

**CULTURE, TOURISM, EUROPE &  
EXTERNAL RELATIONS COMMITTEE**  
#SPICeBrexitWeekly

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# BREXIT UPDATE

SPICe weekly update

**COMMITTEE EVIDENCE SESSION  
WITH UK GOVERNMENT MINISTERS**

**AGRICULTURAL MINISTERS  
MEETING**

**MIGRATION STATISTICS  
QUARTERLY REPORT**

**SPICe**

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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 focuses on the progress of the Article 50 Bill in the UK Parliament and the Scottish Parliament European Committee's evidence session with two UK Government Ministers.

## Article 50 Bill

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The [European Union \(Notification of Withdrawal\) Bill](#) was introduced on 26 January and is being fast tracked through the UK Parliament. The Bill was passed without amendment by the House of Commons on the evening of 8 February.

The Bill has now moved to the House of Lords for consideration. On 9 February, the first reading of the Bill took place with the Second Reading taking place on 20-21 February which was an opportunity for members to debate the key purpose and principles of the bill. On [day one of Second Reading](#):

*“Members of the Lords discussed the outcome of the EU referendum and the subsequent process of leaving the EU, the government white paper on Brexit, the rights of EU citizens resident in the UK, UK membership of Euratom and possible amendments to the bill.”*

Whilst on day two Members:

*“discussed future UK trade options, police and security cooperation with EU member states, Northern Ireland and the Good Friday Agreement and parliamentary scrutiny of the negotiation process.*

*184 members took part, making this the largest second reading debate on record. This second reading debate took place over two days, the 28th time since 1945 this has happened in the House of Lords.”*

The Hansard from day two is available in two documents: [part one](#) and [part two](#).

As with its consideration in the House of Commons, a number of [proposed amendments](#) have been tabled to the Bill. As in the case of the House of Commons, consideration of amendments will be by a Committee of the whole house in the House of Lords.

The Committee stage of the [Bill will begin](#) on Monday 27 February with the second day of the Committee stage scheduled for Wednesday 1 March. [According to the House of Lords](#) at the Committee stage:

*“Members are expected to discuss issues including parliamentary approval of the negotiated outcome, EU nationals resident in the UK and the devolved administrations.*

*Members start detailed examination of the text at committee stage and it is the first opportunity for members to make changes. There is no selection of amendments (all can be considered), debate on amendments is not time limited and any member can take part.”*

## Scottish Parliament's European Committee evidence session with UK Government Ministers

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The Scottish Parliament's Culture, Tourism, Europe and External Relations Committee continued its inquiry into [The EU referendum and its implications for Scotland](#) on 22 February [taking evidence from two UK Government Ministers](#).

First the Committee took evidence from the Rt. Hon Greg Hands MP, the Minister of State for Trade and Investment. On the UK's future relationship with the Single Market, Mr Hands told the Committee:

*“On the single market, we are seeking an ambitious and comprehensive free-trade agreement with the EU, including free-flowing trade in goods and services, that is more ambitious than any other trade deal that anybody has agreed to date. That is our ambition. We want Britain to have the greatest possible tariff-barrier-free trade with our EU neighbours. We want zero tariffs on trade in goods and to minimise the regulatory and market access barriers for both goods and services. In other words, what we are trying to achieve—bear in mind that these are negotiations, and I can only set out what we are trying to achieve at this stage—is the fullest possible access to the single market for UK companies.”*

On the likelihood of achieving a future trade deal with the EU within the two year period between triggering Article 50 and the UK's departure from the EU, Mr Hands told the Committee:

*“That is our ambition and, by working together as a common UK effort, we can make that more possible to do within two years. That is our ambition, as well as to make sure that we get a deal that works for the whole of the UK, and not just that, but a deal that works for the EU. It is worth remembering that the EU has a very substantial trade surplus with the UK; we think that it will be strongly in its interest not to have tariffs and other trade barriers between the UK and the EU.”*

In relation to the UK's future participation in the Customs Union, Greg Hands told the Committee:

*“On the customs union, the most important thing is the objective to ensure that we have frictionless trade with the European Union. The means of getting there is one aspect on which we are open minded as we enter the negotiations. The objective is to ensure that there are no tariffs and that no barriers are put in place where there are none today in our trade relationship with the European Union. The Prime Minister was clear in her speech and in the white paper that we do not want to be bound by the EU's common external tariff or to participate in the common commercial policy.*

*The most important thing is to think about the objective rather than necessarily the means of getting there. We have said that we want to come to a customs arrangement with the European Union but do not wish to remain members of the customs union, and we have mapped out pretty clearly what we look to achieve in that space.”*

On the benefits of being outside the Customs Union, Greg Hands said:

*“Being outside the customs union would clearly allow us a greater degree of flexibility to come to free-trade agreements with key partners outside the European Union. That is one of the great opportunities that Brexit provides.”*

The Minister also suggested the UK might look to continue to participate in the EU’s trade agreements with third parties until such a time as it was able to negotiate new trade agreements. He told the Committee:

*“That, too, would be part of the negotiation. We look to have reached an agreement on our future partnership by the time that the two-year article 50 process has concluded. We expect there then to be a staged process of implementation in which UK and EU institutions and member states prepare for the new arrangements.*

*How we go forward from there will be an interesting side of the Brexit process. It is about how we take over the EU side of the free-trade agreements with third-party countries. That will be part of the scoping-out discussions that we will have with third-party countries between now and when Brexit actually happens. As for which parts of those agreements we will want to take over, which parts we may seek to improve and which parts we will simply translate across, it is really too early, at this stage, to say. We are actively studying that at the moment.”*

The Minister also spoke about the opportunities for Scottish trade once the UK has left the EU. He told the Committee:

*“The opportunities for Scottish businesses beyond the European continent are extremely interesting and are exactly what we want to maximise. My department already works closely with Scottish Development International and, whenever I visit different markets, I often meet people from SDI. For example, when I was in Taiwan in September, I ensured that SDI was represented in my meetings prior to my negotiations with the Taiwanese authorities to secure a good deal for Scotch whisky in Taiwan, which is an extremely important market.*

*We engage very widely in that respect. For example, the Department for International Trade engaged in securing a commitment from the South Korean firm CS Wind to secure and safeguard 70 jobs in Campbeltown through the building of a new offshore wind tower facility there.*

*We have people who represent the Department for International Trade in more than 100 markets. We have one of the best international networks, and we are engaging in a huge number of markets. Since the department’s formation last July, ministers have been to more than 50 different markets and have ensured that Scottish exports have a strong voice and that foreign direct investment comes to Scotland. In 2015, Scotland secured a total of 119 foreign direct investment projects, which makes it the second most attractive region in the UK, behind only London. Our officials are engaging strongly in their own right and are working closely with SDI, and that is exactly what we want to see continue.*

Following the evidence from Greg Hands, the Committee then took evidence from the Rt. Hon David Mundell MP, the Secretary of State for Scotland. Mr Mundell began by updating the Committee on the progress of the UK Government's work to take forward the referendum decision to leave the EU. He told the Committee:

*“Since I last appeared before the committee in October, we have seen significant developments. The Prime Minister’s speech at Lancaster house and the subsequent white paper set out 12 principles that will shape the Government’s approach and strategy. One of the core principles is strengthening the UK and delivering a deal that secures the specific interests of Scotland, Wales and Northern Ireland.*

*It is important to be clear—there has been a lot of public debate on this point—that Scotland will not be in the EU at the end of the process. There is no set of circumstances in which Scotland could remain a member of the EU after the rest of the UK has left. If Scotland’s constitutional position were ever to change, it would have to apply to be a member of the EU afresh and we should not make easy assumptions about the length of time that that would take, the process that Scotland would have to follow or the terms of membership that might be on offer.*

*The Scottish Government published its paper “Scotland’s Place in Europe” in December. I have made it clear that I recognise that as a serious contribution to the debate and that serious work is under way to consider it, as I set out in my letter yesterday to committee members. In addition, the Secretary of State for Exiting the European Union will meet Michael Russell today for a further discussion. Close engagement with the devolved Administrations remains a top priority for the UK Government and that will continue to be the case following the triggering of article 50, as we move into the next stage of work to leave the EU.*

*We have also seen the introduction of the European Union (Notification of Withdrawal) Bill and the completion of its passage through the House of Commons. It is currently being considered by the House of Lords and, subject to the completion of the bill’s parliamentary passage, article 50 will be triggered by the end of March.*

*Looking forward, the great repeal bill will be included in the Queen’s speech. That important piece of legislation will provide legal certainty by ensuring that, wherever practical and appropriate, the same rules and laws will apply on the day after we leave the EU as did on the day before. The Government will introduce a white paper providing more detail on that bill in due course. Legal certainty will be extremely important for business, the public sector and people in Scotland, and we need to work closely with the Scottish Government and the Scottish Parliament to provide it.*

*Engagement with sectors around Scotland continues to be a top priority for the Government. Lord Dunlop and I have now held over 100 such meetings to ensure that we fully take into account the priorities and issues for Scotland as the UK prepares for negotiations. Most recently, I held two very productive round-table meetings on Thursday last week with the business community and with academics and constitutional experts.*

*These are complex issues and there remains much work ahead to deliver a smooth, orderly exit from the EU. I greatly welcome the committee's reports to date—to which we will issue a formal response—and look forward to continued engagement with the committee.”*

On the UK Government's consideration of the Scottish Government's proposals for a differentiated relationship for Scotland as set out in Scotland's place in Europe, the Secretary of State told the Committee:

*“We have given a serious commitment to look at the proposals for a differentiated settlement. I remain to be convinced in that regard, but I am still open minded about whether bringing forward evidence for a differentiated settlement will be to the benefit of Scotland and its economy and will not be driven by a particular ideology. That is what we continue to look at. We are still engaged in that process.”*

The Secretary of State then went on to set out his views about certain aspects of the Scottish Government's proposal for a differentiated relationship addressing the issues of access to the single market, a different immigration system for Scotland and the possibility of the repatriated EU powers coming to Scotland. He told the Committee:

*“Terms of access to the single market, I am quite clear that the issues that affect Scotland are the same as those that affect the whole of the UK. An arrangement that allows frictionless access—barrier-free and tariff-free access—to that market is therefore the best arrangement for Scotland and for the whole of the UK.*

*On the other significant issue of migration, my view is that it is an issue that impacts on the whole of the United Kingdom and that arrangements that follow on from leaving the EU are as significant to other areas of the United Kingdom as they are to Scotland. I think that you have previously raised issues around, for example, seasonal workers. There are more seasonal workers in the east of England than there are in the whole of Scotland, so the issue of seasonal workers is important at the UK level.*

*The issue that is very distinct for Scotland and which I have highlighted—I mentioned it the last time that I was here—will be what happens to powers that are currently exercised in Brussels when they return to the United Kingdom. There is a very distinct Scottish interest in that regard.*

*However, even in relation to the first two issues that I set out, I have been very clear that I am still open minded about the Scottish Government's proposals if it can be evidenced that there is a differential arrangement that would be beneficial to Scotland.”*

On the content of the Article 50 letter which the Prime Minister will send to trigger the withdrawal negotiations, the Secretary of State told the Committee Scotland's interests would be represented:

*“The structure of the article 50 letter has not been finalised. I am sure that the Scottish Government's input to that letter might well be part of Mr Russell's*

*discussions with Mr Davis today. It will certainly be part of the discussions the next time the JMC (EN) meets...*

*... I can give you the assurance that Scotland's interests will be represented in the letter. A final decision on the exact nature of the letter has not yet been made. Scotland's position will not be prejudiced in any way by the way in which that letter is set out. As you rightly say, it is my responsibility within the UK Government to ensure that Scotland's interests are represented, and I will make sure that they are in the drafting of that letter. However, I cannot set out to you what will be in the letter at this time because it has not been drafted."*

The Secretary of State went on to suggest it was possible the UK Government would still be considering the Scottish Government's proposals for Scotland's place in Europe when Article 50 was triggered:

*"My view is that the invoking of article 50 is not a red line in the process. It is possible that discussions could continue after the invoking of article 50.*

*However, it is clear that the committee and the Scottish Government are entitled to a response, so the UK Government will respond formally to the proposals in the document. We have already acknowledged the areas on which we are in agreement."*

## **Agricultural Ministers Meeting**

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On 23 February, Ministers from the Devolved Administrations met with the UK Secretary of State for Environment, Food and Rural Affairs, Andrea Leadsom. In a [news release](#) published following the meeting the Scottish Government said:

*"At a meeting between the UK Secretary of State Andrea Leadsom and devolved administrations, Rural Economy Secretary Fergus Ewing, Environment Secretary Roseanna Cunningham and Minister for UK Negotiations Michael Russell repeatedly pressed for all areas of EU powers within devolved competence to be passed straight to Scotland, Wales and Northern Ireland.*

*They also asked for clarity on how the UK Government sees Brexit impacting on key areas including:*

- *Protection of funding that currently benefits the Scottish rural economy, including through the Common Agricultural Policy and the European Maritime and Fisheries Fund*
- *Tariff free access to the single market*
- *Guarantees on the rights of EU nationals to remain and future access to the European workforce*
- *Guarantees that permanent access to our fishing waters will not be negotiated away*
- *The future of environmental protection and regulation."*



The news release also provided quotes from the Scottish Government Ministers for Rural Economy and Environment:

Mr Ewing said:

*“European funding and powers are vital to our rural economy and we need urgent and binding guarantees from the UK Government on what will happen after Brexit. Following repeated requests, I have again pressed the Secretary of State for clarity that EU powers will pass straight to Scotland, Wales and Northern Ireland.*

*“I have also asked the UK Government to guarantee that Scotland will continue to receive funding at least at current levels provided from Europe.*

*“Many of our farmers and food producers want to know that they will continue to have access to the single market without tariffs or other barriers and access to much needed EU workers. While our fishermen rightly want to ensure access to our waters isn’t negotiated away.*

*“I raised all these matters today and I will continue to call for urgent progress on the answers our rural communities and economy need.”*

Environment Secretary Roseanna Cunningham said:

*“European legislation and regulation offers vital protection for our environment and I have been pressing the UK Government to ensure this will transfer in full after Brexit, without any dilution of standards either on exit or as a result of subsequent trade deals. A healthy natural environment is central to Scotland’s economy, our health, landscape and our way of life and must be given its place in negotiations.*

*“I have also once again highlighted the need of many, including our research institutes, to have clarity on the long term rights of EU nationals to live and work in Scotland and on future access to EU workers – given how vital those from other European nations are to our research community.*

*“It is crucial that the UK Government honours its commitment to joint working and to take seriously the right for the Scottish Government to play a full role in decision making and negotiations of these key issues.”*

## **Migration Statistics Quarterly Report**

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A key issue debated during the EU referendum was about control of immigration. On 23 February, the Office of National Statistics published its quarterly statistical report. The [key points for the report](#) were:

- Net long-term international migration was estimated to be +273,000 in YE Sept 2016 (down 49,000); comprising +165,000 EU citizens, +164,000 non-EU citizens and -56,000 British citizens.
- Immigration was estimated to be 596,000 in YE Sept 2016, (down 23,000 (not statistically significant) from YE Sept 2015); comprising 268,000 EU citizens, 257,000 non-EU citizens and 71,000 British citizens.

- Emigration was estimated to be 323,000 in YE Sept 2016 (up 26,000 (not statistically significant) from YE Sept 2015); comprising 103,000 EU citizens, 93,000 non-EU citizens and 128,000 British citizens.
- EU immigration included a statistically significant increase for EU2<sup>i</sup> citizens (up 19,000 to 74,000 – highest estimate recorded); partially offset by a not statistically significant decrease for EU8 citizens (down 10,000 to 58,000); immigration for EU15 citizens was flat.
- The increase in emigration includes statistically significant increases for EU8<sup>ii</sup> citizens, up 12,000 to 39,000, and non-EU citizens from the group Africa, the Americas and Oceania, up 11,000 to 39,000.

With the fall in immigration, Professor Jonathan Portes a senior fellow at The UK in a Changing Europe wrote a blog suggesting [be careful what you wish for](#). Professor Portes wrote:

*“Today’s immigration figures are the first with any meaningful data after the Brexit vote. And they show – as I predicted back in August – a fall in EU migration to the UK, particularly those coming from the countries of Central and Eastern Europe (the “EU8”) that joined the EU in 2004; in the year to September, net migration from these countries fell by about 20,000. Meanwhile, the number of new National Insurance registrations in the year to December was flat, but again numbers from the EU8 fell. Broadly, the figures are consistent with the fall in the number of EU nationals in the UK workforce that I highlighted last week. Non-EU immigration also fell, particularly for students, now at the lowest level since 2002.*

*So what’s going on? After all, nothing has changed in law or policy terms– we are still a member of the EU, and will be for some time, and we still have freedom of movement. But it’s not just today’s law that matters to existing and future migrants. I also warned back in August that even if politicians behaved sensibly, dealing with the status of EU nationals already here was likely to be an intractable bureaucratic tangle. Since then, the government has done little or nothing to reassure them, nor to streamline the process. It is hardly surprising that some are already choosing to leave.*

*More broadly, if people cannot plan with any confidence, not just about themselves but their families, they are both less likely to come and less likely to stay. Small wonder that employers – not just farmers, but sectors ranging from the National Health Service to universities – are finding it far harder to persuade EU nationals to take up jobs in this country. And this, once again, illustrates a vitally important point; migration is not just a matter of the UK choosing migrants; migrants have to choose us. Even if we wish to remain open to skilled migrants from elsewhere in the EU post-Brexit, they may not choose to come here (or remain here).”*

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<sup>i</sup> EU2 = Romania and Bulgaria

<sup>ii</sup> EU8 = Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia

## The Brexit divorce bill

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Writing on the [UK in a Changing Europe blog](#), Professor Iain Begg a senior fellow at The UK in a Changing Europe wrote about the likely bill that the UK will need to pay upon leaving the EU. Professor Begg wrote:

*“According to Ivan Rogers, in his testimony to the House of Commons European Scrutiny Committee, commenting on figures emanating from the European Commission team led by Michel Barnier, the UK could be facing a bill of some €40-60 billion to escape from its financial obligations to the EU.”*

On how the €60 billion is calculated, Professor Begg wrote:

*“The bulk of the €60 billion comes from commitments to the multi-annual financial framework (MFF) of the EU budget for the period 2014-20, which sets amounts for annual EU spending. The MFF is embodied in a legally binding 2013 regulation agreed, as is customary, by both the member states (acting through the Council) and the European Parliament...*

*... The second main component is for budgetary commitments already made by the EU up to the date of Brexit, but for which the payments will only be due later (known in Brussels-speak as RAL, the French acronym for *reste à liquider* – still to be settled). These arise for multi-annual economic development projects, predominantly in the less prosperous parts of the EU.*

*According to EU rules, programmes can give rise to payments for up to three years after the notional end of the accounting period (N+3). By 2019, RAL could be over €200 billion and the UK share, based on its current share of 12-15% of EU revenue, of the order of €25 billion.*

*The UK could also be liable for the pensions of EU employees who retired while the UK was a member of the Union. There is a figure in the EU accounts (€64 billion) for the capitalised value of those pensions and negotiations would then focus on what was a reasonable share to ascribe to the UK if it wanted to buy itself out its share of future commitments. The likely starting-point is again the UK’s current share of EU revenue, implying a cost of €7-9 billion*

*The potential gross cost can be partly offset by subtracting flows of money the UK can expect to receive. Thus, if the UK is asked to pay into the EU budget for the remainder of the 2014-2020 MFF, it should continue to participate in a number of EU spending programmes. Money would therefore still accrue to British farmers, further economic development projects and researchers winning new EU projects, returning some €9 billion per year to the UK.*

*Moreover, some of the RAL will flow to the UK, as will some of the pensions, although there is no easy way to quantify either flow. However, because the UK is a substantial net contributor to the EU budget, these return flows will only mitigate the gross cost, leaving a bill still of the order of €40 billion.”*

On the UK's option and perhaps not paying the bill, Professor Begg wrote:

*“The nuclear option is to refuse to pay and just leave the EU, a stance likely to poison the atmosphere around other dimensions of the negotiations, leading to a ‘hostile’ (as opposed to ‘hard’) Brexit. The EU could take legal action against the UK, but it is far from obvious which court would hear the case, bearing in mind that in those circumstances the writ of the European Court of Justice would no longer apply to the UK.*

*A less inflammatory option would be some form of transition allowing the UK to sever its budgetary links with the EU over a three to five year period. A transitional period would also have domestic advantages in easing the shift away from EU funding for those supported by EU programmes for farm support, research and economic development. The government appears to be willing to maintain such support up to 2020 anyway, so that it would be straightforward to leave EU mechanisms to deal with it rather than reinventing the wheel in domestic public administration.”*

## **All you need to know about the UK leaving the EU**

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The BBC has published on its website an article covering [All you need to know about the UK leaving the EU](#). According to the BBC, the article is designed to be an easy-to-understand guide to the UK's vote to leave the European Union.

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