

CULTURE, TOURISM, EUROPE & EXTERNAL RELATIONS COMMITTEE

#SPICeBrexitWeekly

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BREXIT UPDATE

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**UK GOVERNMENT
WHITE PAPER**

**SCOTTISH PARLIAMENT REJECTS
ARTICLE 50 TRIGGER**

**EUROPEAN COMMITTEE REPORT ON EU
MIGRATION AND EU CITIZENS' RIGHTS**

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

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The Scottish Parliament
Pàrlamaid na h-Alba

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About this paper

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union which are expected to formally begin once the Prime Minister has triggered Article 50 which is likely to be before the end of March.

Ahead of the UK Government's triggering of Article 50, the updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This week's update provides information on the UK Government's publication of a White Paper on Brexit, the on-going passage of the Article 50 bill in the UK Parliament and two Scottish Parliament committee Brexit inquiry reports.

UK Government White Paper

On 2 February 2017, the UK Government published [The United Kingdom's exit from and new partnership with the European Union White Paper](#). The White Paper largely reiterates the UK Government's plans for Brexit which were set out in the Prime Minister's [Lancaster House speech](#) on 17 January.

As with the Prime Minister's speech, the White Paper outlines the 12 priorities that the UK government will use to negotiate Brexit.

1. Provide certainty about the process of leaving the EU
2. Leaving the EU will mean laws will be made in Westminster, Edinburgh, Cardiff and Belfast
3. Strengthen the Union between the four nations of the United Kingdom
4. Maintain the Common Travel Area with Ireland
5. Control of immigration coming from the EU
6. Rights for EU nationals in Britain and British nationals in the EU
7. Protect workers' rights
8. Free trade with European markets through a free trade agreement
9. New trade agreements with other countries
10. The best place for science and innovation
11. Co-operation in the fight against crime and terrorism
12. A smooth orderly Brexit

Further details on the 12 priorities along with some of the key statements from the White Paper are set out below.

Providing certainty and clarity

The Government used the White Paper to provide more details about the Great Repeal Bill which it will introduce to provide "legal certainty over our exit from the EU". The Great Repeal Bill will remove the European Communities Act 1972 from the statute book and convert all existing EU law (both Regulations which have direct effect in the UK and all law made in the UK to implement EU obligations) will remain part of domestic law when the UK leaves the EU.

In terms of future changes to those laws, the White Paper states:

"The Bill will preserve EU law where it stands at the moment before we leave the EU. Parliament (and, where appropriate, the devolved legislatures) will then be able to decide which elements of that law to keep, amend or repeal once we have left the EU. The UK courts will then apply those decisions of Parliament and the devolved legislatures.

The Bill will enable changes to be made by secondary legislation to the laws that would otherwise not function sensibly once we have left the EU, so that our legal system continues to function correctly outside the EU."

The White Paper suggested that once EU law had been incorporated into domestic law, it expected that law to be "interpreted in the same way as it is at the moment", with it being open to Parliament to keep or change these laws in the future.

The White Paper also suggested that a programme of secondary legislation would be introduced under the Great Repeal Bill “to address deficiencies in the preserved law, which will be subject to parliamentary oversight”.

The adviser to the Scottish Parliament’s Culture, Tourism, Europe and External Relations Committee, Sionaidh Douglas-Scott has previously provided a [briefing to the Committee](#) on the Great Repeal Bill (in October 2016). Specifically on the proposal to allow for the use of secondary legislation to change existing EU laws she wrote:

“The Department for Exiting the EU stated that ‘The Repeal Bill will include powers for ministers to make some changes by secondary legislation, giving the Government the flexibility to take account of the negotiations with the EU as they proceed.’ The example of the 2013 ECA Repeal Bill cited above includes the term ‘repeals may be made by statutory instrument’ and it is very likely that something like this would be included in the ‘Great Repeal Bill’ itself. Parliament simply would not have the time to manage the manifold repeals or amendments of EU law that would be desired, so much of this will presumably fall to the Executive. Indeed, the approach taken by successive private members’ ECA Repeal Bills included a ‘Henry VIII’ clauseⁱ, namely a provision that enables primary legislation to be amended or repealed by subordinate legislation. Unfortunately, ‘Henry VIII’ clauses are becoming a too familiar part of UK legislation generally. Yet such a measure would be an unparliamentary and undemocratic way to repeal or amend former EU law, and hardly a means for Parliament to ‘take back control,’ given that Parliament has a fairly minimal role in secondary legislation and no power to make amendments. The use of ‘Henry VIII’ clauses to repeal certain provisions of EU law is of particular concern, given that EU law has created vast networks of rights and obligations, whose subject matter – eg social policy, discrimination law, or fundamental rights – covers many matters central to individual liberty.”

On specific Scottish devolved interests with regard to the use of Henry VIII clauses, Sionaidh Douglas-Scott wrote:

“The prospect of a ‘Great Repeal Bill’ caused further alarm in Scotland when a report authored by Professor Alan Page ([‘The implications of EU withdrawal for the devolution settlement’](#)) presented to the Scottish Parliament’s European and External Relations Committee suggested that many laws affecting devolved issues could be unilaterally scrapped by Westminster as a consequence of Brexit, because (as already mentioned) secondary legislation could be used to unpick former EU laws. However, because they were brought about by secondary legislation, such changes would not require the consent - or even the knowledge - of MSPs. Professor Page described this as ‘a significant potential gap’ in law making in devolved areas. Such a situation would presumably come about after the enactment of a ‘Great Repeal Bill’ and exit from the EU, at a later date when it was decided to repeal or amend former EU laws now incorporated into UK legislation. As Page writes, ‘At the moment there is no requirement for the Scottish

ⁱ Henry VIII clauses: The Government sometimes adds this provision to a Bill to enable the Government to repeal or amend it after it has become an Act of Parliament. The provision enables primary legislation to be amended or repealed by subordinate legislation with or without further parliamentary scrutiny.

Such provisions are known as Henry VIII clauses, so named from the Statute of Proclamations 1539 which gave King Henry VIII power to legislate by proclamation.

Parliament's consent to UK subordinate legislation transposing EU obligations in the devolved areas; nor is the Parliament routinely informed about such legislation. The situation could thus arise in which the UK legislated extensively in areas devolved to Scotland without seeking the consent of the Scottish Parliament as there would be no requirement for its consent in relation to subordinate legislation altering the effects of EU law in the devolved areas.”

On the negotiations between the UK and the EU, the White Paper commits the UK Government to ensure that “the UK Parliament receives at least as much information as that received by members of the European Parliament”.

Taking control of our own laws

This section of the White Paper focuses on removing the jurisdiction of the European Court of Justice in the UK. It begins by stating that:

“Whilst Parliament has remained sovereign throughout our membership of the EU, it has not always felt like that.”

The White Paper states that leaving the EU will allow laws to be made in the UK and more specifically in London, Edinburgh, Cardiff and Belfast.

In addition, the White Paper acknowledges that whilst the UK will leave the jurisdiction of the European Court of Justice, any future trade agreement with the EU is likely to involve the need for dispute resolution mechanisms:

“we recognise that ensuring a fair and equitable implementation of our future relationship with the EU requires provision for dispute resolution”.

One of the annexes to the White Paper provides some examples of dispute resolution mechanisms in practice including in the EU – Canada Comprehensive Economic and Trade Agreement and the bilateral arrangements between the EU and Switzerland which govern the EU – Switzerland economic and trade relationship. According to the White Paper:

“Each agreement applies different elements of EU law to Switzerland. Some, like the agreement on free movement of persons, apply, substantive sections of EU law. Others, for example the free trade agreement do not.”

Strengthening the Union

The third priority outlined in the White Paper is to strengthen the United Kingdom whilst leaving the EU. The aim of this approach is to ensure that the UK gets a Brexit deal which is good for all its component parts. According to the UK Government:

“We have ensured since the referendum that the devolved administrations are fully engaged in our preparations to leave the EU and we are working with the administrations in Scotland, Wales and Northern Ireland to deliver an outcome that works for the whole of the UK. In seeking such a deal we will look to secure the specific interests of Scotland, Wales and Northern Ireland, as well as those of all parts of England. A good deal will be one that works for all parts of the UK.”

The White Paper refers to the intergovernmental arrangements in place for approaching Brexit including the establishment of the Joint Ministerial Committee on EU Negotiations and the two meetings of the Joint Ministerial Committee plenary to have taken place since Theresa May became Prime Minister.

This section of the White Paper also discusses the competence of policy areas which are currently EU competences. Whilst pointing out that the devolved legislatures currently only have legislative competence in devolved areas as long as that law is compatible with EU law, the White Paper states this means that even where the devolved legislatures and administrations currently have competence, for example, agriculture, fisheries and the environment, the EU has adopted common legal and regulatory frameworks. When the UK leaves the EU, these laws will revert to being set by elected representatives in the UK. In considering which parliament the legislative competence will be returned to, the White Paper states

“As the powers to make these rules are repatriated to the UK from the EU, we have an opportunity to determine the level best placed to make new laws and policies on these issues, ensuring power sits closer to the people of the UK than ever before. We have already committed that no decisions currently taken by the devolved administrations will be removed from them and we will use the opportunity of bringing decision making back to the UK to ensure that more decisions are devolved.”

Linked to the issue of where competences sit best, the UK Government emphasised the importance of the UK internal market stating:

“We must also recognise the importance of trade within the UK to all parts of the Union. For example, Scotland’s exports to the rest of the UK are estimated to be four times greater than those to the EU27 (in 2015, £49.8 billion compared with £12.3 billion). So our guiding principle will be to ensure that – as we leave the EU – no new barriers to living and doing business within our own Union are created. We will maintain the necessary common standards and frameworks for our own domestic market, empowering the UK as an open, trading nation to strike the best trade deals around the world and protecting our common resources.

On the basis of these principles, we will work with the devolved administrations on an approach to returning powers from the EU that works for the whole of the UK and reflects the interests of Scotland, Wales and Northern Ireland.”

The issue of return of competences was explored by Professor Alan Page from the University of Dundee in [research commissioned](#) by the Culture, Tourism, Europe and External Affairs Committee in October 2016. On the issue of where competencies would best sit following the UK’s departure from the EU, Professor Page wrote:

“The main conclusion that emerges from this analysis is that most existing EU competences are reserved to the UK Parliament. If we ask why that should be the case, the answer is to be found in the fact that the devolution settlement, like the European Union, is based on a ‘single market’ in goods, persons, services and capital. There is therefore a considerable degree of overlap between EU competences and reserved matters. The UK Parliament would thus acquire the majority of the policy responsibilities that would fall to the UK following withdrawal

from the EU, including those in respect of the free movement of goods, persons, services and capital, and the negotiation and conclusion of trade agreements with non-EU countries.

The policy responsibilities that would fall to the Scottish Parliament are correspondingly few, the principal ones being in respect of justice and home affairs, agriculture, fisheries and the environment. In the latter three areas, the prospect is said to be one of increasing policy and legislative divergence between the nations and regions of the UK in the absence of a common EU framework, although the extent of international obligations has led some observers to question how much scope there would be for change in the environmental field (Environmental Audit Committee, EU and UK Environmental Policy HC (2015-16) 537). It may be therefore that adjustments will be made to the devolution settlement in order to prevent such divergences emerging. Any such adjustments would require the consent of the Scottish Parliament and would thus be a matter for agreement between the two governments.”

The White Paper also refers to the different proposals made by each of the devolved administrations with regards to addressing the challenges of Brexit. Specifically on the Scottish Government’s proposal outlined in [Scotland’s place in Europe](#), it states; “the UK and Scottish Governments are taking forward further discussions on the proposals detailed in the paper”.

Protecting our strong and historic ties with Ireland and maintaining the Common Travel Area

The White Paper commits to protecting the ties between the UK and Ireland as a priority during the Brexit negotiations. It outlines the economic and historic, social and cultural ties between the two countries including the Common Travel Area.

Controlling Immigration

The White Paper outlines the UK Government’s approach to immigration following the UK’s departure from the EU. Pointing out that the last decade has seen record levels of immigration to the UK which are seen to have put pressure on public services, the White Paper states that “it is simply not possible to control immigration overall when there is unlimited free movement of people to the UK from the EU”. As a result the UK Government has said post Brexit the UK will:

“design our immigration system to ensure that we are able to control the numbers of people who come here from the EU. In future, therefore, the Free Movement Directive will no longer apply and the migration of EU nationals will be subject to UK law.”

The White Paper commits to continuing to welcome students to the UK and in relation to the impact of controls on immigration on different sectors of the economy and geographically it states:

“We are considering very carefully the options that are open to us to gain control of the numbers of people coming to the UK from the EU. As part of that, it is important that we understand the impacts on the different sectors of the economy

and the labour market. We will, therefore, ensure that businesses and communities have the opportunity to contribute their views. Equally, we will need to understand the potential impacts of any proposed changes in all the parts of the UK. So we will build a comprehensive picture of the needs and interests of all parts of the UK and look to develop a system that works for all.”

Securing rights for EU nationals in the UK, and nationals in the EU

Whilst the Prime Minister has come under political pressure to guarantee the rights of EU nationals already in the UK ahead of the negotiations beginning, thus far she has said that this will only happen when the EU reciprocally guarantees the rights of UK citizens in the rest of the EU. In relation to this, the White Paper states:

“Securing the status of, and providing certainty to, EU nationals already in the UK and to UK nationals in the EU is one of this Government’s early priorities for the forthcoming negotiations...”

...The Government would have liked to resolve this issue ahead of the formal negotiations. And although many EU Member States favour such an agreement, this has not proven possible. The UK remains ready to give people the certainty they want and reach a reciprocal deal with our European partners at the earliest opportunity. It is the right and fair thing to do.”

Protecting workers’ rights

The UK Government has committed to protecting workers rights after the UK has left the EU. The White Paper provides examples of workers’ rights (statutory annual leave, statutory maternity leave) where UK law exceeds the requirements set out under EU law. In addition, the White Paper refers to the introduction of the National Living Wage as an example of its commitments to workers’ rights. In relation to the introduction of the Great Repeal Bill, the White Paper states:

“The Great Repeal Bill will maintain the protections and standards that benefit workers. Moreover, this Government has committed not only to safeguard the rights of workers set out in European legislation, but to enhance them.”

Ensuring free trade with European markets

The White Paper confirms what the Prime Minister said in her Lancaster House speech, that the UK will be leaving the Single Market. The White Paper states that the Government will:

“prioritise securing the freest and most frictionless trade possible in goods and services between the UK and the EU.”

Building on this, the White Paper sets out the Government’s wishes to develop a new model for trade between the EU and UK which is not already established with other countries:

“We do not seek to adopt a model already enjoyed by other countries. The UK already has zero tariffs on goods and a common regulatory framework with the EU Single Market. This position is unprecedented in previous trade negotiations.”

Unlike other trade negotiations, this is not about bringing two divergent systems together. It is about finding the best way for the benefit of the common systems and frameworks, that currently enable UK and EU businesses to trade with and operate in each others' markets, to continue when we leave the EU through a new comprehensive, bold and ambitious free trade agreement.

That agreement may take in elements of current Single Market arrangements in certain areas as it makes no sense to start again from scratch when the UK and the remaining Member States have adhered to the same rules for so many years. Such an arrangement would be on a fully reciprocal basis and in our mutual interests."

Membership of the Single Market includes the requirement for mutual recognition (meaning goods lawfully marketed in one member state can be sold in all member states) and common product standards. The White Paper appears to suggest that as product standards have increasingly been developed at a global level and the British Standards Institution (BSI) "plays a leading role in driving the development of global standards", the new agreement between the EU and UK "should allow for tariff-free trade in goods that is as frictionless as possible between the UK and the EU Member States".

Whilst the UK has indicated it will leave the Single Market upon leaving the EU, the position vis a vis the Customs Union was initially less clear. The White Paper states that the UK Government will use the negotiations with the EU to try to secure a "mutually beneficial new customs arrangement". The White Paper reiterates the words from the Prime Minister's Lancaster House speech that the UK will not be part of the Common External Tariff or participate in the Common Commercial Policy. However, the White Paper states:

"We do want to ensure that cross-border trade with the EU is as frictionless and seamless as possible. These are our guiding objectives for the future customs arrangements with the EU."

The White Paper is unclear as to what type of customs arrangement the UK will seek with the EU but suggests that it is in the interests of both the UK and EU to achieve some sort of customs deal:

"It is in the interests of both the UK and the EU to have a mutually beneficial customs arrangement to ensure goods trade between the UK and EU can continue as much as possible as it does now. This will form a key part of our ambition for a new strategic partnership with the EU."

Agriculture and fisheries

The White Paper also addresses the issues of agriculture and fisheries. On agriculture, it suggests leaving the EU, and consequently the Common Agriculture Policy "offers the UK a significant opportunity to design new, better and more efficient policies for delivering sustainable and productive farming, land management and rural communities".

In relation to fisheries the White Paper states:

“In 2015, EU vessels caught 683,000 tonnes (£484 million revenue) in UK waters and UK vessels caught 111,000 tonnes (£114 million revenue) in Member States’ waters. Given the heavy reliance on UK waters of the EU fishing industry and the importance of EU waters to the UK, it is in both our interests to reach a mutually beneficial deal that works for the UK and the EU’s fishing communities. Following EU exit, we will want to ensure a sustainable and profitable seafood sector and deliver a cleaner, healthier and more productive marine environment.”

Financial services

On financial services, the White Paper recognises that the sector is not just London based with 156,700 financial services jobs in Scotland alone. The White Paper states that within the Single Market, UK financial services firms can provide services across member states as a result of passporting. According to the White Paper:

“Both UK and EU firms benefit from these arrangements – there are over 5,000 UK firms that utilise passports to provide services across the rest of the EU, but around 8,000 European firms that use passports to provide services into the UK.”

The White Paper also states that there are provisions “that allow firms from ‘third countries’ to provide services across the EU, provided that their relevant domestic regulations have been deemed equivalent to those of the EU”.

Linking to this possibility, the UK Government states that “we will be aiming for the freest possible trade in financial services between the UK and EU Member States”

The EU budget

On the EU budget, the White Paper states that the UK will no longer pay contributions to the EU budget once it leaves the Single Market but it does suggest the UK might choose to participate in European programmes which would require appropriate contributions. This issue will be subject to negotiation of the new settlement between the EU and the UK.

Securing new trade agreements with other countries

As a result of the decision to leave the Common External Tariff and Customs Union, the UK will be able to negotiate its own trade agreements upon leaving the EU – but not before it leaves the EU.

The White Paper sets out the kind of trade deals the UK will try to negotiate following Brexit:

“Our approach to trade policy will include a variety of levers including: bilateral FTAs and dialogues with third countries, participation in multilateral and plurilateral negotiations, market access and dispute resolution through the WTO, trade remedies, import and export controls, unilateral liberalisation, trade preferences and trade for development.”

The White Paper provides further information about the establishment of the Department for International Trade and also states that with regards to the UK's membership of the World Trade Organisation, the Government will seek to "establish our schedules in a way that replicates as far as possible our current position as an EU Member State".

Ensuring the United Kingdom remains the best place for science and innovation

The White Paper commits the UK to being a global player in science and innovation whilst continuing to collaborate with European partners. The White Paper outlines the collaboration it currently enjoys with EU partners through programmes such as Horizon 2020 and the main EU space programmes, Galileo and Copernicus. The indication is that the UK will seek to negotiate continued cooperation with European partners upon leaving the EU.

Cooperating in the fight against crime and terrorism

The White Paper commits the UK to continue working with the EU to preserve UK and European security. According to the White Paper:

"Our pre-existing security relationship with the EU and its Member States means that we are uniquely placed to develop and sustain a mutually beneficial model of cooperation in this area from outside the Union. We are starting from a position of strong relations with EU Member States, where we have been at the forefront of developing a number of EU tools which encourage joint working across the continent to protect citizens and our way of life."

Given the already close links between the UK and EU on security, the UK Government has stated it will seek to negotiate a deal with the EU to enable cooperation to fight crime and terrorism:

"As we exit, we will therefore look to negotiate the best deal we can with the EU to cooperate in the fight against crime and terrorism. We will seek a strong and close future relationship with the EU, with a focus on operational and practical cross-border cooperation. We will seek a relationship that is capable of responding to the changing threats we face together. Public safety in the UK and the rest of Europe will be at the heart of this aspect of our negotiation."

Delivering a smooth, orderly exit from the EU

Upon leaving the EU, the White Paper proposes a phased process of implementation of any deal for the UK leaving the EU to avoid a cliff edge. Once the UK leaves the EU, the Treaties of the EU will cease to apply in the UK as a result of the Great Repeal Bill, however the White Paper proposes an orderly departure from the EU:

"It is, however, in no one's interests for there to be a cliff-edge for business or a threat to stability, as we change from our existing relationship to a new partnership with the EU. Instead, we want to have reached an agreement about our future partnership by the time the two year Article 50 process has concluded. From that point onwards, we believe a phased process of implementation, in which the UK, the EU institutions and Member States prepare for the new arrangements that will exist between us, will be in our mutual interest. This will give businesses enough

time to plan and prepare for those new arrangements. This might be about our immigration controls, customs systems or the way in which we cooperate on criminal and civil justice matters. Or it might be about the future legal and regulatory framework for business. For each issue, the time we need to phase in the new arrangements may differ; some might be introduced very quickly, some might take longer. And the interim arrangements we rely upon are likely to be a matter of negotiation. The UK will not, however, seek some form of unlimited transitional status. That would not be good for the UK and nor would it be good for the EU.”

Whilst the UK Government states it is confident a deal can be reached, it makes clear in the White Paper that no deal is better than a bad deal for the UK.

Finally, the White Paper devotes an annex to the UK and Ireland relationship and how Brexit may affect the British Isles.

Following publication of the White Paper, the Secretary of State for Exiting the EU made a [statement](#) to the House of Commons on the White Paper. David Davis outlined to the Commons the Government’s vision of Brexit:

“That vision is based on the 12 principles that will guide the Government as they fulfil the democratic will of the people of the UK: providing certainty and clarity where we can as we approach the negotiations; taking control of our own laws and statute book; strengthening the Union by securing a deal that works for the whole of the UK; maintaining the common travel area and protecting our strong historic ties with Ireland; controlling immigration from the European Union; securing the rights for EU citizens already living in the UK and the rights of UK nationals living in the EU; protecting and enhancing existing workers’ rights; ensuring free trade with European markets, while forging a new strategic partnership with the European Union, including a bold and ambitious free trade agreement and a mutually beneficial new customs agreement; forging free trade agreements with other countries across the world; ensuring that the United Kingdom remains the best place for science and innovation; co-operating in the fight against crime and terrorism; and, finally, delivering a smooth and orderly exit from the EU. Those 12 objectives amount to one goal: a new, positive and constructive partnership between Britain and the European Union that works in our mutual interest. All of them are key, but let me highlight some of the specific issues in the White Paper.”

Following his statement, the Secretary of State took questions.

Analysis of the White Paper has been published on a number of blogs. Professor Richard Rose writing on the UK in a Changing Europe blog asked [How achievable are the UK’s 12 goals for Brexit?](#) In doing this, he provides scores from 0 (impossible) to 4 (readily achievable) for each of the 12 priorities.

His scores give a 4 to a number of priorities including cooperating on security, securing the rights of British nationals and ending the jurisdiction of the European Court of Justice. He gives a “1 or 0” to two priorities, strengthening the union and delivering a smooth orderly Brexit agreement within two years plus a limited transitional period for implementing what Brexit requires. On strengthening the union, Professor Rose wrote:

“The Scottish government’s stated goal is to remain an economic and political partner with the EU. Calling and winning another independence referendum is its hoped for means of achieving Scotxit, that is, leaving the Union. If Scottish voters rejected independence, this would preserve the UK as a four-nation Union; whether it would strengthen it is a moot point.”

Professor Steve Peers writing on the EU Law Analysis blog suggested the White Paper was [“As bad as it gets”](#). In a critical piece he wrote:

“As many had expected, the white paper is basically content-free. It’s essentially Theresa May’s recent speech, in some cases word-for-word, with a few statistics and graphs added...

...There’s no proper analysis of different options relating to the UK’s post-Brexit future, with assessments of their relative pros and cons. But then there couldn’t be: the White Paper says little of substance about the very existence of those options.”

On questions around devolution and the White Paper, Professor Peers wrote:

“The White Paper details various means of talking to the devolved administrations – ignoring the simple fact that the government has already ruled out following any of a number of options which the Scottish government presented in December.”

Article 50 Bill

Last week’s update provided details of the UK Government’s introduction to Parliament of the bill to allow for the notification of Article 50. The [European Union \(Notification of Withdrawal\) Bill](#) was introduced on 26 January and is being fast tracked through Parliament.

From Monday 6 until Wednesday 8 February, a Committee of the whole House of Commons considered [potential amendments](#) to the Bill. Following this consideration the Bill will be subject to a Stage 3 final vote on Wednesday evening.

The Bill will then move to the House of Lords for consideration.

Scottish Parliament rejects Article 50 trigger

On 7 February 2016, the Scottish Parliament debated [Withdrawal from the European Union \(Article 50\)](#). Following the debate, the Scottish Parliament agreed the following amended motion by 90 votes to 34 votes with no abstentions:

“That the Parliament agrees with all but one of Scotland’s MPs that the UK Government’s European Union (Notification of Withdrawal) Bill should not proceed, as the UK Government has set out no provision for effective consultation with the devolved administrations on reaching an agreed UK approach to the negotiations on implementing Article 50, has refused to give a guarantee on the position of EU nationals in the UK, has left unanswered a range of detailed questions covering many policy areas regarding the full implications of withdrawal

from the single market, and has provided no assurance that a future parliamentary vote on the outcome of the negotiations will be anything other than irrelevant, as withdrawal from the EU follows two years after the invoking of Article 50 if agreement is not reached in the forthcoming negotiations, unless they are prolonged by unanimity; notes the widespread scepticism that an agreement on the future relationship of the UK and EU can be reached within two years; is concerned by the lack of any proposed transitional arrangements until such an agreement is in place, and believes that the decision to proceed with the bill does not respect the majority vote to remain part of the EU that was returned in every council area in Scotland.”

Following the vote, the Scottish Government published a [news release](#) commenting on the Scottish Parliament decision. The news release quoted the Minister for UK Negotiations on Scotland’s Place in Europe Michael Russell:

“Scotland’s national Parliament has today sent a clear message to the rest of the UK and Europe – we oppose a catastrophic hard Brexit that dumps Scotland outside of the single market against its wishes.

“The Prime Minister promised Scotland would be ‘fully engaged’ in agreeing a common UK approach to triggering Article 50. We have taken those promises at face value and developed constructive, detailed compromise proposals showing how we can keep our place in the single market, which is around eight times bigger than the UK’s alone,

“Yet so far the UK Government has offered nothing – not a single compromise in return, or even a view on our proposals.

“We do not yet know when Article 50 will be triggered, and have not been given any information about how the UK Government will seek our involvement. The promise of a ‘UK Agreement’ on its content looks to be an empty one.

“Today’s vote is therefore a key test of whether Scotland’s voice is being listened to and whether our wishes can be accommodated within the UK process.

“There is still time for the UK Government to recognise the existence and importance of devolution, the views of this Parliament and the clear, democratically expressed voice of the people of this country – but that time is running out.”

Economy, Jobs and Fair Work Committee publishes Brexit economic impact report

On 3 February, the Scottish Parliament’s Economy, Jobs and Fair Work Committee published its [Economic Impact of Leaving the European Union inquiry report](#). Key report recommendations as summarised include:

- Trade promotion must be the focus of the Scottish Government going forward within the EU and beyond, especially for SMEs. Now is the time to maximise opportunities in growing markets such as China and India.

- Given that we export more to the rest of the UK than to the rest of the world, the Committee recommends that the Scottish Government continues to support Scottish businesses in trading with the rest of the UK.
- As import inflation has already been felt by businesses, the Committee calls on the Scottish Government to report back on its strategy for dealing with this as a matter of urgency. It should include mapping out of supply chains and working with businesses to maximise opportunities for import substitution, including through the enterprise and skills review.
- Access to the single market is vitally important to many exporting businesses in a number of sectors in Scotland; others are less dependent on this market. The Committee recommends the Scottish Government works to assist those businesses that are dependent on exporting to the single market to continue to operate and grow as the negotiations to leave the EU progress.
- There is reliance in some sectors of the Scottish economy on EU labour, both skilled and unskilled. This should be highlighted to the UK Government and Scottish Government; work should continue to seek to address issues of skills gaps and workforce planning taking the EU referendum decision into account.

European Committee report on EU Migration and EU Citizens' Rights

On 6 February, the Scottish Parliament's Culture, Tourism, Europe and External Relations Committee published its [inquiry report on EU Migration and EU Citizens' Rights](#). The [news release](#) published by the Committee to accompany the report summarised some of the key conclusions reached:

"The committee says that 181,000 EU nationals living in Scotland are experiencing "imposed uncertainty" as they wait to find out whether they will be able to continue to live and work in Scotland. The report says "EU citizens who have made their homes throughout Scotland should be allowed to remain" and calls on the UK government to clarify their status without further delay.

The report also highlights "strong evidence of the importance of EU migration to Scotland and the contribution that EU migrants have made to the Scottish economy and Scottish society". Evidence shows that EU migration since 2004 has helped reverse a decline in the Scottish population and increased the number of people of working age in Scotland.

The report states that the demographic risks for Scotland of a reduction in the number of EU migrants are more acute than for the UK as a whole."

Iain McIver
SPICe Research

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