Agriculture and Brexit

Context

Scottish agriculture has been deeply entwined with the policies and workings of the EU and the practicalities of the single market for decades. The EU Common Agricultural Policy (CAP) has directed policy and agricultural support, with only some flexibility in policy design left to Member States.

The majority of the funding provided to Scotland (nearly £600m per year in direct payments, and over £1bn in Rural Development payments spent over the 6-year 2014-2020 programme) has come from the EU. Additionally, much of Scotland’s agriculture-related regulation is shared with the EU, in the form of the regulation of water quality, nitrates, birds and habitats, food and feed law, animal welfare, and so on.

Moreover, the EU is the largest export market for Scottish agricultural produce. In addition to, and partly as a result of, the shared policy framework for agriculture, agricultural producers have had frictionless and tariff-free trade with the EU, the future of which is determined by the relationship between the EU and UK.

Arrangements over immigration as part of any future deal will also impact agriculture, with a large proportion of the seasonal agricultural workforce coming from EU countries.

Access to market

Access to market is a key issue for a number of agricultural sectors. Food and Drink is Scotland’s largest export sector; nearly 40% of Scottish food and drink exports are traded with the EU. This is particularly important in certain sectors: 87.7% of UK beef
exports went to EU countries in 2018; likewise 95.1% of UK sheep meat exports went to EU countries in 2018, with France being the largest importer. The livestock sector made up **42% of Scottish agricultural output in 2018**.

Under the Food and Agriculture Policy Research Institute UK (FAPRI) Project, funded by the four UK governmental agriculture departments, **an analysis was commissioned in August 2017** on the "Impacts of Alternative Post-Brexit Trade Agreements on UK Agriculture". Using three different trade scenarios – a bespoke free trade agreement with the EU; WTO default; unilateral trade liberalisation - the researchers modelled the impact on commodity prices, production and value of output for different agricultural sectors.

The scenario with the least impact on any sector in this analysis is a bespoke free trade agreement with the EU, under which the UK retains tariff and quota free access to the EU and vice versa, and that tariffs applied to exports UK exports to the rest of the world are unchanged, with a 5% trade facilitation cost (i.e. the administration cost of additional paperwork, checks on country of origin, sanitary and phytosanitary checks etc.) with EU-27 countries.

The other two scenarios have large variability in the impact on each sector. Both the WTO default and the unilateral trade liberalisation scenarios forecast large impacts in the beef and sheep sectors in terms of price, production and output value, which as mentioned make up a large share of Scottish agriculture. For a clear summary of the differences between these scenarios, see the table on page ii in the **executive summary of the report**.

As such, in the agricultural sector, there may be significant trade-offs associated with any approach to the future relationship with the EU.

**Level playing field**

The outcome of negotiations on the ‘level playing field’ is also an area of significant importance for agriculture. As mentioned, Scottish and UK agriculture has shared a regulatory level playing field with the EU on environment, animal welfare, food safety and other matters. The level playing field has been a key sticking point in the negotiations, with the EU requiring the maintenance of regulatory standards as a condition for preferential access to markets, but with the UK maintaining that it will not commit to automatic regulatory alignment.

Without a compromise on the level playing field, it is likely that there will be tariffs on UK goods entering the EU; as discussed above, such tariffs may be significant for Scottish agricultural sectors. Moreover, **Scottish stakeholders, including the NFUS, have emphasised the need to maintain high standards** as part of the brand and expected quality of many Scottish agricultural products. Therefore, any decisions on a level playing field may have indirect market effects on Scottish producers as a result of the dynamics of both the UK’s ‘internal market’ and any trade deals with the EU or third parties.
Regulation of subsidies/state aid

An agreement between the UK and the EU on regulation of subsidies (also known as ‘state aid’) may impact the amount and type of agricultural support that can be paid to producers. The rules around state aid form part of the level playing field negotiations, and are another key point of disagreement, with the EU arguing for a common approach to state aid, and the UK maintaining that it wants to be free to develop its own system.

There are currently specific exceptions to general state aid rules, notably for agricultural subsidies under the Direct Payments Regulation and the Rural Development Regulation, for the reason that a prescribed framework is provided in the Common Agricultural Policy which is the same for all EU member states. Likewise, state support for agriculture is also treated differently under WTO rules, which is governed separately by the WTO Agreement on Agriculture (AoA).

For agriculture and fisheries products, the UK’s proposals in its draft negotiating text simply reaffirms both parties’ intention of “further enhanc[ing] multilateral disciplines and rules on agricultural trade in the WTO”, and makes provision for consultation between the parties if one party considers that a subsidy provided by another is harmful. The other party should then “use its best endeavours to eliminate or minimise the adverse effects of the subsidy”.

By contrast, the EU’s draft negotiating text provides detail on how to separate the UK’s obligations under the WTO AoA from the EU’s – a point which is not addressed by the UK’s negotiating text. The AoA divides agricultural support into three ‘boxes’ – blue, green and amber - based on the level of trade distortion that may occur as a result. Those in the ‘amber box’ are considered to be potentially trade distorting (e.g. measures to support prices, or payments coupled to production). Countries may make use of potentially trade-distorting agricultural subsidies but the amount of support they can provide is limited to 5% of agricultural production for developed countries (10% for developing countries).

However, the EU is one of 32 WTO members whose amber box subsidies have exceeded the limited levels and is therefore committed to reducing this over time. The EU as a whole has a single maximum amount that it can pay in amber box subsidies; that amount must reduce over time. More information on this can be found in the WTO explainer.

The EU’s position is that a future relationship should include UK compliance with a number of state-aid-related EU acts and provisions. However, the EU specifies in its draft negotiating text that these acts and provisions “shall not apply with respect to domestic support measures of the United Kingdom authorities within the meaning of Part IV of the WTO Agreement on Agriculture up to a determined maximum overall annual level of support, and provided that a determined minimum percentage of that domestic support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture.”

In addition, according to the EU, the UK’s share of the maximum overall annual level of support and the minimum percentage of domestic support which shall comply with
rules around trade distortion set out in Annex 2 of the AoA, will be determined in a new Specialised Committee on the Level Playing Field and Sustainability comprised of representatives of both parties.

The EU has set out how the UK’s share and minimum percentage should be determined: “The initial maximum exempted overall annual level of support shall be informed by the design of the United Kingdom’s future agricultural support scheme as well as by the annual average of the total amount of domestic support incurred in the United Kingdom during the period of the current Multiannual Financial Framework 2014-2020. The initial minimum percentage shall be informed by the design of the United Kingdom’s agricultural support scheme as well as by the percentage to which the overall domestic support in the Union complied with the provisions of Annex 2 to the WTO Agreement on Agriculture as notified for the period concerned.” Finally, the amount of support and minimum percentage would be adjusted over time, alongside the EU’s multiannual financial frameworks.

As such, in the EU’s view, the UK’s allowable amount of support for agriculture would be determined by the “United Kingdom’s future agricultural support scheme” alongside its previous domestic support scheme. For Scotland, this may be complicated by a number of factors, including that the United Kingdom has no single future agricultural support scheme. While the UK Agriculture Bill sets out a framework for English agricultural support post-Brexit, there is currently no future agricultural support scheme set out for Scotland. The 2020/21 Programme for Government committed to “bring[ing] forward recommendations for new mechanisms of agricultural support” before the end of this Parliament.

Furthermore, the UK Agriculture Bill makes provision for the UK Government to set the limits on the amount of support that may be provided to agricultural producers (for the UK as a whole, and for each separate UK nation), and the classification of different support measures into the WTO ‘boxes’. It is conceivable therefore that Scottish agricultural policy may find itself constrained by the outcome of these multiple processes.

Even in the UK’s preferred scenario, the question of the UK’s share of the EU’s maximum amount of non-exempt support will remain. The draft UK agreement is silent on this point. In conclusion therefore, the outcome of the negotiations on the aspects of state aid/subsidies that apply to agriculture may have an impact, directly or indirectly, on Scotland’s future agricultural policy design, though the scope of this impact is not clear.

Labour supply

Approximately 10,000 seasonal agricultural workers come to Scotland each year, with 60% coming from Bulgaria or Romania. This was a big topic of conversation as a result of the travel restrictions caused by Covid-19, which shone a spotlight on the difficulty of managing without this workforce.

The UK Government’s Immigration and Social Security Co-Ordination (EU Withdrawal) Bill has ended “rights to free movement of persons under retained EU
law and to repeal other retained EU law relating to immigration”\(^2\), including the free movement of seasonal workers. A pilot Seasonal Work Scheme has been running in 2019 and 2020 which has allowed non-EU seasonal workers to work in UK horticulture for six months under a Tier 5 Temporary Worker Visa. The scheme provided 2500 places in 2019 and 10,000 places in 2020 for the whole of the UK, and the visa costs £244. It has not yet been confirmed whether this will be permanent and extended to EU workers. In the absence of a bespoke scheme for agriculture, farmers and crofters will rely on the UK Government’s points-based immigration system, though it has been questioned whether this is fit for purpose for seasonal agricultural work.

More detail on a number of these areas can be found in the agriculture chapter of the SPICe Briefing on ‘Negotiating the Future UK and EU Relationship’.

Anna Brand
SPICe Research

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\(^2\) [https://services.parliament.uk/Bills/2019-21/immigrationandsocialsecuritycoordinationeuwithdrawal.html](https://services.parliament.uk/Bills/2019-21/immigrationandsocialsecuritycoordinationeuwithdrawal.html)
Fisheries and Brexit

Background

At the end of the transition period the UK will no longer be party to the Common Fisheries Policy (CFP), and new agreements on fisheries management will need to be reached with the EU and with other coastal states.

The UK’s draft for a fisheries framework agreement was published on 19 May 2020. The document sets out the UK’s proposal for a fisheries agreement, independent of any trade agreement with the EU.

Recent media reports indicate that negotiations between the UK and EU are close to reaching an agreement and suggest that the UK may achieve its aim of setting future quotas in the principle of zonal attachment (see box 1.) but deferring decisions on quota shares for EU boats to a later date. There have also been suggestions that the sides could agree a “phasing-out mechanism” that would gradually reduce EU quota shares over time.

Meanwhile, separate from these negotiations the UK has negotiated its first fisheries framework agreements as an independent coastal state with the Faroe Islands and Norway. These agreements set out that the parties will hold annual negotiations on issues of access to waters and quota shares.

Opportunities of Brexit for the sector

The UK Government’s approach to the UK-EU Fisheries agreement has focussed on the following benefits for the UK’s fishing fleet:

- Ending current arrangements on quota sharing so that UK vessels can gain a greater share of quota in UK waters.
- Basing future quota shares on the principle of ‘zonal attachment’ (see box 1.) rather than ‘relative stability’ (historical catches).
- Negotiating quota shares with the EU and other independent coastal states on an annual basis.
Box 1 – Zonal Attachment

Zonal attachment refers to the idea that total allowable catch should be allocated based on the temporal and spatial distribution of stocks, rather than historical catches. There is no single method for determining zonal attachment, though the UK Government’s fisheries white paper, Sustainable Fisheries for Future Generations (July 2018) has set out preliminary research for how this might be calculated.

Scottish Government commissioned analysis of the Impact of Alternative Fish Trade Agreements Post EU-Exit based on trade modelling indicates that pelagic (mid-water) species such as hake, herring, mackerel and saithe all stand to gain significant percentage increases in quota allocation under zonal attachment.

In written evidence to the Committee the Scottish Fishermen’s Federation stated:

“Getting this right will give the Scottish fleet the opportunity to, over time, as much as double the amount of raw material that it catches, bringing benefit to the wider supply chain and our coastal communities.”

Access to market

Access to European markets is also an important issue for Scotland’s fishers, and especially for sectors that do not target ‘quota’ species such as shellfish. EU countries combined make up the largest export market for shellfish caught in Scottish waters.

Equally, aquaculture and seafood processing rely heavily on EU exports and imports. These sectors do not stand to gain from changes to how quota is calculated and shared but stand to lose from increased trade tariffs and delays in exporting goods to the EU.

Whilst the fisheries agreement may be a stand-alone agreement, it is unlikely to be agreed without reference to other elements of the future relationship. The Political Declaration stated that a fisheries agreement would be agreed “within the context of the overall economic partnership”.

Labour supply

Labour supply from the EU is particularly important for the seafood processing sector. Results of a survey of processing businesses conducted by Seafish suggest that EEA workers represented 51% of those employed in the sector across the UK in 2018, a figure that rises to 59% for Scotland as a whole and 69% for the Grampian region in particular.

In its October 2018 quarterly processing sector labour report, Seafish highlighted that 41% of businesses it had surveyed were finding it harder to fill vacancies than in

the previous quarter. This rose to 56% among processors in the Grampian region. 17% of respondents said that workers from EEA countries were less willing to come to the UK while 20% said that existing EEA workers were leaving in increasing numbers. One of the most common reasons given for this was the uncertainty surrounding both Brexit and the future status of EEA workers in the UK.

Scottish Government figures estimate that approximately 27% of the overall workforce in the catching sector are non-UK nationals, of which approximately 8% are from the European Economic Area (EEA) and 19% are from non-EEA nationals (the majority of which are from the Philippines).

Replacement EU Funding

Scotland received 44% (€107.7 million) of the UK allocation of the 2014-2020 EMFF. The European Maritime and Fisheries Fund (EMFF) has been an important source of finance for growth and jobs in coastal communities and for sustainable development within the fishing and aquaculture sectors and conservation of the marine environment.

In June 2020, the Cabinet Secretary for the Rural Economy wrote to the UK Secretary of State for Environment, Food and Rural Affairs to seek clarity on future replacement funding for the EMFF.

The Scottish Government has also been consulting on future funding options as part of its Future of Fisheries Management National Discussion. The ‘policy intent’ paper states:

“The replacement for the EMFF remains dependent on the funding solutions and approaches taken by the UK Government as a whole. Our immediate focus is on securing a fair funding settlement to replace EMFF for Scotland, and for that funding to be fully devolved to Scotland to allow us to design an approach suited to Scotland’s own circumstances and policy priorities.

Going forward, we will build on the suggestions received and consider how a new funding system would work for all of Scotland’s fishing and seafood interests, along with wider marine priorities.”

Brexit Preparedness

In a Rural Economy and Connectivity Committee evidence session on the implications of Brexit on 9 October 2019, a number of issues were raised in relation to Brexit preparedness. These included:

- Lack of clarity and costs in meeting export certification requirements
- Uncertainty around seafood export logistics
- Concerns over capacity for post-Brexit marine compliance and enforcement
Beyond Brexit – implications in the long-term, challenges for the long-term relationship

Sustainable fisheries

There is pressure on the UK to deliver on commitments to deliver a greater share of quotas for the UK fleet post-Brexit. However, this may risk setting fishing quotas that lead to overfishing.

For example, an agreement was recently reached between the UK, EU and other independent coastal states on the management of herring in the northeast Atlantic for 2021. This set a total catch limit aligned with scientific advice (651,033 tonnes). However, the agreement states:

“The delegations agreed that establishing unilateral quotas for 2021 does not in any way imply the acceptance of the level of these quotas by any Party.”

Although this is a joint agreement, quota shares are decided unilaterally. This means that if any party to the agreement decides it wants a higher quota share, this may lead to others following suit meaning quotas are set much higher than scientific advice on sustainable catch limits.

A recent SPICE guest blog from Prof Michael Heath and Dr Robin Cook from the University of Strathclyde summarised research that estimated the potential for substantial overfishing if unilateralism takes over from cooperation.

Damon Davies
SPICE Research
Food and Drink and Brexit

Context

The agri-food sector in the UK and EU is highly interconnected, with significant flows of goods in both directions and interdependent supply chains. The food and drink sector is said to have one of the highest stakes in the outcome of the negotiations.

In June 2020, EU stakeholders warned that in the event of no agreement and no extension to transition arrangements in that case, both trade and integrated supply chains would be "severely disrupted" with impacts on both sides.

For Scotland, food and drink is the largest export sector, worth £5.9bn. Of this, whisky is worth £4.4bn.

Access to markets

As explored in the agriculture briefing, food and drink exports will be affected by the outcome of the negotiations and the trade agreement reached between the UK and EU. The Food and Drink Federation, which represents food and drink manufacturers across the UK, highlighted to the House of Lords EU Committee inquiry on Brexit and agriculture that over 70 percent of exports go to EU countries, and that 94 percent of the UK’s imports and 97 percent of the UK’s exports are traded with countries that have an FTA with the EU, from which the UK currently benefits.

For Scotch whisky, which makes up a large proportion of exports, the EU is the largest single export market, with exports worth £1.48bn. The Scotch Whisky Association states on their webpage that:

“Four EU member states - France, Germany, Spain and Latvia - are amongst our Top 10 export markets worldwide. Retaining frictionless access to the EU’s Internal Market post-Brexit and tackling existing or potential trade barriers in the individual Member States is a priority for the SWA.”

In addition, tariffs on imports into the UK may also have an impact on food and drink processing. Researchers at the London School of Economics found that the “food manufacturing sector imports 9% and the agricultural sector 11% of its intermediate inputs from the EU".
Regulatory standards

Sanitary and phytosanitary (SPS) measures refer to food safety and animal and plant health measures, for example to prevent the spread of pests and diseases.

EU law includes detailed rules designed to reduce or eliminate such threats, and to reduce the chances of animal and plant diseases being introduced to the EU from non-EU countries. The outcome of the negotiations and an agreement on alignment in SPS measures is likely to determine the non-tariff barriers to trade, with a higher level of divergence requiring a higher level of border checks resulting in higher costs.

In addition, level playing field provisions on workers’ rights and the environment are relevant to the food and drink sector.

Geographical Indications

As an EU member state, the UK participates in the EU's approach to protected Geographical Indications (GIs) and operates a protected food names scheme in the UK, which has 88 protected food names including 14 Scottish products, for example, Scotch Whisky and Stornoway Black Pudding.

In evidence to the House of Commons Scottish Affairs Committee on 3 July 2018, Lindesay Low from the Law Society of Scotland outlined the three benefits for goods with a GI:

“There are probably three main benefits bestowed by GIs. The first of these benefits is to the producers, because of course they are able to protect their reputation and their quality, and they are not going to be undercut by foreign competitors cutting corners. The second one, which is perhaps sometimes overlooked, is that it protects consumers. A consumer buying Stornaway black pudding or an Arbroath smokie will know that it is that particular type of sausage or fish made in a traditional way in a traditional place. That is extremely important.

“The last thing is that it is good for the Administration of the country because geographical indications are products that are sold at a premium and typically they are made in rural areas, which means that people can invest, get jobs and promote tourism in particular parts of the country. Geographical indications have a broader national importance beyond the individual traders’ benefits.

More background information on geographical indications is available in the SPICE Briefing Geographical Indications and Brexit.

The Withdrawal Agreement finalised in October 2019 provided protection for the UK’s current recognised GIs on the EU market after Brexit and requires the UK to set up its own list of geographical indications in domestic legislation. That list will include recognition of the EU’s current GIs.

This approach applies "unless and until" superseded by the long-term trading relationship. Whilst the Withdrawal Agreement protects GIs in place at the end of the
transition period, it makes no provision for new GIs which gain that status after the date on which the transition period ends and would therefore need to be addressed as part of the negotiations.

On GIs, the DRAFT UK-EU Comprehensive Free Trade Agreement only states:

“The provisions of this sub-section shall supersede Article 54(2) of the Withdrawal Agreement [setting out the arrangements for GIs unless and until superseded by a long-term trading relationship]. [Further text on the provisions of this sub-section to be proposed]”. By contrast, the EU’s approach differs markedly, and the Union states that “The envisaged partnership should confirm the protection of existing geographical indications as provided for in the Withdrawal Agreement and establish a mechanism for the protection of future geographical indications ensuring the same level of protection as that provided for by the Withdrawal Agreement.”

On 23 October 2020, the UK Government announced new rules and logos for GIs from 1 January 2021, including a new series of labels. However, stakeholders have raised that the value of such a new scheme depends on the outcome of the negotiations with the EU and whether the EU will recognise the UK’s new scheme. Chief Executive of Scotland Food and Drink, James Withers, told The Scottish Farmer on 30 October that:

“With a no deal now looking the most likely – and disastrous – Brexit outcome, I don’t share the same confidence that our GIs are going to remain recognised throughout the EU on a long-term basis.

“If talks with the EU collapse and the UK doesn’t offer mutual recognition for EU GIs in this country, what will that mean for ours in Europe?”.

Food and consumers

73% of the UK’s food imports come from the EU. If the cost of importing food increases as a result of tariffs and non-tariff barriers, food prices may increase. On 25 September 2020, the British Retail Consortium highlighted that “85% of foods imported from the EU will face tariffs of more than 5%. The average tariff on food imported from the EU would be over 20%”. They said that “given the highly competitive nature of retail, the industry cannot absorb all these increased costs, meaning the public would face higher prices from 1st January 2021”.

In the same vein, in a report titled the Vulnerabilities of Supply Chains Post-Brexit published in September 2020 by the London School of Economics (commissioned by Arla Foods) researchers highlighted that “40 percent of all consumption of food products in the UK comes from EU countries, suggesting that UK consumers are highly exposed to changes in the future trading relationship”. In a no-deal scenario, the researchers found that the average price increase for branded and specialty products imported from the EU would be 26.5%, and with an FTA, 9.9%. For unbranded and substitutable products, the increase is expected to be somewhat less: 12.5% on average under a no-deal scenario, and 4.7% with an FTA.
Brexit preparedness

Food and drink traders who currently trade with the EU may be required to present additional paperwork and face additional checks at borders. The UK Government has provided guidance on new paperwork, such as export health certificates, that may be required after 31 December 2021. Likewise, the UK Food and Drink Exporters Association has provided information for exporters on preparing for 1 January 2021. However, it is not yet clear what export requirements will apply following the end of the Implementation Period, as this will be determined by the outcome of the negotiations.

In addition, stakeholders have long highlighted potential issues with the processes and systems in place. Concerns have been raised about the capacity to issue export health certificates on all goods exported to the EU, which may be required depending on the outcome of the negotiations. Whilst these are currently issued for exports to non-EU countries, issuing them for export to EU countries will significantly increase the volume of paperwork. Researchers at LSE also highlight a continued lack of clarity around the UK’s Border Operating Model and the procedure for customs clearance and payment of duty. Chief Executive of the Scotland Food and Drink, James Withers, told the Rural Economy and Connectivity Committee on 18 September 2019 that:

“I am keen to state that we cannot plan our way out of the impacts of a no-deal Brexit, even though we can mitigate some of them.”

Anna Brand
SPICe Research
Business and Brexit

Context

The transition period is due to end in seven weeks. According to a recent Institute of Directors survey, just over a fifth of company directors said their organisation was fully prepared for the end of the transition period, with almost a quarter not expecting to be ready by the end of the year.\(^4\)

The CBI has described the end of the transition period as a moment of change in the UK-EU partnership:

“With the UK government ruling out an extension to the transition period, a no trade deal scenario at the end of the year remains a possibility. However, if a deal is agreed it will be an Free Trade Agreement (FTA) offering a markedly different basis for market access between the UK and the EU. This means that, deal or no deal, there will be extra costs and barriers to trade in the UK-EU relationship post-Brexit; from 1 January 2021 which will have implications for UK businesses.”\(^5\)

Impact of Brexit

For businesses in the UK, those who trade with the EU are unlikely to be the only ones affected by Brexit. For example, as the CBI highlights:

“The end of the transition period will affect every business in the UK in different ways – whether you’re part of a pan-European supply chain, stock European products or rely on the skills of EU nationals.”\(^6\)

As a result, if there is a UK-EU deal focussing on zero tariffs and zero quotas it is unlikely to address all the issues facing business given the significant changes compared to the conditions UK business currently enjoy in trading with the EU.

\(^5\) [https://www.cbi.org.uk/uk-transition-hub/](https://www.cbi.org.uk/uk-transition-hub/)
\(^6\) [https://www.cbi.org.uk/uk-transition-hub/](https://www.cbi.org.uk/uk-transition-hub/)
Uncertainty and the impact of COVID-19

A key consideration for business has been preparing for Brexit and either a new relationship or no-deal. Given the lack of clarity about what a new deal may look like, businesses face a challenge in preparing for the end of the transition period. In addition, the impact of the COVID-19 pandemic is likely to have impacted on businesses preparations for the end of the transition period. According to the CBI:

“But since the outbreak of the COVID-19 pandemic, 58% of firms have been unable to progress their Brexit preparations. 21% of firms feel their level of preparedness has fallen, increasing to 27% for manufacturers.”

According to Allie Renison, Senior Policy Advisor at the Institute of Directors:

“Few would doubt that getting ready for no deal in the middle of a pandemic will be a Herculean task for many businesses. Our figures show that most directors think that Covid will magnify the impact of no deal. It’s tied their hands throughout the year and put immense pressure on cashflow, and will continue to limit bandwidth in the months ahead.”

A summary of the responses to the IoD survey of company directors on Brexit preparedness showed the following:

<table>
<thead>
<tr>
<th>Which of the following statement best matches your organisation's preparedness for the end of the Brexit transition period on 31 December 2020?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully prepared</td>
<td>21%</td>
</tr>
<tr>
<td>More preparation to do - we will be prepared by the end of the year</td>
<td>21%</td>
</tr>
<tr>
<td>More preparation to do - not sure if we will be prepared by the end of the year</td>
<td>24%</td>
</tr>
<tr>
<td>Brexit will not affect our organisation</td>
<td>28%</td>
</tr>
<tr>
<td>Don't know</td>
<td>7%</td>
</tr>
</tbody>
</table>

Importance of a deal over no-deal

As a result of the potential double impact of a no-deal Brexit alongside dealing with the COVID-19, most businesses will favour some sort of deal between the UK and the EU to come in once the transition period ends. The IoD has “urged both sides of the negotiations to work constructively towards a deal”.

What kind of deal?

The CBI has set out the details of what it would like to see in any deal emphasising that the nature of the UK’s trading relationship with the EU “will determine how future generations live and work in the UK for decades to come” adding that “in the wake of the coronavirus pandemic, business and the economy need an ambitious trade deal

7 [https://www.cbi.org.uk/uk-transition-hub/](https://www.cbi.org.uk/uk-transition-hub/)
that supports international competitiveness.” In terms of the new relationship, the CBI called for:

“A future relationship that safeguards jobs, growth and prosperity is vital to competitiveness. The agreement must support the UK’s world-leading services firms, free UK exporters’ hands from red tape, and facilitate simpler customs procedures. That’s why we’re asking the government to build a future economic relationship that truly works for UK firms.”

In terms of specifics the CBI called for:

- an ambitious trade deal with the EU which ensures comprehensive coverage of services trade, cooperation on regulation, and makes customs simple

- a deal which will Minimise disruption and avoid unnecessary costs and barriers to trade by reducing red tape

Iain McIver
SPICe Research

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9 https://www.cbi.org.uk/our-campaigns/an-eu-trade-agreement-that-works-for-business/
10 https://www.cbi.org.uk/our-campaigns/an-eu-trade-agreement-that-works-for-business/
Financial Services and Brexit

Context

Given the importance of the financial services economy to the UK, a good deal in this area is likely to be a priority for the UK government. According to a report by the Centre for European Reform “it is estimated that 67% of UK financial services (not including insurance) supplied to the EU are delivered cross border from a UK base.”

As a result of EU membership, and also during the transition period, UK service providers (including for financial services) have been able to take advantage of the right to provide services across the EU either from a UK base or by establishing themselves in another EU member state.

In financial services, this is facilitated by a process called passporting which is based on a common EU-wide rulebook allowing financial service providers to operate across the EU under the same rules and regulations. Passporting is only available to EU members and as such at the end of the transition period, UK financial providers will no longer be able to take advantage of passporting to provide services in EU member states.

After Brexit – Equivalence or WTO rules

For non-EU countries the EU operates a system of equivalence agreements which are described by the UK in a Changing Europe in the following way:

“An equivalence agreement refers to a financial services agreement negotiated between the EU and a third country, which recognises the regulations of the third country as in compliance with, and therefore equivalent to, the EU’s own. This recognition allows firms from both the EU and the third country to operate within the territories of both.”

The key disadvantage of equivalence agreements compared to passporting is that an equivalence decision can be withdrawn at short notice (just 30 days) potentially leaving a third country’s financial service providers in a state of limbo. A further disadvantage is that equivalence doesn’t usually have the same breadth as passporting arrangements as generally relates to only limited types of financial

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12 UK in a Changing Europe: [https://ukandeu.ac.uk/fact-figures/what-is-an-equivalence-agreement/](https://ukandeu.ac.uk/fact-figures/what-is-an-equivalence-agreement/)
services including particular aspects of insurance, certain banking activities and portfolio management.

The UK government initially sought an enhanced equivalence agreement based on its longstanding position as an EU member state. However, in response the EU position is that the UK will be entitled to seek an equivalence agreement in the same way as any other third country. As a result, the UK has proposed an equivalence agreement but is seeking a system of “structured withdrawal” of equivalence decisions. In other words, the UK wants to secure a process whereby the EU, should it want to withdraw a certification previously granted to UK operators, would be subject to a predictable procedure, involving consultations.

In the event the UK and the EU fail to reach an agreement encompassing financial services, trade in financial services would be regulated by World Trade Organisation rules. According to the Institute for Government:

“Trading on WTO terms entails significant limitations on cross-border trade compared to passporting, and stricter regulatory requirements and supervisory oversight of the EU branches of UK banks. Both sides are also able to impose measures for ‘prudential reasons’ such as ensuring the stability of the financial system, which can lead to further restrictions.”\(^{13}\)

**Free movement and freedom to provide services**

In the Single Market, providers and consumers are free to travel and establish their business abroad: the freedom to provide and consume services and the freedom of movement of EU citizens and firms support each other.

As the UK has ended freedom of movement with the EU it is likely that the ability of UK financial services providers to provide services in the EU will be at best compromised and possibly blocked depending on the nature of the future relationship.

**EU financial services agreements with other countries**

In written evidence submitted to the Committee, Professor Sarah Hall from the University of Nottingham set out what the UK is proposing in the area of financial services and how that compares with what is provided for in the EU’s trade agreement with Canada (CETA). She highlighted a similar system of equivalence and also the presence of a most favoured nation clause (MFN):

“CETA also includes a most favoured nation (MFN) clause (and the UK’s draft text includes the provision for the UK to include the same). The fact that this is in CETA is likely to limit the degree of bespoke single market access the UK may be able to negotiate since if the EU offered the UK a more favourable deal, it would have to offer this to Canada alongside other countries with whom it has trade deals including an MFN provision.”\(^{14}\)

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\(^{13}\) [https://www.instituteforgovernment.org.uk/explainers/brexit-and-financial-services](https://www.instituteforgovernment.org.uk/explainers/brexit-and-financial-services)

\(^{14}\) Professor Sarah Hall, evidence to the Committee: [https://parliament.scot/S5_European/Inquiries/CTEEA_S5_20_FR_005_ProfSHall.pdf](https://parliament.scot/S5_European/Inquiries/CTEEA_S5_20_FR_005_ProfSHall.pdf)
Professor Hall also set out where the UK proposal goes beyond what is included in CETA:

“Beyond the question of equivalence and passporting, there are a number of areas where the UK’s draft text goes beyond the market access provided for in CETA in small but important ways. For example, the UK’s draft agreement seeks to essentially future proof the definition of what counts as a financial services supplier by including individuals or business who supply or ‘wish to’ supply financial services. The draft is also seeking greater collaboration on things like consumer protection through ‘innovation’ in financial services. Both of these differences might be read as an attempt to ensure that the fintech sector, which the UK has developed global leadership in, is protect by the proposed UK deal.

The UK draft is seeking the establishment of a Financial Services Committee that would meet once a quarter to oversee the implementation of the agreement. The importance the UK attaches to financial services is reflected in the fact that the equivalent committee under CETA usually meets once a year.

The UK is therefore seeking a slightly modified version of CETA in financial services. However, crucially it wants to secure this enhanced degree of market access without the level of regulatory alignment that would be typical of EU enhanced market access. This reflects the government’s position that given the unique size and importance of financial services in the UK, it should not become a ‘rule taker’ from Brussels.”

Financial Services on the move?

At the end of the transition period the UK will leave the EU’s passporting system and will instead operate under a less beneficial equivalence agreement or WTO rules. In her written evidence, submitted in June 2020, Professor Sarah Hall suggested that this outcome has already led to financial services companies beginning to leave the UK. She wrote that companies are starting to:

“Transfer assets and/or employees to European hubs including Frankfurt, Dublin, Luxembourg, Amsterdam and Paris in order to maintain single market access. Estimates suggest that over 320 firms may have already undertaken relocations of some kind to date.”

The Economist recently considered the impact of Brexit on financial services employments in the City of London and noted that—

According to EY’s Brexit Tracker, which monitors announcements by large banks and other financial firms, as of October 1st at least 7,500 jobs had left

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15 Professor Sarah Hall, evidence to the Committee: https://parliament.scot/S5_European/Inquiries/CTEEA_S5_20_FR_005_ProfSHall.pdf
16 Professor Sarah Hall, evidence to the Committee: https://parliament.scot/S5_European/Inquiries/CTEEA_S5_20_FR_005_ProfSHall.pdf
the City for the EU since the referendum. On top of this, firms have added, or plan to, over 2,800 new roles in EU subsidiaries.

These lost jobs add up to around 4% of the total in the City—hardly a devastating blow. But the actual number moving is higher; EY tracks only the 222 largest firms. And there is more to come. Some firms have been waiting to see the outcome of the trade talks before moving more staff”\(^ {17} \).

In terms of the impact to date on where assets are managed, the Economists stated that—

“As 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”\(^ {18} \).

With regard to specific examples of assets being transferred, the Economist noted that—

“Barclays is transferring £150bn—over 10% of its domestic balance-sheet—to Ireland, making it the largest bank there. JPMorgan Chase is moving €200bn ($237bn), over 7% of its global assets, to Germany”\(^ {19} \).

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\(^ {18} \) Ibid.

\(^ {19} \) Ibid.
Universities and Brexit

Introduction

Brexit will have a significant impact on Scotland’s higher education sector, with uncertainty remaining around the future of research funding and student mobility programmes. The UK Government has not yet confirmed whether the UK will participate in EU funding schemes as a ‘third country’ and therefore Scotland’s involvement from 2021 and beyond is unclear.

EU Programmes: participation and access to market

The Scottish Government and the higher education sector have expressed concerns about the status of Scotland’s future participation in Horizon Europe (the successor scheme to Horizon 2020) and Erasmus+ once the UK transition period comes to an end. Universities Scotland has described uncertainty around future participation in Horizon 2020 and Erasmus+ as the “main issues” facing the higher education sector. In an October 2020 briefing for MSPs, Universities Scotland repeated it wishes to see the UK continue to be a “full and active member of both Horizon Europe and Erasmus+”.

EU proposals for Erasmus+ and Horizon Europe programmes for the period 2021-27 include a framework for third country participation for non-member states. A January 2020 SPICe briefing on Access to EU funding as a third country states that the UK would need to agree to criteria for joining each funding programme and that this will require:

"a prior commitment to contribute financially to the programme. A House of Commons library briefing paper on the EU budget noted that the amount will "be linked to the EU’s budget for the programme."

If the UK does continue to participate in either programme, it is unclear whether this will be as an associated third country with full participation but no voting rights or a non-associated third country without full participation.

Horizon Europe

The Horizon 2020 programme has been important to Scotland’s universities, as the Minister for Further Education, Higher Education and Science Richard Lochhead told Parliament on 29 October 2020:
“Since Horizon 2020 began in 2014, Scottish organisations have won 711 million Euros.”

The Minister repeated that the Scottish Government wished to see continued membership of the programme, with a guarantee of no funding gaps and full funding for continued participation of all elements open to third countries.

The UK Government has not ruled out continued participation. The Future Relationship with the EU: The UK’s Approach to Negotiations paper published in February 2020 stated:

“The UK is ready to consider standard third country participation in certain Union programmes where it is in the UK’s and the EU’s interest that we do so.”

This document also stated that the any agreements around third country participation should contain “fair terms" for the UK, including: “…a fair and appropriate financial contribution”.

Following this, the Department for Business, Energy and Industrial Strategy (BEIS) published its UK Research and Development Roadmap in July 2020. Regarding funding arrangements in the event the UK does not take part in programmes, the document states:

“If we do not associate to programmes such as Horizon Europe, we will meet any funding shortfalls and put in place alternative schemes.”

Most recently, this was repeated in a Written Answer published on 20 October 2020. This stated that if the UK does not associate to Horizon Europe, the UK Government: “will implement alternatives as quickly as possible from January 2021 and address the funding gap.”

While the consequences of not taking part in the programme are not yet known for Scotland, the January 2020 SPICe briefing states the impact of Switzerland’s temporary exclusion in 2014:

“As reported in an article on the Science|Business website, the President of the research council of the Swiss National Science Foundation revealed in September 2019 that the: “number of research projects its scientists participated in "dropped from 4,300 to 300 and we're still catching up and suffering".”

ERASMUS +

The Erasmus+ programme promotes education, training, youth work and sport across Europe\(^2\). The proposed Erasmus+ budget for 2021-27 is €21.2bn – a significant increase on the past seven years. Universities Scotland’s October briefing states Erasmus+ has given over 2,700 students at Scottish universities the

\(^2\) European Union funding in Scotland, SPICe (2018)
experience of outward mobility in 2017/18, and funded 164 projects and 17 strategic partnerships in Scotland between 2014 and 2018, to the value of €50.2m and €5.4m respectively.

The Scottish Government wants Scotland to remain a member of Erasmus+ and has made representations to the UK Government on this issue, however no confirmation of whether the UK will associate to the scheme has been given. The UK Government’s February 2020 Future Relationship document stated that:

“The UK will consider options for participation in elements of Erasmus+ on a time-limited basis, provided the terms are in the UK’s interests.”

Implications for students and staff

Mobility

Following the transition period, immigration arrangements with the UK will vary by country. The sector has raised concern about the loss of EU staff and the need to ensure successor schemes are attractive to them and in January 2020, Universities Scotland, UCU Scotland and NUS Scotland wrote to EU staff and students to assure them they remain welcome.

The July 2020 BEIS UK Research and Development Roadmap outlined plans for a new Office for Talent to attract science, research and innovation talent to the UK. The Global Talent Visa was launched in February 2020 and the eligibility criteria has since been extended to allow highly skilled scientists and researchers to apply without a job offer. However, an October 2020 Wellcome Trust report found the cost associated with coming to the UK may make it a less attractive option:

“From October 2020, the Immigration Health Surcharge will increase to £624 per year — meaning an upfront cost of more than £13,000 for a family of four on a five-year Global Talent Visa. In contrast, the French Talent Visa is approximately £1,000 for the same family.”

Tuition fees

Earlier this year the Minister for Further Education, Higher Education and Science announced that from 2021-22, universities will be able to charge international fees to EU students. During a statement to Parliament on 9 July, he said that from 2021-22 and additional £19m funding will be available for places for students in Scotland.

Lynne Currie
SPiCe Research

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21 The report states: “Based on Wellcome’s calculations: cost of a five-year Global Talent Visa for a researcher will be £3,728 (application cost £608 and IHSC cost £624 annually). For a researcher, their partner and two children the total cost will be £13,372 (IHSC cost for children is £470 annually). This represents a significant increase from the current level of £10,432.”