liv].

51. The Road Haulage Association (RHA) noted that the UK logistics sector relies heavily on labour from Eastern Europe and that the sector had not been included on the UK Government's ‘Shortage Occupation List’. The RHA concluded that “logistics and road haulage will definitely suffer from skills shortages post Brexit, the only question is to what extent?[lv] ”Primary sector representatives also expressed concern at the loss of freedom of movement. NFU Scotland highlighted concerns about the impact on the supply of seasonal and permanent labour within the soft fruit industry, the dairy sector, abattoirs and the food processing industry. Both NFU Scotland and the Scottish Seafood Association highlighted the implications of the UK Government’s points-based system and associated salary threshold of £25K per annum. For example, Charlie Adam from NFU Scotland commented—

> We are very concerned that agricultural and related labour is not being taken into account in the UK Government’s points-based system in relation to the salary thresholds that it has set. That is a key lobbying point for us with the Home Office. We need a seasonal workers scheme that is separate from the points-based system.[lvi]

52. Representatives from the services sector were unanimous in stressing the impact of the loss of freedom of movement in diminishing the competitiveness of their sectors. Allie Renison, from the Institute of Directors, noted that “for the services sectors in particular, the number 1 issue is the loss of free movement and what will replace it”[lvii]. Stephen Phillips, from CMS, emphasised that mobility of labour was a key feature of the financial services sector commenting that the financial services sector does “not recognise borders in the same way as some other sectors do”[lviii]. Wendy Alexander, from Universities Scotland, emphasised the importance of the higher education sector not only as a key export but also a key means of attracting international talent to Scotland. Ms Alexander contrasted the approach taken by the UK Government to attracting global talent with that of other EU Member States and the attractiveness of being able to access EU research programmes in the following terms—

> We submitted evidence that has just been published by the Wellcome Trust that the cost to that young scientist, if they have a spouse and two young children, to come to work in Scotland on a visa for four years, if we add up the immigration health surcharge for the adults and children and include the application costs, is £13,000, whereas in France the talent visa costs £1,000.[lix]

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liv Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 5 November 2020, Col.12.
lv Road Haulage Association, Written Submission, p.2.
lvi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.13.
lvii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.42.
lviii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.42-43.
lix Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.40.

Access to EU Programmes: Creative Europe, Erasmus+ and Horizon 2020

53. The importance of access to EU Programmes, such as Creative Europe, Erasmus+ and Horizon 2020, have been constant themes of the Committee's scrutiny of the Brexit process since 2016. Scottish institutions have a considerable track record of accessing research funds from Horizon 2020. At present, it remains unclear whether institutions based in the UK will be able to access Horizon 2020 post-transition. Even if the UK does obtain access to these programmes, the UK will do so as a third country with the UK as a whole participating in and contributing financially to these programmes. Universities Scotland stressed Scotland's track-record in research represents a key economic asset and that loss of access to Horizon 2020 represented the university sector's "greatest concern"[lx] with Brexit. Universities Scotland expressed this concern in the following terms—

> Universities, and Scotland, need the flow of talent to come here and without Horizon we will be a much poorer proposition for the world's best scientists. The Horizon Framework Programme for research is unparalleled in supporting deep research collaborations. There is a risk that these partnerships with our closest neighbours will be more difficult if we are not a part of Horizon Europe, the successor to Horizon 2020.[lxi]

54. Participation in Horizon Europe, post-transition, is dependent upon agreement being reached in the future relationship negotiations. Universities Scotland noted in this regard that "negotiations on this issue have stalled over the UK's financial contribution and a potential rebate to the EU on the basis that the UK has historically won more in Horizon 2020 grants than it contributed"[lxii]. The situation with participation in Erasmus+ is broadly similar to that for Horizon 2020 with again access depending on a negotiated agreement. The level of funding for Erasmus+ will double, for the period 2021-27, with participation in the programme being open to individuals from schools, colleges, community organisations as well as universities. Wendy Alexander, from Universities Scotland, summarised the current position with Erasmus+ in the following terms—

> The Erasmus programme means that about 2,700 people in Scotland every year get the chance to work or study abroad. There is underwriting for the current scheme, but it will then come to an end, and we have no idea whether we will be in Erasmus from 2021 to 2027. The funding for the programme is doubling—it is huge—and we do not know whether we will be in it.[lxiii]

55. With regard to Creative Europe, the Committee took evidence in November 2019 from Agnieszka Moody, Director, Creative Europe Desk UK. Ms Moody summarised the position of the UK in terms of participation in the Creative Europe programme in the following terms—

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lx Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.37.
lxi Universities Scotland, Written Submission, 12 November 2020, p.1.
lxii Universities Scotland, Written Submission, 12 November 2020, p.2.
lxiii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.38-39.

> If we leave without a deal, our status as a country changes overnight and, the day after the no-deal exit, the EU considers us to be a third country. That means a sudden loss of access to the creative Europe programme. The rules of the programme are written into its legal base. …. The rules stipulate that participation in the programme is not limited to European member states—that is an important point. Currently, 41 countries take part in the culture sub-programme of creative Europe. It is theoretically possible for countries that are not EU members to negotiate their way into the programme. That happens on the basis of bilateral negotiations, in which the Government of a country reaches out to the European Union and negotiates that access. As the programme is funded by the EU budget, countries that do not contribute to the EU budget have to contribute directly to the programme. That means that, post-exit, the UK would be expected to make a financial contribution to the programme.[lxiv]

56. It is worth noting that even should an agreement be reached between the EU and UK Government that this will be too late for UK institutions to participate at the beginning of the new programmes for 2021-27.

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lxiv Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 14 November 2019, Col. 33-34.

Mitigating the Impact of Brexit

57. Both Governments have put in place a range of measures that seek, to some extent, to mitigate the impacts of Brexit which will take effect at the end of the transition period. The Scottish Government has established a Building Resilience Steering Group (BRSG), which is being led by Scottish Enterprise, and seeks to address the impact of Brexit and Covid-19. The Scottish Government described the work of the Group as including—

> Working with companies on access to finance (COVID-19 support, financial advice, and signposting to UK Government EU Exit readiness support), advice on trading with the EU from January 2021, skills and knowledge development, immigration advice and support for employer sponsorship, gathering intelligence on trader readiness and challenges, and coordinating engagement and communications across all partner touchpoints with business.[lxv]

58. Scottish Enterprise is also providing "targeted advice and guidance to companies assessed as being particularly vulnerable to Brexit"[lxvi] and hosts a website[lxvii] providing advice, access to sources of financial support and online self-assessment tools. In addition, the Scottish Government has established a 'Banking and Economy Forum', a 'Food Sector Resilience Group' and a 'Ports Engagement Group'. The Cabinet Secretary also informed the Committee that the Scottish Government will launch, in December, an "Institute of Export and International Trade to support Scottish businesses that export to the EU"[lxviii]. The Cabinet Secretary commented on the extent to which measures, put in place by the Scottish and UK governments, can mitigate the impact of Brexit in the following terms—

> Whilst we welcome these provisions, they are stopgap measures and ultimately inadequate to meet the greatest challenge, which is that it is nigh impossible for businesses to prepare with only fragmentary information. This is a failing of UK Government planning and preparation which support measures cannot remedy.[lxix]

59. With regard to the longer-term costs of Brexit upon businesses the Cabinet Secretary stated—

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lxv Correspondence from the Cabinet Secretary for the Constitution, Europe and External Affairs to the Committee, 12 November 2020, p.3.

lxvi Scottish Government News Release, 'Vital support to offset Brexit damage', 25 November 2020. Accessible at— https://www.gov.scot/news/vital-support-to-offset-brexit-damage/

lxvii https://www.prepareforbrexit.scot/

lxviii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 19 November 2020, Col.6.

lxix Correspondence from the Cabinet Secretary for the Constitution, Europe and External Affairs to the Committee, 12 November 2020, p.4.

> It is regrettably very clear that the long-term costs of Brexit are huge and will not be met by some extra business support. We have continually pressed the UK Government to meet all costs of planning and preparing for Brexit and that is not being provided, whether for government, the wider public sector and key agencies, or indeed businesses.[lxx]

60. The need for financial support to cope with the consequences of Brexit, particularly given that the future relationship between the EU and UK remains unknown less than a month prior to the end of transition, was made clear by a range of sectoral stakeholders. For example, Scotland Food and Drink sought financial compensation for businesses that "incur losses through no fault of their own or, importantly, through market disruption because of the transition to the new trading arrangements"[lxxi]. In a similar vein, the Institute of Directors (IoD) also sought financial support to assist businesses adjust to a post-transition trading relationship. Allie Renison, from the IoD, commented in this regard that—

> In the absence of having time to adjust, there is a need for financial support. It is not just about compensation; it is about support not only to prepare but to adjust.[lxxii]

61. **The Committee is seriously concerned by the difficulties and challenges faced by most businesses in preparing for the end of the transition period on 31 December 2020. The Committee notes that evidence the Committee has taken, has emphasised that the impact of Brexit is likely to be, proportionately, most severe for small and medium-sized enterprises. The Committee agrees that it is important that companies that require it can access financial support when the transition period ends. This may require additional funding from the UK Government.**

62. **The Committee also recommends that the Scottish Government undertake a programme of research and evaluation of the impacts of Brexit. This should also include evaluation by the Scottish Fiscal Commission on the impact of Brexit on the Scottish economy and public finances.**

63. **The Committee also recommends that the Scottish Government should be benchmarking performance across all portfolios against performance in EU Member States in order to assess the economic, social and cultural impacts of the loss of EU membership and ensure that a broader comparative perspective is not lost in Scottish policy-making. In addition, the Committee considers that in order to minimise divergence and ease trading relationships for Scottish companies that the Scottish Government should maintain alignment with EU rules and regulations wherever possible. In this regard, the Committee notes the inclusion of a 'keeping pace' power in the European Union (Continuity) (Scotland) Bill.**

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lxx Correspondence from the Cabinet Secretary for the Constitution, Europe and External Affairs to the Committee, 12 November 2020, p.4.
lxxi Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.2.
lxxii Scottish Parliament, Culture, Tourism, Europe and External Affairs Committee, 12 November 2020, Col.30.

Conclusions

The report has focused on the key issues which will impact on key sectors of the Scottish economy in a couple of weeks' time when the UK leaves the regulatory framework of the EU Single Market and Customs Union. The issues highlighted in this report of access to EU markets, the implementation of the Protocol on Ireland / Northern Ireland, the end of freedom of movement and access to EU programmes will have a profound impact on Scottish business in 2021 and beyond.

However, these issues are not new. Indeed, they have been the subject of considerable scrutiny by this Committee over the course of this parliamentary session. The fact that the relationship between the EU and UK, which will take effect in a couple of weeks' time, remains unknown is of serious concern. As a consequence, businesses have no adequate basis on which to plan and prepare for an outcome that remains largely unknown.

The Committee welcomes that measures are being put in place to seek to mitigate any negative consequences that will follow from the end of the transition period. However, at best, these can only ameliorate and not remove the negative economic impacts of Brexit. The Committee strongly supports the demands from across the business community that additional time be built into any agreed outcome to allow for time for businesses to adjust to the post-transition EU-UK trading relationship.

The Committee concludes that there is little prospect of any positive outcomes for the Scottish economy from a no deal Brexit or a hard Brexit with a trade agreement albeit a no deal Brexit is the least desirable outcome. The Committee considers that for the outcome of the negotiations to remain unknown in December 2020 will result in serious disruption to the Scottish and UK economies in the new year.