

External Affairs and Additional
Legislation Committee

Inquiry into the implications of Brexit for Welsh ports

August 2017



National Assembly for Wales
External Affairs and Additional Legislation Committee

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The Committee was established on 28 June 2016. On 15 September 2016 its remit was agreed as:

(a) to examine the implications for Wales of the United Kingdom's withdrawal from the European Union and to ensure Welsh interests are safeguarded during the withdrawal process, in any new relationship with the European Union and in the intra-UK post-withdrawal arrangements for relevant policy, finance and legislation;

(b) to coordinate activity across Assembly committees in relation to point (a) above.

(c) to carry out the functions of the responsible committee under Standing Orders 21.8 to 21.11, with a consequential change to the remit of the Constitutional and Legislative Affairs Committee;

(d) to consider any other matter, including legislation, referred to it by the Business Committee.

Current Committee membership:



David Rees AM (Chair)
Welsh Labour
Aberavon



Dawn Bowden AM
Welsh Labour
Merthyr Tydfil and Rhymney



Michelle Brown AM
UKIP Wales
North Wales



Suzy Davies AM
Welsh Conservative
South Wales West



Mark Isherwood AM
Welsh Conservative
North Wales



Steffan Lewis AM
Plaid Cymru
South Wales East



Jeremy Miles AM
Welsh Labour
Neath



Eluned Morgan AM
Welsh Labour
Mid and West Wales

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Chair's foreword

In Wales, our ports make a valuable contribution to our economy through supporting jobs, driving growth, and facilitating trade. Our ports also share a symbiotic relationship with our European partners. The implications of Brexit for our ports therefore have the potential to be considerable.

The outcome of the negotiations, and the nature of the UK's future relationship with the European Union could fundamentally change how our ports in Wales operate. Without careful scenario planning, speedy implementation of appropriate technological solutions, and continued infrastructure investment, the progress that Welsh ports have made over the last decades could be severely undermined.

We have a number of concerns about the preparedness of our ports for when the UK leaves the European Union. These concerns centre on three key areas. Firstly, there are risks that a soft border between Northern Ireland and the Republic of Ireland will disadvantage Welsh ports and lead to a displacement of traffic from Welsh ports to ports in England and Scotland via Northern Ireland. Secondly, new customs arrangements – particularly if we leave the European Customs Union – will pose a set of technological and logistical challenges to how our ports operate. Third, we heard concerns that many Welsh ports lack the appropriate infrastructure and physical capacity to accommodate new border controls and customs checks.

These concerns are magnified by the time constraints that we face – the clock is ticking on Brexit negotiations – and these negotiations are due to conclude in March 2019.

Urgent action will be necessary if our worst fears – of lengthy delays at our ports, disruption to wider supply chains and tailbacks on our roads – are to be avoided. To that end, we make a total of 8 recommendations to the Welsh Government on some of the steps we think it should take to mitigate these risks to our ports and the wider economy. We were disappointed to hear that Welsh Government engagement with our friends and colleagues in Ireland has been so limited to date and urge the Cabinet Secretary to address this urgently. Furthermore, we are clear that the Welsh Government will need to clarify the timescales for work on technological solutions to future customs arrangements with HM Revenue and Customs and the UK Government. Above all, we want to see the Welsh Government work with the sector to prepare for the various Brexit scenarios and therefore call for detailed contingency plans to be drawn-up.

Our report looks at all these issues in more detail and also looks to some of the opportunities for the future. We are very grateful to all those who gave evidence to our inquiry and would like to express our particular thanks to all those we met during our rapporteur visit to Dublin.

Recommendations

Recommendation 1. We recommend that the Welsh Government continues to press the UK Government on the need to ensure that Welsh ports are not unfairly disadvantaged as a result of any potential differentiated border arrangements between Northern Ireland and the Republic of Ireland and between Great Britain and the island of Ireland, and keeps us updated on progress with these matters..... Page 15

Recommendation 2. We recommend that the Welsh Government keeps us informed and updated on progress in developing an IT-led solution to the UK’s future customs arrangements..... Page 20

Recommendation 3. We recommend that the Welsh Government sets out in its response to our report what it anticipates the cost to the public purse will be of the proposed new IT-led customs arrangements post Brexit and how it expects those costs to be borne. We recommend that the Welsh Government seeks clarification from the UK Government on the anticipated timescales for the development and implementation of these IT-led customs arrangements.
..... Page 20

Recommendation 4. We recommend that the Welsh Government seeks to mitigate the risk to Welsh businesses of a lack of preparedness by working with HM Revenue and Customs to explore with Welsh businesses the scale of the challenge and provide any support required to ensure they benefit from Authorised Economic Operator/Trusted Trader schemes..... Page 21

Recommendation 5. We recommend that the Welsh Government, sets out in its response to our report, how it intends to address the lack of physical capacity to accommodate new borders and customs checks at Welsh ports, and develop a highways management contingency plan to manage potential congestion resulting from delays in ports. Page 22

Recommendation 6. We recommend that the Welsh Government, in partnership with the sector, draws up detailed contingency plans for Welsh ports for the various scenarios that the UK could face at the end of the Article 50 notice period. These contingency plans should be reflected in the Welsh Government’s forthcoming Ports Strategy and should include (but not be limited to):

- working with the sector to identify what support they may need to prepare for Brexit;
- an assessment of the scale of the technical and infrastructure constraints and requirements faced by Welsh ports; and
- provisions for a “no-deal” scenario..... Page 23

Recommendation 7. We recommend that the Welsh Government urgently addresses the lack of engagement it has had with counterparts in Ireland and other EU member states on the issue of ports and seeks opportunities to engage with them that are in addition to routine meetings such as those of the British-Irish Council. Page 24

Recommendation 8. We recommend that the Welsh Government is more proactive in its approach to the designation of Free Zones / Free Ports and undertakes further work to determine whether or not a port, or ports in Wales, could benefit from Free Port designation. Page 27

Conclusions

Conclusion 1. We are concerned that a soft border between Northern Ireland and the Republic, and a hard maritime border between Wales and the Republic of Ireland, could severely disadvantage Welsh ports and result in a loss of competitiveness leading to a displacement of traffic from Welsh ports – principally Holyhead – to ports in England and Scotland, via Northern Ireland.

Conclusion 2. We also note that any possible displacement of traffic from Welsh ports would negatively impact ports in the Republic of Ireland.

Conclusion 3. We found that fears that the UK landbridge would be by-passed altogether, in favour of direct maritime links with the European continent, are not as significant as the risk of displacement of traffic through Northern Ireland to ports in England and Scotland, should a hard border between Great Britain and the island of Ireland be introduced after Brexit.

Conclusion 4. We agree that a solution that retains the benefits of the Common Travel Area should be sought and agree with the UK and Irish government positions on this issue.

Conclusion 5. It is clear to us that customs delays at ports could have an unwelcome impact on Welsh Ro-Ro ports, particularly Holyhead and Fishguard, which have developed and grown since the completion of the Single Market in 1993 and which are predicated on seamless travel from one side of the Irish Sea to the other.

Conclusion 6. We are concerned that a suitable technological solution to the problem of processing customs checks will not be ready and in place at the point of the UK's anticipated departure from the EU in March 2019.

Conclusion 7. We found that the impact of checks and delays at Welsh ports would have implications for wider supply chains which are currently configured to accommodate "just-in-time" logistics.

Conclusion 8. We heard that many Welsh ports lack the physical capacity to accommodate new customs and border checks. Although a technological solution will need to be sought to overcome aspects of this, nothing we heard during our inquiry suggested that it will be possible to achieve these technological solutions within the current timetable for Brexit. Furthermore, we

foresee a risk that physical constraint and capacity issues at Welsh ports cannot be overcome through technology alone, and a failure to adequately plan for Brexit will likely have knock-on effects on our infrastructure, particularly in terms of congestion on our roads.

Conclusion 9. Transitional arrangements will be necessary to ensure that our ports do not grind to a halt at the point of departure from the European Union. The threat of a “no-deal” scenario at the end of the two-year Article 50 period cannot be discounted. We are clear that this would pose a serious threat to our ports, trade and the economy.

Conclusion 10. We are extremely concerned that the Cabinet Secretary for Economy and Infrastructure has not yet met with counterparts in the Irish Government to discuss the implications of Brexit for Welsh ports and Ireland-Wales transport links. We note that his counterparts in Ireland were keen to facilitate meetings with us and that securing those meetings was relatively straightforward. We are confident from the response we received from our colleagues in Ireland would mean that the Welsh Government would be similarly accommodated.

Conclusion 11. We note that although investment from the Connecting Europe Facility, the EU TEN-T funding stream, in Wales to date has been limited, there is a risk to Welsh ports from a loss of access to future infrastructure funding if the UK no longer participates in the Trans-European Transport (TEN-T) Network after Brexit.

Conclusion 12. We agree that the Welsh Government should continue to press the UK Government on commitments relating to areas of transport infrastructure that are not devolved – particularly the electrification of the north Wales main line. However, it should also ensure that it makes clear commitments on future development of infrastructure for which it is responsible, including highways.

Conclusion 13. We heard that Free Ports are an under-explored concept in Wales. We believe that there is merit in exploring the potential for Wales to call for Free Port designation for one or more of its ports after the UK leaves the EU. We are also aware that there are Free Ports currently in operation within the EU.

01. Introduction

Background

1. Wales has a total of 32 ports,¹ ranging from harbours like Tenby to major ports like Milford Haven.² Of these 32 ports, there are seven that the UK Government's Department for Transport classifies as "major ports": Milford Haven, Fishguard, Holyhead, Newport, Cardiff, Port Talbot and Swansea.
2. The United Kingdom's decision to leave the European Union poses some important questions in relation to the future of Welsh ports. We decided in April 2017 to look at the issue in more detail. Our terms of reference were to look at:
 - the risks and opportunities does Brexit present for Welsh ports; and
 - the steps should be taken, and by whom, to mitigate any risks and secure any benefits.
3. In order to achieve this, we requested written evidence from stakeholders and held three oral evidence sessions. First with panels of academics, representatives of the freight and logistics sector, ports and ferry operators on 12 June 2017; and then an oral evidence session with the Cabinet Secretary for Economy and Infrastructure, Ken Skates AM, on 3 July 2017.
4. We recognised from the outset that our future relationship with Ireland would be crucially important to the inquiry. We therefore sent a rapporteur delegation to Dublin to hold talks with counterparts in the Irish Government, including the Irish Government's Department for Transport, Tourism and Sport, and Department of Foreign Affairs and Trade, and also the Irish Exporters Association, the Irish Maritime Development. Our rapporteurs – David Rees AM, Eluned Morgan AM and Mark Isherwood AM – **wrote a rapporteur summary** of the discussions.
5. This report is made up of 3 substantive chapters. Each chapter looks at the key issues facing Welsh ports in the context of Brexit.

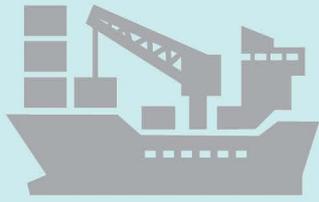
Importance of ports to the Welsh economy

6. According to a 2011 study commissioned by the Welsh Government, Welsh ports directly supported 18,400 jobs.³ Another study by consultancy firm Arup, commissioned by Associated British Ports (ABP) found that ABP's five south Wales ports contributed £1.4 billion a year to the UK economy, including nearly £1 billion within Wales, and supported 15,000 Welsh jobs. Three of the Welsh Government's eight Enterprise Zones (Anglesey, Haven Waterway, and Port Talbot Waterfront) contain ports, reflecting their economic significance.

¹ As identified by the [Welsh Ports Group](#).

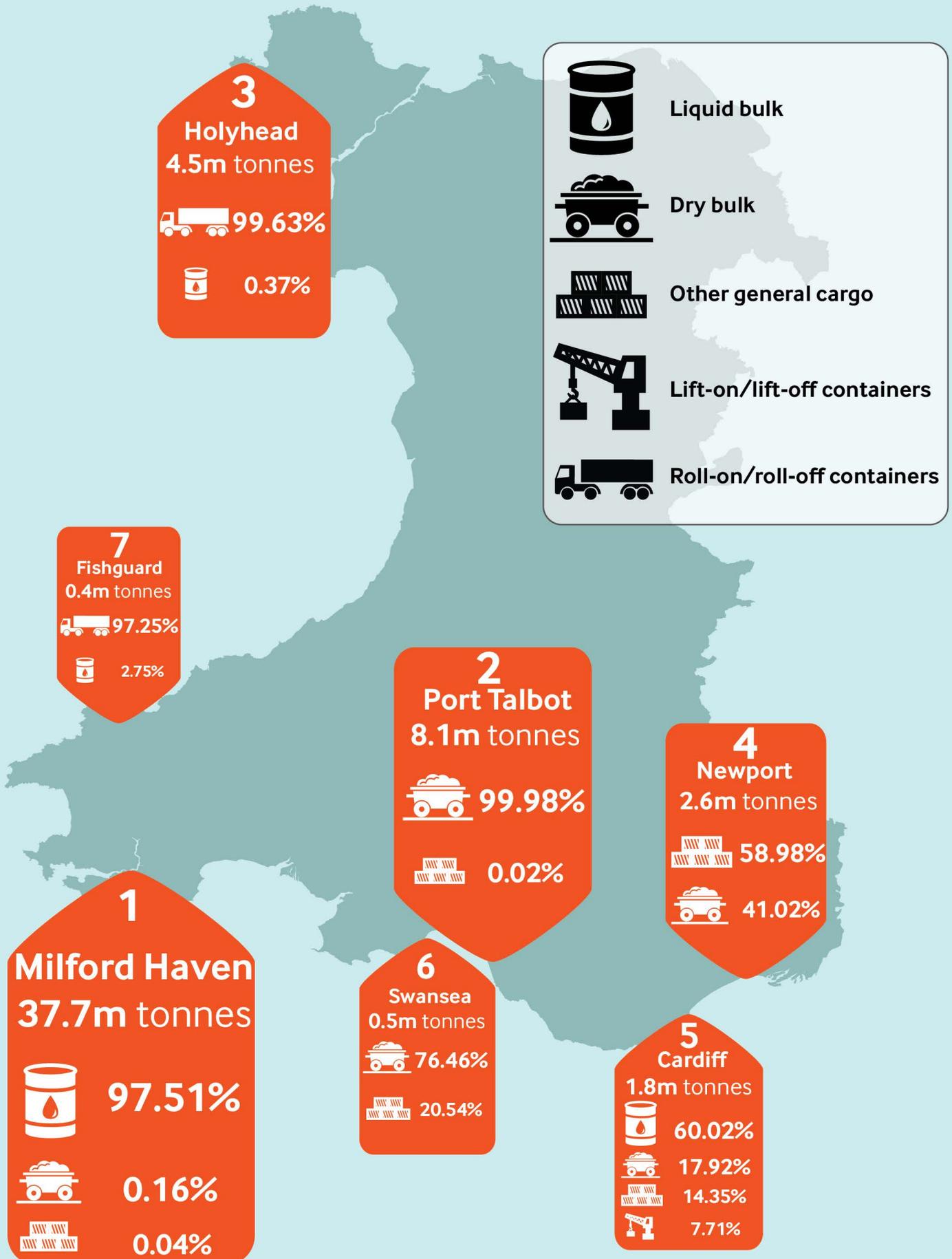
² A "harbour" is the physical area where water meets land and often includes infrastructure such as piers and breakwaters. A "port" is an area on both land and water which provides facilities for vessels to unload cargo. Both are often used interchangeably.

³ Welsh Government, '[Economic impact of low carbon energy on Welsh ports](#)' – 12 September 2011



Welsh Port Statistics

Total freight traffic (weight) and cargo type



7. Each year, Welsh ports handle over 56.4 million tonnes of UK freight, equivalent to 11 per cent of total UK trade by volume.⁴ The busiest port in Wales in terms of freight transport is Milford Haven, which handled 37.7 million tonnes of freight traffic in 2015 – the third highest of all UK ports by tonnages, behind Grimsby and Immingham, and London.⁵

8. Ports play an important role both as key transport and logistics hubs that support national trade and tourism and also as a driver of local economies. Alongside freight and passenger services, the Port of Milford Haven highlighted its role in supporting the fishing industry, wave and tidal energy, ship building, engineering and fabrication.⁶



Powers and policy

9. At present, powers over significant ports are not devolved. In other words, the National Assembly for Wales has no competence to legislate in relation to them, because they are covered by exceptions in Schedule 7 to the Government of Wales Act 2006.⁷ The Welsh Ministers have some limited functions in relation to Welsh ports, but not such as to allow them to integrate ports into an economic strategy. However, commencement of the Wales Act 2017, which is expected in April 2018, will mean the transfer of a number of executive powers related to ports and harbours to the Welsh Ministers. Furthermore, the National Assembly will have competence to legislate on those ports and harbours wholly in Wales, apart from “reserved trust ports”.⁸ Harbours not wholly in Wales will remain outside both legislative competence and the new executive powers.

10. A number of wider aspects of maritime policy will continue to be reserved matters for the UK Government. These include: most aspects of navigational rights and freedoms; shipping; technical safety standards for vessels that are not ships; pilotage beyond Welsh waters and pilotage relating to reserved trust ports; coastguard services; and maritime search and rescue.⁹

11. In the light of the 2017 Act, the Welsh Government’s [National Transport Finance Plan](#) includes commitments to develop a ports strategy. We note, however, that this strategy is not

⁴ Department for Transport, ‘[Port Freight Statistics 2015](#)’ – 17 November 2016

⁵ Department for Transport, ‘[Port Freight Statistics 2015](#)’ – 17 November 2016

⁶ Written evidence, [Port of Milford Haven](#)

⁷ [Government of Wales Act 2006](#)

⁸ “Reserved trust ports” are defined on the basis of annual turnover. Milford Haven is the only reserved trust port in Wales, and therefore will continue to be subject to UK Government ports policy after the Wales Act 2017 comes fully into force.

⁹ [Wales Act 2017](#)

currently available but is expected towards the end of 2017 as part of a refreshed transport strategy for Wales.¹⁰

12. Referring to the anticipated devolution of powers in relation to ports, the Cabinet Secretary for Economy and Infrastructure, Ken Skates AM, said in his written submission that a dedicated ports team was being assembled within the Welsh Government in order to provide collaboration and engagement with the sector.¹¹

¹⁰ National Assembly for Wales, Record of Proceedings, [paragraph 195](#) – 3 July 2017

¹¹ Written evidence, [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

02. The future of the Irish border

Traffic between Wales and Ireland

13. The relationship between Welsh ports and our nearest neighbour, Ireland, was a key issue in our inquiry. As mentioned during oral evidence, many important Welsh ports “point towards Ireland”.¹² International traffic across the Irish Sea is concentrated along two corridors, the central and southern, serving Dublin and Rosslare respectively.¹³ In 2015, of the more than 750,000 lorries carried along the central corridor to Dublin, 50 per cent passed through Holyhead. Within a UK context, Holyhead is the second largest roll-on roll-off ferry port after Dover. A further 100,000 lorries were carried on the southern corridor, with two-thirds passing through Pembroke and one-third through Fishguard.¹⁴

Roll-on roll-off (Ro-Ro) vessels are designed to carry wheeled cargo such as lorries, cars, trucks and trailers. Ro-Ro cargo was by far the majority of cargo passing through Holyhead and Fishguard ports during 2015, accounting for 99 and 97 per cent of cargo by type, respectively, in 2015.

Lift-on lift-off (Lo-Lo) vessels on the other hand are ships with on-board cranes to load and unload cargo such as containers. Of the 7 major Welsh ports, only Cardiff has Lo-Lo capacity. In 2015, around 8 per cent of cargo handled at Cardiff was Lo-Lo containers.¹⁵

Hard border and the displacement of Welsh port traffic

14. We heard from many witnesses whose concerns centred on the introduction of a ‘soft’ border between Northern Ireland and the Republic and a ‘hard’ border between Republic of Ireland and Wales.¹⁶ At present, over 70 per cent of Irish cargo passes through Wales.¹⁷ Many witnesses stressed that the movement of freight will always follow the path of least resistance.¹⁸

15. A hard border¹⁹ at Welsh ports could lead to re-routing via the soft border in Northern Ireland.²⁰ In written evidence, Irish Ferries contrasted the implications of ‘soft’ land border and a ‘hard’ sea border:

“If a stringent Customs regime was in place at the Welsh seaports with direct connections to seaports in the Irish Republic, and a less onerous or more relaxed regime was in place at the Land Boundary on the island of Ireland, there is a risk that this could cause significant displacement of traffic, from the Welsh ports, to ports in Northern England and Scotland. This could have

¹² Record of Proceedings, [paragraph 206](#) – 12 June 2017

¹³ Written evidence, [UK Chamber of Shipping](#)

¹⁴ Written evidence, [UK Chamber of Shipping](#)

¹⁵ [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

¹⁶ Written evidence, [Wales Tourism Alliance](#); [Port of Milford Haven](#); and [Cardiff University](#)

¹⁷ [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

¹⁸ Record of Proceedings, [paragraph 295](#) – 12 June 2017

¹⁹ A ‘hard’ border is generally accepted to mean stricter controls on the movement of goods and people than would apply under a ‘soft’ border regime. Whilst there is no agreed definition, these controls could include varying degrees of customs, passport and immigration checks and/or have implications for different types of visa travellers.

²⁰ Written evidence, [Port of Milford Haven](#)

serious economic consequences for the ports in Wales and Ireland, both in direct and indirect employment.”²¹

16. The Port of Milford Haven and Irish Ferries told us that there must be no difference between the Irish land border (with Northern Ireland) and the Irish sea border (with Wales). Any difference between the treatment of Wales would lead to a distortion in trade and could have serious economic consequences for Welsh ports.²²

17. The Irish Exporters Association told us during our visit to Dublin that capacity out of ports in Northern Ireland was already increasing. They suggested that this would have greater appeal for traders in the border region in the event of differential land and sea borders, but less so from other Irish regions, particularly the south. In a similar vein, the Irish Maritime Development Office said that if it became easier to use Northern Irish Ports, there would be some “leakage” of current business to that route.²³

18. It was also clear from our discussions with counterparts in the Irish Government that their focus and priority, understandably, would be on north-south issues rather than on the potential impact on east-west links.²⁴

19. The Cabinet Secretary recognised the potential for displacement of Welsh port traffic as a result of decisions made regarding the Irish border. In written evidence, he told us:

“There is a significant risk that additional checks at mainland UK ports (a ‘hard’ sea border) could reduce the efficiency of traffic passing through the ports, especially in respect of roll-on / roll-off (Ro-Ro) freight movements. A more relaxed regime at the Irish land boundary (a ‘soft’ land border), in contrast to a stricter customs regime at UK mainland ports, could encourage movement via this land border through Northern Ireland ports into England and Scotland potentially at the expense of the current, well established direct routes from Ireland into Wales.”²⁵

Our view

Conclusion 1. We are concerned that a soft border between Northern Ireland and the Republic, and a hard maritime border between Wales and the Republic of Ireland, could severely disadvantage Welsh ports and result in a loss of competitiveness leading to a displacement of traffic from Welsh ports – principally Holyhead – to ports in England and Scotland, via Northern Ireland.

Conclusion 2. We also note that any possible displacement of traffic from Welsh ports would negatively impact ports in the Republic of Ireland.

Recommendation 1. We recommend that the Welsh Government continues to press the UK Government on the need to ensure that Welsh ports are not unfairly disadvantaged as a result of any potential differentiated border arrangements between Northern Ireland

²¹ Written evidence, [Irish Ferries](#)

²² Written evidence, [Port of Milford Haven](#); Record of Proceedings, [paragraph 285](#) – 12 June 2017

²³ External Affairs and Additional Legislation Committee, Rapporteur summary

²⁴ External Affairs and Additional Legislation Committee, Rapporteur summary

²⁵ [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

and the Republic of Ireland and between Great Britain and the island of Ireland, and keeps us updated on progress with these matters.

Bypassing the UK landbridge

20. Written evidence from the Welsh Ports Group, Cardiff Business School, the Freight Transport Association (FTA) and the Rail Freight Group (RFG) also noted the potential for Irish trade to re-route directly to EU ports. The Welsh Ports Group told us that it understands that shipping operators are already looking at options for direct Ireland – EU services.²⁶ In oral evidence, some witnesses asserted that without “frictionless” UK – Ireland trade after Brexit, Irish exporters may opt for direct shipment to the EU and avoid the UK landbridge altogether.

21. Irish Ferries disagreed with this view and argued that the associated increase in crossing times direct to Europe would negate any benefit.²⁷ Paddy Walsh of Irish Ferries explained that:

“The difficulty is the crossing times. From Rosslare to Cherbourg, it’s about 15 hours, so you’re getting one sailing every other day, essentially, whereas if you take Pembroke-Rosslare by example, the ship’s at sea for four hours, in port for two hours, and that happens 24 hours a day, so you’re getting four sailings a day versus one every other day. So, there is under-utilisation of the assets. You’d need to deploy a huge amount of ships to be able to carry the same volume, and it wouldn’t be economically viable. So, I don’t see a threat, given the geography of the situation, in traffic switching wholesale to go direct to Europe from Ireland. I don’t see that as a threat currently.”²⁸

22. During our discussions in Dublin, it was emphasised that fears that the UK landbridge would be by-passed altogether in favour of direct maritime links with ports such as Cherbourg and Rotterdam had been overstated.²⁹ The Irish Maritime Development Office believed that the new arrangements after Brexit would not close the 18-hour advantage of landbridge access to markets on the European continent.³⁰ However, the Irish Exporters Association did sound a note of caution, suggesting that longer crossings direct to Europe may be more attractive, by providing greater certainty in delivery times, if customs and other checks at UK ports were to create unforeseen delays.³¹

Conclusion 3. We found that fears that the UK landbridge would be by-passed altogether, in favour of direct maritime links with the European continent, are not as significant as the risk of displacement of traffic through Northern Ireland to ports in England and Scotland, should a hard border between Great Britain and the island of Ireland be introduced after Brexit.

Future of the Common Travel Area

23. The Common Travel Area (“CTA”) allows the free movement of people between the UK, the Republic of Ireland, the Isle of Man and the Channel Islands. It has operated since 1922 and therefore

²⁶ Written evidence, [Welsh Ports Group](#)

²⁷ Record of Proceedings, [paragraphs 285 – 289](#) – 12 June 2017

²⁸ Record of Proceedings, [paragraph 305](#) – 12 June 2017

²⁹ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

³⁰ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

³¹ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

pre-dates the UK and Ireland's membership of the EU. As such, EU law recognises the rights of Ireland and the UK to maintain the special arrangements outside the **Schengen Area**.³²

24. Our discussions in Dublin highlighted the importance of the continuation of the CTA. It was clear from these discussions that there is recognition among the EU27 that the CTA is an important issue for Ireland. It was also clear that the UK and Irish positions with regard to its continuation after Brexit are closely aligned.³³

Conclusion 4. We agree that a solution that retains the benefits of the Common Travel Area should be sought and agree with the UK and Irish government positions on this issue.

³² Protocol (No 20) to the EU Treaties

³³ External Affairs and Additional Legislation Committee, Rapporteur summary

03. The future of customs arrangements

The Customs Union

26. In her Lancaster House speech, the Prime Minister, Theresa May MP, said that “full Customs Union membership prevents us from negotiating our own comprehensive trade deals”.³⁴ Many of the views expressed by those who gave evidence to the inquiry were predicated on the assumption that the UK will be leaving the Customs Union.

Reintroduction of customs checks

27. Difficulties associated with the reintroduction of customs and border checks were a key theme in the evidence we received. Since the completion of the EU’s Single Market in 1993 and the concomitant removal of checks between Wales and Ireland, the volume of freight travelling between Holyhead and Dublin has increased by 694 per cent.³⁵ In its paper, Irish Ferries attributed this increase to a levelling of the playing field between Irish land and sea borders, investment in Holyhead Port and efficient use of space following the removal of customs checks.³⁶ Pointing to the effective closure of the Port of Calais in 2015, Irish Ferries suggested that the reintroduction of customs checks could lead “UK Plc” to “quickly grind to a halt”.

28. All three panels who gave evidence during our session on 12 June 2017 raised the potential threats posed by leaving the Customs Union. Duncan Buchanan of the Road Haulage Association (the RHA) argued that any form of customs checks would incur some degree of friction.³⁷

29. In its submission, the Wales Tourism Alliance (WTA) told us that leaving the Customs Union could have an adverse impact on the Welsh cruise industry. The WTA highlighted the risks that: “cruise lines could choose only to operate between ports still governed by the Customs Union, to the detriment of Wales’s ports and destinations.”³⁸

30. Julia Williams, an official from the Welsh Government who accompanied the Cabinet Secretary during his oral evidence session, told us that the future of customs arrangements were the key concern for the sector.³⁹ Ms Williams also said although the aim was to have new arrangements that were seamless, that new customs arrangements after Brexit could never be completely seamless and that a greater onus would fall on “Ro-Ro” ports than on container ports.⁴⁰

31. Ian Davies of Stena Line told us about the particular vulnerabilities of Fishguard and latterly, Holyhead which is the UK’s second largest “Ro-Ro” port. Captain Davies attributed much of Holyhead’s growth to the “open ports policy” and that any delay as a result of custom or border checks could disturb the whole business model.⁴¹

Our view

Conclusion 5. It is clear to us that customs delays at ports could have an unwelcome impact on Welsh Ro-Ro ports, particularly Holyhead and Fishguard, which have developed

³⁴ UK Government, ‘[The government’s negotiating objectives for exiting the EU: PM speech](#)’ – 17 January 2017

³⁵ Written evidence, [Irish Ferries](#)

³⁶ Written evidence, [Irish Ferries](#)

³⁷ Record of Proceedings, [paragraph 143 and 145](#) – 12 June 2017

³⁸ Written evidence, [Wales Tourism Alliance](#)

³⁹ Record of Proceedings, [paragraph 25](#) – 3 July 2017

⁴⁰ Record of Proceedings, [paragraph 27](#) – 3 July 2017

⁴¹ Record of proceedings, [paragraph 243](#) – 12 June 2017

and grown since the completion of the Single Market in 1993 and which are predicated on seamless travel from one side of the Irish Sea to the other.

Use of technology

32. At the same time, several witnesses felt that many of the issues relating to the reintroduction of customs checks could be ameliorated through the use of technology. Paddy Walsh of Irish Ferries emphasised that an IT-led solution would be key and that discussions between HM Revenue and Customs and the sector were already underway.⁴²

33. Witnesses told us that any new IT system would need to be integrated across multiple agencies and would require cooperation from third countries.⁴³ Furthermore, many expressed concerns that there is insufficient time to put in place such a system before March 2019.⁴⁴ Ian Gallagher explained that:

“It really is a very short time period that we’re working on. So, I think that’s going to be challenging, moving forward, certainly with the IT. I agree that that’s one of the systems that we should be looking at, definitely, for alleviating the customs issues, certainly, but it’s going to be challenging.”⁴⁵

34. Dr Andrew Potter stated, however, that the movement of goods was too important and that ports would find solutions even in the absence of an IT solution. Dr Potter said:

“Operators will find a way to make it work. It’s a challenge to get a system fully implemented, because it’s not just a single system; it’s a multi-organisation system. There are lots of different Government departments involved within it in terms of security, tax, customs et cetera. So, it’s multiagency. I think it’ll be a challenge to get a system in place by then. Hopefully, the work will be ongoing to get to a point, but it’s not the case that, if there isn’t a system, everything will stop. There may be delays, there may be some holdups, but, over the years, the port operators have probably faced many more stiff challenges than an IT system not being delivered on time. There are ways of getting around this and I’m sure they’ll have to revert to older processes initially to keep goods moving.”⁴⁶

35. On the issue of cost, witnesses told us that they expected the burden to be borne by a combination of government and the industry.⁴⁷ However, we heard that, ultimately, some of the cost would also be passed on to the consumer.⁴⁸

Our view

Conclusion 6. We are concerned that a suitable technological solution to the problem of processing customs checks will not be ready and in place at the point of the UK’s anticipated departure from the EU in March 2019.

⁴² Record of Proceedings, [paragraph 254](#) – 12 June 2017

⁴³ Record of Proceedings, [paragraphs 38 and 267](#) – 12 June 2017

⁴⁴ Record of Proceedings, [paragraphs 36 and 158](#) – 12 June 2017

⁴⁵ Record of Proceedings, [paragraph 159](#) – 12 June 2017

⁴⁶ Record of Proceedings, [paragraph 36](#) – 12 June 2017

⁴⁷ Record of Proceedings, [paragraph 267](#) – 12 June 2017

⁴⁸ Record of Proceedings, [paragraph 270](#) – 12 June 2017

Recommendation 2. We recommend that the Welsh Government keeps us informed and updated on progress in developing an IT-led solution to the UK’s future customs arrangements.

Recommendation 3. We recommend that the Welsh Government sets out in its response to our report what it anticipates the cost to the public purse will be of the proposed new IT-led customs arrangements post Brexit and how it expects those costs to be borne. We recommend that the Welsh Government seeks clarification from the UK Government on the anticipated timescales for the development and implementation of these IT-led customs arrangements.

Authorised Economic Operator

36. During our visit to Dublin, we discussed the availability of technical solutions including the **Authorised Economic Operator** or Trusted Trader arrangements, which would allow goods to pass through Welsh ports with minimal checks.⁴⁹

37. Similarly, Dr Andrew Potter of Cardiff Business School explained that there were also opportunities for companies to ease the flow of goods before they reach ports. Dr Potter said:

“Beyond that, one of the things that we can look to do is to encourage members of the supply chain to become more engaged in easing the flow of their goods as well. So, they don’t just rely on the ports, but look at how members of the supply chains can sign up to things like the approved economic operator scheme that we talked about in the paper, where you can get approval and security clearance and customs clearance, so you can do that when the goods are dispatched. The goods are then sealed on a trailer or in a container and shipped around, and in that way, you’ve got that assurance and it speeds up the process of going through the ports and so on as well. So, again, it’s not just about the ports improving processes; the whole supply chain can make changes as well to try and speed up and ease the flow of goods in and out.”⁵⁰

38. Paddy Walsh told us that what was required was an expansion of existing concepts relating to the processing of VAT and other duties across the EU:

“If I could just go back a stage in history—to 1993, in January, when the requirement for customs entries was removed when we achieved full member status—what happened was there was still work to be done, because VAT still had to be paid by traders, and duty still had to be calculated where it was applicable. And that was done in something called the authorised economic operator status, where all the work was essentially deferred to traders’ premises. So, what we would see—and this is what we’re starting to explore with HM Revenue and Customs—is that concept being expanded.”⁵¹

⁴⁹ External Affairs and Additional Legislation Committee, **Rapporteur summary**

⁵⁰ Record of Proceedings, **paragraph 26** – 12 June 2017

⁵¹ Record of Proceedings, **paragraph 245** – 12 June 2017

Recommendation 4. We recommend that the Welsh Government seeks to mitigate the risk to Welsh businesses of a lack of preparedness by working with HM Revenue and Customs to explore with Welsh businesses the scale of the challenge and provide any support required to ensure they benefit from Authorised Economic Operator/Trusted Trader schemes.

Capacity and configuration of Welsh ports

39. Many witnesses highlighted the lack of capacity at Welsh ports to accommodate any new customs or passport checks.⁵² Ian Davies of Stena Line Ports (based at Holyhead) warned that his port was constrained by space and would not have the capacity to stop vehicles:

“As a port operator, physically we do not have the land mass to stop and check vehicles. We just physically do not. We have some of the largest ferries in Europe coming in—Holyhead is a prime example—and we do not have the space even to empty those directly into the port. The whole port would come to a grinding halt, and our industry is based on just-in-time logistics. With the uncertainty of how long it will take to get a freight vehicle through the port, the whole logistics industry would come to a grinding halt. It’s physically not possible to do it at the ports presently. We do not have the land mass.”⁵³

40. Captain Davies went on to say that the time frames involved would bring added pressure:

“I don’t think it’s physically possible to come up with a physical land mass to absorb some of these traffic flows. We’re looking roughly, at our peak, at 400 freight units an hour coming off the ferry. Each freight unit is 16m long. That’s one long traffic jam coming out onto the A55.”⁵⁴

41. Furthermore, we heard about the risks of delays to how logistics in the UK/EU economy are currently configured, including the “just-in-time” model. The UK Chamber of Shipping told us that:

“All sectors of the economy have, over the last 20 years or so, adopted just-in-time supply models, which depend absolutely on predictable delivery schedules. Logistics operators treat the British Isles as a single entity, and Welsh ports accordingly serve a hinterland that stretches from the west of Ireland to the east of England and beyond. The arbitrary and unpredictable delays caused by border controls are incompatible with such just-in-time supply chains, and the introduction of such delays at Welsh ports would accordingly represent a risk to the continued viability of those supply chains.”⁵⁵

42. In Dublin, we heard that detailed scenario planning is currently underway and that the master plan for Dublin Port (which faces similar challenges in terms of capacity constraints) is currently being updated.⁵⁶

⁵² [Port of Milford Haven; UK Chamber of Shipping](#)

⁵³ Record of Proceedings, [paragraph 262](#) – 12 June 2017

⁵⁴ Record of Proceedings, [paragraph 279](#) – 12 June 2017

⁵⁵ [UK Chamber of Shipping](#)

⁵⁶ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

Our view

Conclusion 7. We found that the impact of checks and delays at Welsh ports would have implications for wider supply chains which are currently configured to accommodate “just-in-time” logistics.

Conclusion 8. We heard that many Welsh ports lack the physical capacity to accommodate new customs and border checks. Although a technological solution will need to be sought to overcome aspects of this, nothing we heard during our inquiry suggested that it will be possible to achieve these technological solutions within the current timetable for Brexit. Furthermore, we foresee a risk that physical constraint and capacity issues at Welsh ports cannot be overcome through technology alone, and a failure to adequately plan for Brexit will likely have knock-on effects on our infrastructure, particularly in terms of congestion on our roads.

Recommendation 5. We recommend that the Welsh Government, sets out in its response to our report, how it intends to address the lack of physical capacity to accommodate new borders and customs checks at Welsh ports, and develop a highways management contingency plan to manage potential congestion resulting from delays in ports.

Transitional arrangements

43. The Road Haulage Association told us that transitional arrangements may be necessary to ensure supply chain efficiency for the UK and the EU.⁵⁷ Chris Yarsely of the FTA drew a comparison with the phased way in which the tariffs were harmonised when the UK entered the European Economic Community and argued that a similar phased process may need to be agreed for Brexit.⁵⁸ In a similar vein, the RHA warned that the absence of transitional arrangements, or an outcome that results in no deal, could have serious negative consequences for Welsh ports.⁵⁹

44. During his oral evidence session with us, the Cabinet Secretary told us that he did not believe a technological solution could be implemented in time for the anticipated date of the UK’s departure. He also underlined the importance of transitional arrangements in mitigating some of the risks to Welsh ports.⁶⁰

Our view

Conclusion 9. Transitional arrangements will be necessary to ensure that our ports do not grind to a halt at the point of departure from the European Union. The threat of a “no-deal” scenario at the end of the two-year Article 50 period cannot be discounted. We are clear that this would pose a serious threat to our ports, trade and the economy.

Recommendation 6. We recommend that the Welsh Government, in partnership with the sector, draws up detailed contingency plans for Welsh ports for the various scenarios that the UK could face at the end of the Article 50 notice period. These contingency plans should be reflected in the Welsh Government’s forthcoming Ports Strategy and should include (but not be limited to):

⁵⁷ Written evidence, [Road Haulage Association](#)

⁵⁸ Record of Proceedings, [paragraph 175](#) – 12 June 2017

⁵⁹ [Freight Transport Association](#)

⁶⁰ Record of Proceedings, [paragraph 80, 115 and 117](#) – 3 July 2017

- working with the sector to identify what support they may need to prepare for Brexit;
- an assessment of the scale of the technical and infrastructure constraints and requirements faced by Welsh ports; and
- provisions for a “no-deal” scenario.

04. Engagement, transport links and opportunities

Engagement with the Irish Government

45. During our visit to Ireland, we heard that there had been contact between the Irish Government and the First Minister, principally through the British-Irish Council. We also heard from the Department of Foreign Affairs and Trade that Ireland has had over 400 engagements on Brexit across Europe since the referendum in June 2016. In his paper, the Cabinet Secretary referred to “early discussion with the sector, wider industry, the UK Government and the other devolved administrations”.⁶¹

46. During oral evidence, the Cabinet Secretary confirmed that he had not yet met directly with counterparts in the Irish Government on the issue of ports but that he was currently seeking a meeting. The Cabinet Secretary attributed the lack of a meeting to date as due to “time constraints”, but added that a meeting had not been sought until the week of his appearance before our committee.⁶²

Our view

Conclusion 10. We are extremely concerned that the Cabinet Secretary for Economy and Infrastructure has not yet met with counterparts in the Irish Government to discuss the implications of Brexit for Welsh ports and Ireland-Wales transport links. We note that his counterparts in Ireland were keen to facilitate meetings with us and that securing those meetings was relatively straightforward. We are confident from the response we received from our colleagues in Ireland would mean that the Welsh Government would be similarly accommodated.

Recommendation 7. We recommend that the Welsh Government urgently addresses the lack of engagement it has had with counterparts in Ireland and other EU member states on the issue of ports and seeks opportunities to engage with them that are in addition to routine meetings such as those of the British-Irish Council.

The Trans-European Transport (TEN-T) Network

47. The Trans-European Transport (TEN-T) Network is a Europe-wide network of strategic transport routes and infrastructure, which must be developed to defined standards.⁶³ The FTA noted a risk to Welsh ports from “loss of infrastructure funding” currently available through UK participation in the TEN-T network. However, in oral evidence, witnesses told us that Wales had previously not taken full advantage of the funding associated with TEN-T.⁶⁴ Ian Davies told us that there had only been “minor funding, but nothing of any real significance over the last 15 years”.⁶⁵

48. In Dublin, we heard from our counterparts that they expected to see changes to the TEN-T programme in light of the UK’s withdrawal from the EU.⁶⁶ We also heard that the Irish Government is

⁶¹ [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

⁶² Record of proceedings, [paragraph 10-17](#) – 3 July 2017

⁶³ European Commission, [Infrastructure - TEN-T - Connecting Europe](#)

⁶⁴ Record of Proceedings, [paragraph 388 and 390](#) – 12 June 2017

⁶⁵ Record of Proceedings, [paragraph 390](#) – 12 June 2017

⁶⁶ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

actively engaging with the European Commission on its review of the network and would like to see an easy working relationship, particularly on Northern Ireland but also in relation to Welsh ports.⁶⁷

49. We also talked to our colleagues in Ireland about the UK's future role in the network. This was seen to be particularly important because the UK is part of the key "TEN-T corridor" in which Ireland participates. We understand that, whilst third party countries can participate in TEN-T projects, the UK's future involvement will depend on the outcome of the Brexit negotiations.

50. Duncan Buchanan of the Road Haulage Association stressed to us the important role of infrastructure investment in maintaining competitiveness and productivity.⁶⁸ At the same time, Mr Buchanan, and his fellow witness, Mr Gallagher, agreed that these investments should not be dependent on external EU funding.⁶⁹

51. In his paper, the Cabinet Secretary told us that "the Welsh Government is already making progress with a number of road schemes which will result in positive impacts for ports in Wales".⁷⁰ On the planning and funding of Welsh rail infrastructure – which is not devolved, and will not be devolved under the new settlement created by the Wales Act 2017 – Mr Skates said that:

"We've been very clear that we need to see, under TEN-T, the north Wales main line, for example, electrified by 2030. Rail infrastructure is an area where UK Government could make an enormous contribution. They're well aware of that, but we need to make sure that they actually sign up to those commitments in the long term."⁷¹

52. Similarly, the Rail Freight Group (RFG), in its written submission, stated that issues with the current rail network in Wales were a barrier to the development of Welsh ports.⁷² The RFG called for more investment in electrification and in the provision of enhanced loading gauge capability beyond the current plans, which are limited to south-east Wales.⁷³

Our view

Conclusion 11. We note that although investment from the Connecting Europe Facility, the EU TEN-T funding stream, in Wales to date has been limited, there is a risk to Welsh ports from a loss of access to future infrastructure funding if the UK no longer participates in the Trans-European Transport (TEN-T) Network after Brexit.

Conclusion 12. We agree that the Welsh Government should continue to press the UK Government on commitments relating to areas of transport infrastructure that are not devolved – particularly the electrification of the north Wales main line. However, it should also ensure that it makes clear commitments on future development of infrastructure for which is it responsible, including highways.

⁶⁷ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

⁶⁸ Record of Proceedings, [paragraph 178](#) – 12 June 2017

⁶⁹ Record of Proceedings, [paragraphs 179 and 182](#) – 12 June 2017

⁷⁰ [Evidence paper from the Cabinet Secretary for Economy and Infrastructure](#)

⁷¹ Record of proceedings, [paragraph 139](#) – 3 July 2017

⁷² Written evidence, [Rail Freight Group](#)

⁷³ Written evidence, [Rail Freight Group](#)

Alignment of regulation

53. As with customs checks, animal health checks for food and animal products arriving at Welsh ports ceased when the Single European Market was completed in the early 1990s. Chris Yarsley of the FTA indicated to us during oral evidence that veterinary inspections at Felixstowe (for food and animal products arriving from the rest of the world) involve approximately 14 full-time vets operating on a 24-hour basis.⁷⁴

54. The UK Chamber of Shipping also highlighted concerns about animal and food products in its written submission. They stated that:

“[...]the imposition of usual EU animal and plant health controls on traffic arriving from the UK after Brexit at Irish ports would have the effect of prohibiting the entry of much of the food and agricultural traffic that is currently shipped from Welsh ports.”⁷⁵

55. In Dublin, our counterparts also raised concerns relating to the issue of managing food and product standards for export after Brexit. They also highlighted regulatory divergence in other areas such as the regulation of HGV driver hours.⁷⁶

EU Habitats Directive

56. Andy Jones of the Port of Milford Haven told us that Brexit may present an opportunity for Wales and the UK to re-visit the balance of environmental protection.⁷⁷ In a similar vein, the written submission from the Welsh Ports Group stated that many of the current restrictions faced by Welsh ports stem from EU rules, particularly the Habitats and Wild Birds Directives.⁷⁸ Professor Anthony Beresford, however, was less certain about the “room for manoeuvre” that Wales and the UK would have in terms of environmental protections after Brexit.⁷⁹ It should be noted, however, that we did not hear from any representatives of the environment sector, and that the question of environmental protections were not considered in any depth during our inquiry.

Opportunities for the future

57. The ability of the UK to seek new trade deals and opportunities with the rest of the world was cited by the Welsh Ports Group as an important opportunity for Welsh ports in the context of Brexit.⁸⁰ The Irish Exporter’s Association shared the results of a recent survey of their members with us which suggested that a significant number of Irish businesses – 40 per cent of those surveyed – were considering moving aspects of production or processing to the UK.

58. During our inquiry, we also explored the issue of Free Zones or Free Ports. Free Ports are designated areas where import duties, VAT and other import charges may not apply, or where importers and exporters can defer payment of such charges. In oral evidence, Professor Beresford told us that Free Ports had probably been underexplored in the UK and that Brexit could be a timely point to look at their potential.⁸¹ He went on to explain that Free Ports offered benefits to companies

⁷⁴ Record of Proceedings, [paragraph 156](#) – 12 June 2017

⁷⁵ Written evidence, [UK Chamber of Shipping](#)

⁷⁶ External Affairs and Additional Legislation Committee, [Rapporteur summary](#)

⁷⁷ Record of Proceedings, [paragraph 236](#) – 12 June 2017

⁷⁸ Written evidence, [Welsh Ports Group](#)

⁷⁹ Record of Proceedings, [paragraph 112](#) – 12 June 2017

⁸⁰ Written evidence, [Welsh Ports Group](#)

⁸¹ Record of Proceedings, [paragraph 86](#) – 12 June 2017

in terms of cash-flow and responding to the demands of seasonal logistics.⁸² In terms of benefit to the economy, Dr Andrew Porter told us that the associated economic activity provides opportunities in terms of employment.⁸³

59. Responding to the question of whether any Welsh ports would be suitable for Free Port designation, Dr Potter cited the potential of Milford Haven or one of the south Wales ports (Cardiff and Newport). In additional information received from the Port of Milford Haven, it was stated that Free Ports could “help boost economic growth” and “offset some of the effects of Brexit”. They also told us that these benefits could be enhanced by the designation of a larger ‘Port Zone’, which would build on the “unique characteristics” of ports and would attract investment.⁸⁴

60. In his evidence, the Cabinet Secretary told us that, should the UK Government look to designate new Free Ports, then the Welsh Government would seek to ensure that Wales receives its fair share.⁸⁵ Furthermore, Simon Jones of the Welsh Government explained that there was no merit currently in Free Port designation due to the UK’s membership of the EU and that the decision to designate would ultimately be up to the UK Government.⁸⁶

Our view

Conclusion 13. We heard that Free Ports are an under-explored concept in Wales. We believe that there is merit in exploring the potential for Wales to call for Free Port designation for one or more of its ports after the UK leaves the EU. We are also aware that there are Free Ports currently in operation within the EU.

Recommendation 8. We recommend that the Welsh Government is more proactive in its approach to the designation of Free Zones / Free Ports and undertakes further work to determine whether or not a port, or ports in Wales, could benefit from Free Port designation.

⁸² Record of Proceedings, [paragraph 94](#) – 12 June 2017

⁸³ Record of Proceedings, [paragraph 97](#) – 12 June 2017

⁸⁴ However, as mentioned previously, Milford Haven is the only reserved trust port in Wales, and therefore will continue to be subject to UK Government ports policy after the Wales Act 2017 comes fully into force.

⁸⁵ Record of Proceedings, [paragraph 179](#) – 3 July 2017

⁸⁶ Record of Proceedings, [paragraph 185](#) – 3 July 2017

Annex A – Witnesses

The following witnesses gave evidence to the Committee:

12 June 2017

Name	Organisation
Professor Anthony Beresford	Cardiff University
Dr Andrew Potter	Cardiff University
Duncan Buchanan	Road Haulage Association
Ian Gallagher	Freight Transport Association
Chris Yarsley	Freight Transport Association
Robin Smith	Rail Freight Group
Callum Couper	Associated British Ports and Chair of Welsh Ports Group
Captain Ian Davies	Holyhead (Stena Line Ports)
Andy Jones	Port of Milford Haven
Anna Malloy	Port of Milford Haven
Paddy Walsh	Irish Ferries

19 June 2017 – Committee rapporteur visit to Dublin

Name	Organisation
Shane Ross TD and Government Officials	Minister for Transport Tourism and Sport
Howard Knott	Irish Exporters Association
Fiona Burke	Irish Exporters Association
Liam Lacey	Irish Maritime Development Office
Senator Neale Richmond*	Chair of the Seanad Special Select Committee on the Withdrawal of the United Kingdom from the European Union
Government Officials	The Department for Foreign Affairs and Trade

*General discussion on issues relating to the Committee's remit, but outside the purview of the inquiry.

3 July 2017

Name	Organisation
Ken Skates	The Cabinet Secretary for Economy and Infrastructure
Simon Jones	Director of Transport, Welsh Government
Julia Williams	Head of Non-Devolved Transport Policy, Welsh Government

Transcripts of the meetings can be viewed at:

<http://senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=15161>

Written evidence is available at:

<http://senedd.assembly.wales//mgIssueHistoryHome.aspx?IId=19178>