NORTH AYRSHIRE COUNCIL

12 January 2021

Title:	**UK withdrawal from the European Union (Brexit) Update report**
Purpose:	To provide an update on the current position regarding the UK's withdrawal from the European Union on 31 December 2020
Recommendation:	It is recommended that the Committee note the current position in respect of the UK's withdrawal from the European Union.

1. Executive Summary

1.1 This report provides an update on the UK's withdrawal from the European Union. While the agreement of a trade deal with the EU removes most immediate risks of a no-deal, particularly around tariffs, it should be noted that agreement still requires to be reached on some areas. There also remains a danger that EU-exit compounds and deepens the longer-term economic impacts of COVID

2. Background

2.1 This provides an update to the report which was submitted to a previous meeting. At that stage a trade deal required to be agreed and the risks were largely based on the worst-case scenario of a no-deal

The Deal

2.2 On 24 December 2020 a deal was agreed between the UK Government and the EU. The terms of the treaty were approved by the UK Parliament on 30 December 2020 and it is to be provisionally applied by the EU from 1 January 2021 pending consideration by the European Parliament later in January. The following are the key parts of the deal: -

2.3 Level Playing Field- In return for continued and tariff-free access to EU markets, there are level playing field measures which commit both the UK and the EU to maintain common standards on workers' rights, as well as many social and environmental regulations. They don't have to be identical in the future, so the UK does not have to follow EU law, but they do have to be seen to protect fair competition. If not, either side has the right to impose tariffs, subject to a dispute resolution procedure

2.4 The UK has also agreed to common principles on how state aid regimes work, and to an independent competition agency which will assess them. But it can choose to develop a system which only makes decisions once evidence of unfair competition is presented. That is different from the EU system which assesses the likely impact of subsidies before they are handed out.

2.5 While a deal means that exporters have been spared tariffs, there will be new import and export declarations, the cost of which to UK exporters is estimated at £7.5 billion annually. If these new customs checks delay goods at the border this could still impact on supply chains, at least in the short term.

2.6 As regards product standards, a "mutual recognition of conformity assessment" can reduce the requirement for checks on products standards. However, the deal contains no agreement on conformity assessment. In future, if exporters want to sell products in both the UK and the EU, they may have to get it checked twice to get it certified.

2.7 Nor is there yet an agreement on recognising each other's sanitary and safety standards for exporting food of animal origin. This means there will have to be Environmental Health checks for products going into the EU.

2.8 Impact on investment: - GDP growth in the three years after the June 2016 Brexit referendum slowed to 1.6% as business investment stagnated. Greater clarity over Britain's future relationship with the European Union could in the short-term, release some of this and support recovery once the ongoing coronavirus shock starts to fade. However, there is still a risk that foreign companies will no longer view the United Kingdom as a launchpad into Europe.

2.9 Services Sector- The deal appears to mostly cover trade in goods, where the United Kingdom has a deficit with the EU, and excludes key service industries like finance, where it currently enjoys a surplus. It should be noted that the services sector accounts for 80% of British economic activity. Arguably, the result of the deal is that the European Union retains all of its current advantages in trading, particularly with goods, and the U.K. loses all of its current advantages in the trade for services.

2.10 Financial services- The United Kingdom remains the world's biggest net exporter of financial services, with its £60.3 billion ($81.6 billion) trade surplus in 2019. However, international financial services firms have migrated £1.2 trillion worth of assets and relocated 7,500 jobs from Britain to the European Union since the 2016 referendum, according to publicly available data tracked by EY. The European Union and United Kingdom have not yet struck an "equivalence" deal that will give UK banks and asset managers access to European markets.

The Withdrawal Agreement

2.11 It is important to note that the signing of the Withdrawal Agreement last year also lessened some of the impacts of a no-deal EU-exit. Existing EU law remains in place until changed, which gives EU law supremacy over domestic law – the courts could disapply any domestic legislation which is incompatible with EU law. It also protects the rights of UK citizens living in the EU and EU citizens living in the UK, as well as their family members, to continue to live and work there. These citizens will be able to apply for permanent residence (called ‘settled status’ in the UK) if they have been living in that country for five years continuously.

Analysis

2.12 Many of the short-term risks of a no-deal have been removed or reduced through the trade deal, particularly those arising from the imposition of tariffs, port congestion and supply chain difficulties. These were likely to result in business failure and higher unemployment. In the short term, greater certainty about the UK’s relationship with the EU is likely to release delayed investment. However, in the longer term the new relationship is expected to lead to a reduction in GDP of around 4% compared to remaining in the European Union, according to the Office for Budget Responsibility. Or, according to the New York Times “Brexit was always going to be a long-running hit to the U.K.’s competitiveness. But the way it’ll play out is by damaging investment in the U.K., so it’s a slow puncture, not a quick crash.”

2.13 The previous report to the Committee made the point that a deal was only part of the picture. It needed to be considered alongside an Internal Market Bill which could embed free market policies across all of the UK. In turn that could be locked-in through a US trade deal. Such a deal could promote free trade at the expense of the environment, workers’ rights, health or product safety. In other words, the EU social policy constraints previously imposed on the UK would be replaced by free-market US-style constraints, directly enforceable by US companies. This scenario is now less likely for several reasons. Firstly, the price of access to EU markets has been continued alignment on environment, state aid’ workers’ rights and other areas. Any divergence to adopt a free market approach will, if it results in unfair competition with the EU, invite tariffs. Secondly the new US President previously opposed Brexit and has ruled out negotiating new trade agreements until the United States improves its own competitive position.

2.14 The New York Times of 24 December contains an interesting analysis of Brexit, stating “In 2016, Brexit was embraced by three distinct factions in British politics, said Matthias Matthijs, a professor of international political economy at Johns Hopkins University: right-wing anti-immigration figures like Nigel Farage; orthodox free traders in the Conservative Party; and some on the left, who hoped the move would free up money to subsidize factory jobs in the country’s industrial north and, in any event, regarded the European Union as a bankers’ club that Britain was well out of.” However, in practice the Deal’s price of tariff-free access to EU markets is based on fair competition between the UK and EU, which in turn relies on alignment of state aid, environment and workers’ rights. Against this background, it remains to be seen if any of these competing aspirations for Brexit will ever be realised.

Risks

2.15 Many of the short-term risks have substantially reduced with the agreement of the Deal. The risks which arose from the imposition of tariffs, port delays, and supply chain difficulties, leading to business failure, higher unemployment and higher food and other prices have significantly reduced. Similarly, the risk of free-market policies being introduced through the Internal Market Bill, and thereafter embedded through a US trade deal are also less. In turn this will lessen the impact on inequality and the most vulnerable in society and the consequential demand on local authority services to address this.

2.16 Many of the remaining risks relate to the service sector. While manufacturing is a significant sector in North Ayrshire, the importance of the service sector has grown in recent years.

2.17 As detailed above, the long-term economic impact remains the key risk. This needs to be considered alongside the economic impacts of COVID-19.

2.18 Some of the other risks previously reported to the Committee remain. In terms of immigration, there are still likely to be shortages in lower paid roles, including in the Social Care workforce.

2.19 Another remaining risk relates to the need for Environmental Health officers to issue export certificates for food exports. While Scottish Government Ministers have requested an alternative approach of FSS being responsible for providing the necessary staffing resource at hubs to sign Export Health Certificates, there appear to be only 3 or 4 such producers in North Ayrshire.

2.20 Other risks relating to the transfer of data and the need for a data equivalence agreement, and access to crime and terrorism intelligence remain as previously.

2.21 Once a full analysis of the Deal can be carried out, the EU-exit risk contained in the Council's Corporate Risk Register will be reviewed.

2.22 In relation to resilience, the Scottish Government established the Multi-Agency Control Centre (MACC) for EU-exit on 7 December. The Ayrshire Local Resilience Partnership (ALRP) also established a multi-agency EU-Exit Sub-Group chaired by Police Scotland.

3. Proposals

3.1 The Committee is asked to note the current position.

4. Implications/Socio-economic Duty

Financial

4.1 Officers continue to monitor the impact of the EU Withdrawal process on the Council's budget position. The increasing financial cost to Government of dealing with COVID is likely to restrict their ability to intervene to minimise the economic impacts of EU-Exit. Attempts to reduce public sector expenditure are also likely to further extend austerity at a time of greater demand.

Human Resources

4.2 There are no human resource implications arising from this report, other than the issues of organisational capacity referred to in the report.

Legal

4.3 Under the Withdrawal Act UK Courts will not be bound by new decisions of the Court of Justice of the EU (CJEU) made after the transition period ends but will still be bound to interpret retained EU law in line with existing decisions of the CJEU (retained EU case law). The Withdrawal Act, however, confers the power on the UK Supreme Court and the High Court of Justiciary in Scotland to depart from retained EU case law if they consider it "right to do so." Following consultation, the Government has now confirmed that, among others, that power will be extended to the Court of Appeal and Inner House of Court of Session, but not to the High Court or the Employment Appeal Tribunal (EAT).

Equality/Socio-economic

4.4 There are no impacts of this report. However, the UK Government has indicated its intention to 'modernise' and depart from the terms of the European Convention of Human Rights.

Environmental and Sustainability

4.5 The Environmental risks appear to have lessened as a result of the Deal

Key Priorities

4.6 These terms of the Deal and the Internal Market Bill impact on nearly every area of the Council and on all of the priorities.

Community Wealth Building

4.7 The internal market proposals have the potential to significantly restrict the Council's ability to make social policy tailored to the needs of its communities. This includes community wealth building.

5. Consultation

5.1 Officers from all services were previously consulted in assessing the risks from Eu-exit.

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Background Papers
None