

Welsh Government Response to Recommendations from the External Affairs and Additional Legislation Committee Report: Wales' Future Relationship with Europe

Introduction

As a Minister in an outward-looking nation I welcome the EAAL report looking at Wales' future relationship with Europe, and its reaffirmation of the view that we need to work hard to turn Brexit into an opportunity both to revitalise old relationships as well as seek out and develop new ones. I want Wales to remain European in its values and identity and to work hard to stay connected with our European neighbours in many ways, for our mutual benefit.

Detailed responses to the Committee's recommendations

Recommendation 1. *We recommend that the Welsh Government negotiates with the UK Government to ensure that preferential market access, free from both tariff and non-tariff barriers, is prioritised in the forthcoming negotiations on the UK's future relationship with the European Union. - Page 26*

Recommendation 4. *We recommend that the Welsh Government urges the UK Government to bring forward credible proposals with regards to the UK's future customs arrangements with EU at the earliest possible opportunity. - Page 31*

Response: Accept

As we set out in our publication, "*Trade Policy: the issues for Wales*", the Welsh Government's position is that we must maintain full and unfettered access to the Single Market and we remain to be convinced that being outside a Customs Union with the EU is in our interests, at least for the foreseeable future. 60% of identifiable Welsh goods exports go to the EU. If there were to be customs procedures each time a component crossed a border, generating tariffs and delays, this would add significantly to the cost of that product. This could render Welsh companies uncompetitive relative to competitors on the European mainland. In addition, companies in the EU will be aware of the need to ensure that their final product meets the criteria of being substantially produced in the EU to meet the Rules of Origin tests attached to the EU's third country Free Trade Agreements. Were the UK to become a 'third country' — in terms of its trade relationship with the EU — then our products would not be classified as 'made in the EU', so companies exporting from the EU may be less inclined to use components originating from the UK. Added to this the most pressing issue for Welsh ports is preserving the efficient movement of goods and people via seamless customs arrangements that are, as a minimum, no more burdensome than the current Customs Union regime.

We continue to urge the UK Government for more clarity on future customs regimes both formally through the existing Joint Ministerial Committee (JMC) architecture and in bilateral discussions. We expect the UK Government to give the Welsh

Government a substantive role in the UK's negotiating process for a future economic partnership with the EU. We will press hard for UK positions that are based on economic evidence to support a prompt and clear UK negotiating position pressing for effective and frictionless customs arrangements between the UK and the EU.

Financial Implications

None in relation to the precise recommendations themselves. Any additional costs will be drawn from existing programme budgets. The implications of the agreed future customs arrangements will be significant.

Recommendation 2. *We recommend that the Welsh Government in its engagement with the UK Government calls on them to ensure that the interests of the farming, fishing and food industries are safeguarded during the withdrawal process. - Page 28*

Response: Accept

Since the referendum we have been actively working with the UK Government and other devolved administrations to ensure that as far as possible the interest of industries and businesses in Wales are safeguarded in the withdrawal process.

Our economy is closely integrated in the EU Single Market and some two thirds of identifiable Welsh exports go to EU countries. The imposition of tariffs and non-tariff barriers between the UK and the EU would be damaging to agri-food businesses in Wales and the broader UK. We urge the UK Government to avoid this as a top priority for negotiations on withdrawal and on the UK's future relations with the EU. It must give careful consideration to this in discussions with the WTO on establishing its own tariffs and in negotiations a free trade agreement with the EU.

We working with the UK Government to protect Wales' international reputation for high animal welfare, environmental and food standards which must not be sacrificed through allowing cheap imports. Doing so could undermine the premium Welsh brand, which is currently being redefined, and might affect our ability to negotiate trade deals with other countries.

The UK Government must also set out how it intends to ensure working rights for non-British EU vets currently working in Wales and to support the veterinary workforce going forward to ensure that it can meet the needs of the food industry in the future.

We are also asking the UK Government to make it clear to industry how it intends to deal with any consequences of regulatory divergence with the EU, and the mechanisms it will put in place to track any such divergence in the future.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 3. *To that end, we call on the Welsh Government to collate evidence on the reliance of these sectors on the EU market and to present these*

findings to the UK Government in order to strengthen the calls that it makes. - Page 28

Response: Accept

The Welsh Government has been working closely with stakeholders to ensure that we identify the full extent of the importance of the EU market to our industries. We have extensive evidence that underlines Wales' reliance on the EU Single Market. For example, in 2017, 77.3% of food and drink exports from Wales were to the European Union, and over 90% of exported lambs are destined for EU markets.

The Welsh Government has recently commissioned a report by the Wales Centre for Public Policy (WCPP) entitled 'Implications of Brexit on fishing opportunities in Wales', the report analyses the Welsh fleet's economic performance under various Brexit scenarios.

There is also work underway looking at tariff / non-tariff barriers, which will also inform our input into the negotiation process.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 5. *In undertaking work to prepare for a "no deal" scenario, we recommend that the Welsh Government considers the impact alternative customs arrangements may have on Wales and what action it may need to take to prepare for these. - Page 31*

Response: Accept in principle

As we set out in our trade paper "Trade Policy: the issues for Wales" there are very severe consequences for Welsh businesses from a "no deal" scenario and changes to customs arrangements including tariffs, tariff rate quotas, sanitary and phytosanitary measures, rules of origin requirements and technical barriers to trade.

We are having regular, joined up discussions with HMG officials, including HMRC, and Welsh ports and airport, on customs and other border related issues. Within this forum we are considering the implications of alternative arrangements and what will need to be put in place for different potential scenarios, including infrastructure and systems at border locations, depending on the terms of EU exit. We will continue to work on these arrangements until it becomes clearer through the negotiations, exactly which scenario will apply.

Customs and border related issues are also being considered within the Cabinet Secretary for Economy and Transport's EU Exit Working Group, which comprises a range of business and industry representatives, including the ports sector.

Overall, as we discussed in our response to the Committee's 'How is the Welsh Government preparing for Brexit?' report and the Cabinet Secretary for Finance outlined in his speech to the Committee, a complete No Deal scenario is a very

extreme situation which will cause so much disruption that modelling it is not realistically possible in a way that would be a basis for fundamental meaningful mitigation. In addition, many of the difficulties caused would be the responsibility of the UK Government to address (e.g. macro-economic issues on interest rates, exchange rates, Government borrowing; and logistical ones, such as customs arrangements). Although we in the Welsh Government would seek to mitigate the impact in areas of our responsibility, the overall situation would be so significantly damaging that we could not fully realistically do so.

In addition, there are aspects of the future relationship between the EU and the UK that are absolutely crucial and which we believe the UK Government and the EU would need to agree hurriedly to maintain some basic framework of economic credibility, such as on aviation operations, even if no fuller economic partnership could be agreed. Also, we will continue strongly to press the UK Government to allow for participation in certain EU-based networks and programmes that are of significant economic, cultural and social benefit, notably ERASMUS+; we see no good reason not to pursue such a specific arrangement, even without a fuller economic partnership. (See also response to recommendation 11.)

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 6. *We recommend that the Welsh Government seeks clarity from the UK Government on the timescales for moving to a future immigration system at the earliest opportunity in order to provide businesses and public sector bodies with much needed certainty on the recruitment issues that they may face in the future. - Page 38*

Response: Accept

Welsh Government officials continue to engage with the UK Government on timescales for publication of its long-awaited Immigration white paper. The UK Government has overall responsibility for preparations towards a new immigration system to provide certainty to businesses and the public sector. The Migration Advisory Committee (MAC) commissioned by the UK Government published an interim report in March with a final report due in September. The MAC is considering the impacts of migration on the UK and its final report will inform the UK Government's forthcoming Immigration Bill. The Welsh Government policy paper 'Brexit and the Fair Movement of People' which we published in September of 2017 and which was underpinned by evidence from across Wales, was submitted to the MAC as evidence to inform their research.

We recognise that the uncertainty has an impact on particular sectors, for example, the veterinary profession so Wales along with the other Devolved Administrations has representation on the UK Government's Veterinary Capability and Capacity Project (VCCP). This group has the aim of developing a flexible and skilled workforce to meet the UK's needs for both the immediate and longer term future. Welsh Government officials are also in the process of mapping existing stakeholder groups considering future workforce planning issues in other vulnerable sectors. It is

envisaged that these groups could potentially lead on taking action to address workforce shortages due to Brexit.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 7. *We recommend that the Welsh Government publishes a list of European agencies that it has identified as important to Wales in terms of continued involvement after Brexit. - Page 43*

Response: Accept

Article six of the Draft Withdrawal Agreement states that the UK will not retain membership of any European Agencies when it leaves the EU. The Prime Minister has however stated that the UK would wish to co-operate with a number of agencies in the future. We fully support the principle of continued UK participation in a number of agencies and will publish a list of those we believe are of particular importance to Wales.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 8. *We recommend that the Welsh Government works with NHS bodies, public health stakeholders and health organisations in Wales to identify current links with these agencies to suggest potential options for how collaboration could continue after Brexit. - Page 45*

Recommendation 9. *We recommend that the Welsh Government calls on the UK Government to ensure the UK's continued participation in the European Centre for Disease Prevention and Control, and the European Medicines Agency after Brexit. - Page 46*

Response: Accept

We are in favour of the UK remaining a member of the European Medicines Agency after Brexit, but this would involve a far closer relationship with the single market than the UK Government currently appears prepared to contemplate.

Welsh Government Officials have worked closely with the Welsh NHS Confederation to elaborate the key Brexit risks to services in Wales. EU programmes provide opportunities for health and care professionals and businesses to collaborate with each other and work together towards common goals.

It is the position of the Welsh Government that the UK Government should seek to ensure continued participation for NHS and social care organisations in Horizon 2020 and its successor programmes. We will also make explicit representation to ensure continued access to the 3rd Health programme and any successor.

The Welsh Government wants Welsh health and care researchers and innovators to continue to work with partners throughout Europe and beyond, building on successes such as Wales' 4-star reference site status in the European Innovation Partnership on Active and Healthy Ageing. To this end, we are strengthening our direct links to other regions in Europe through partnerships with, for example, Basque Country in Spain. We also take an active role in a number of European networks, such as the European Regional and Local Health Authorities (EUREGHA). The newly established Digital Health Ecosystem Wales is a member of the European Connected Health (ECH) Alliance, connecting with 20 ecosystems across Europe, USA, Canada and China with the objective to share good practice, develop relationships and partner on work where there are joint interests.

In the areas of disease prevention, public health and health technologies regulation, the Welsh Government is working closely with counterparts in the UK Government and its agencies. For example, we are working with the Medicines and Healthcare products Regulatory Agency (MHRA) on regulatory and supply issues on both medicines and devices. While the regulatory aspects are non-devolved, we will continue to press for close continued cooperation between the EU and the UK to ensure Welsh patients have timely access to the latest new drugs and innovations and Welsh life science businesses can access new markets to innovate and grow. MHRA is also seeking to identify drugs and vaccines whose supply and availability may be at risk in the event of no-deal, enabling us to more accurately identify risks to service delivery in Wales.

Any reduced level of collaboration with the European Centre for Disease Prevention could lead to delays in reporting and disease tracking, hampering outbreak response, would reduce the effectiveness of pandemic preparedness planning and response and could lead to significant intelligence gaps for infectious diseases.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 10. *If no agreement on Horizon 2020 and any successor programmes is reached between the UK Government and the EU, we recommend that the Welsh Government explores ways in which it could provide continued support for Welsh institutions to collaborate with European counterparts after Brexit.*
- Page 48

Response: Accept in Principle

Significant investment in Wales is stimulated by a number of EU programmes and we strongly believe Wales should continue to benefit from access to them from outside the EU. Continued cross-border collaboration in research, development and innovation, (principally through the Horizon 2020 programme at present), is particularly important and should continue after the UK has left the EU. Should the UK Government not agree to participate in the future Research and Development Framework Programme, it is unlikely Wales would be able to do so in its own right: it is essential therefore that we continue to work with stakeholders to put pressure on

the UK Government to prioritise continued participation in these programmes as part of the negotiations with the EU27.

The regional investment approach we take from 2020 and beyond will build on the actions set out in the Welsh Government's Economic Action Plan (EAP) and will focus on addressing the key structural challenges in the Welsh economy through a range of approaches including promoting innovation to support growth across all parts of Wales.

Following Brexit, it is important that we use the opportunity to reduce administrative complexity and simplify rules, a more proportional and risk-based approach to encourage innovation and more private sector investment, incorporating a tolerance for failure where entirely new approaches are trialled could yield significant gains. There must be a balance between retaining the benefits of clear rules-based frameworks, such as the results-focus developed over recent EU funding periods, and spreading those benefits across everything we do not just via one funding stream.

Wales has traditionally been an outward looking country and we need to build upon this; cross-border collaboration beyond just Europe will enhance Wales' global economic effort. As such, we intend to develop new international relationships and networks as part of our future economic development. Whilst the Welsh Government aims to retain our existing relationships the lack of any obvious precedence for individual regions within Member States to participate in EU programmes means that innovative solutions will be required. We see the strong advantages to having access for Wales if not for the whole of the UK.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 11. *We recommend that the Welsh Government explores the potential for a new international student mobility programme after Brexit, and reports back to the Committee within six months. - Page 52*

Response: Accept in Principle

Future Participation in Erasmus+

The agreement reached with the European Union in [December 2017 / March 2018] provided that - subject to the caveat that "nothing is agreed until everything is agreed" - the UK will continue to participate in Erasmus+ until the end of this current programme in December 2020. The European Union is currently in the process of considering its approach to the next Erasmus+ programme from January 2021. Officials hold regular discussions on Erasmus+ with their counterparts in the UK Government and Devolved Administrations. The UK's future participation in Erasmus+ from January 2021 is expected to form part of the UK Government's discussions with the EU on its future relationship with the EU. The Welsh Government's position remains that we wish the UK to continue to participate in Erasmus+ after the UK leaves the EU. If the UK Government is unwilling or unable to pursue that option, it is unlikely Wales would be able to do so in its own right: we

will therefore continue to put pressure on the UK Government to prioritise continued participation as part of the negotiations.

Outward Student Mobility

WG officials have also raised the question of the UK's wider approach to student mobility in the longer term with UK Government officials. Universities UK are currently in the process of establishing a working group to develop recommendations relating to UK outward student mobility, which officials from the Devolved Administrations and the UK Government will also attend.

Our objective is to secure a UK approach which meets Wales' priorities and concerns.

We will keep the Committee fully informed of progress on these issues when there are substantive developments.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 12. *We recommend that the Welsh Government maps all existing EU networks, across all sectors, in which Welsh organisations play a role. The results of this mapping exercise should be published by June 2018. – Page 60*

Response: Accept

We have updated an initial mapping exercise of EU networks carried out in 2016, alongside an update to a summary of centrally managed EU funds available to Welsh organisations. We provided these to the Committee in April 2018 and will publish shortly. We will keep these under review. Any further updates will be published as soon as possible and circulated to stakeholders to encourage Welsh organisations to identify any gaps.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 13. *Following publication of the results of this mapping exercise, the Welsh Government should consult with stakeholders on the importance of these different networks, their benefits to Wales and which networks should be prioritised for access after Brexit. The consultation should be concluded by autumn 2018. - Page 60*

Response: Accept in principle

We will seek views from stakeholders on the priority networks for possible future participation from those in which the Welsh Government currently participates and directly supports.

However, many EU networks do not involve the Welsh Government and are direct collaborations between Welsh organisations and those EU networks. These will most appropriately be prioritised by those involved. The Welsh Government could have a role in helping address any barriers those organisations face in continuing to participate in EU networks. We will seek views from those organisations on those barriers and how they can be addressed.

A number of networks will be directly linked to those EU programmes we wish to continue to participate in as part of our new relationship with the EU. We are therefore also updating our analysis of the range of EU programmes currently available to Wales, to determine priorities for Wales in the future UK-EU relationship. This is being informed by the responses to our paper “Regional Investment in Wales after Brexit”. Priorities already identified for Wales in “Securing Wales’ Future” are successor programmes to Horizon 2020, Erasmus Plus, Creative Europe and the suite of European Territorial Co-operation programmes (including Ireland-Wales). Our participation in key EU networks underpins our involvement in many of these EU programmes, and as such these pieces of work are interlinked.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 14. *We recommend that, based on the results of the consultation, the Welsh Government should set out plans for investing in Welsh participation in these networks, and consider the funding opportunities and implications for Welsh civil society to continue to collaborate with partners in key networks. - Page 60*

Accept in principle. The Welsh Government has established the European Transition Fund which could in the short term support the participation of Welsh civil society in European networks. The Government will also explore a more long term solution to supporting appropriate future engagement in these networks, on a cost-benefit basis, after the transition period.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 15. *We recommend that the Welsh Government, in its response to this report, sets out its anticipated end state for Wales’ future relationship with, and participation in European Territorial Cooperation programmes (particularly those involving Ireland), after Brexit. - Page 62*

Response: Accept in principle

We in the Welsh Government have made it clear that we want to build upon relationships with EU regions through continued participation in post-2020 European Territorial Cooperation (ETC) programmes. We have been clear in our policy papers and in discussion with the UK Government that we want to see the Ireland Wales Programme continue for the long-term.

We anticipate being able to access future ETC programmes in some form, however the range of programmes open to us and the level of participation available will be subject to ongoing negotiations with the UK Government, Irish Government and the EU. We continue to make the case for continued participation in the full suite of ETC programmes in which we would be eligible, with an emphasis on the importance of the Ireland-Wales relationship.

The door remains open from both the UK and EU side to consider continued participation in such programmes. We will continue to press the case for the UK to provide funding and the EU to provide flexibility to allow for these important collaborative projects to continue beyond 2020.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 16. *We recommend that the Welsh Government sets out in its response to this report, what discussions it has had on Wales' future relationship with the Committee of the Regions after Brexit and how those discussions are progressing. - Page 64*

Response: Accept

The Welsh Government supports the principle of a continued relationship between the UK and the Committee of the Regions (CoR) and the detailed discussions already underway as to the shape of the relationship. In the transition period, we have expressed our support to the establishment of a joint Committee of the Regions-UK Commission which would if adopted by the CoR include twelve members from the CoR and twelve from the UK. We have also stated that there should be strong devolved representation in the UK's delegation to the joint commission and we would expect that the three devolved administrations should each be in a position to nominate one representative onto the committee (subject to the situation evolving in Northern Ireland). We also agree with the proposal of a permanent political forum for North-West Europe after transition which should include representatives from each of the Devolved Administrations.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 17. *We recommend that the Welsh Government explores the opportunities for both governmental and non-governmental organisations in Wales to effectively engage with the EU and its institutions after Brexit. – Page 66*

Response: Accept

As is the case with the CoR, we support the development of formal structures between the UK and the EU institutions after Brexit. It is currently difficult to foresee precisely what these structures might be as the shape of the future relationship has yet to be defined but based on the experience of other third countries we can foresee

that there would be UK desks across the Commission co-ordinated by the European External Action Service; an MEP delegation to the UK and also anticipate that the Economic and Social Committee will wish to establish a relationship with the employers, trade unions and civil society in the UK. Once these arrangements are in place, the Welsh Government will explore all the possible avenues that will allow governmental or non-governmental to engage with the EU after Brexit.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.

Recommendation 18. *The Welsh Government must call upon the UK Government to protect the human rights and equalities standards that Welsh citizens have benefited from as being citizens of the EU. – Page 66*

Response: Accept

The Welsh Government has been clear that UK withdrawal from the EU should in no way lead to a dilution in human rights protections – or, indeed, any other social, environmental or employment protections.

In *Securing Wales' Future*, published a year ago, the Welsh Government made clear: “In leaving the EU, we need to be vigilant and insistent that protections and standards which benefit our citizens and the well-being of society as a whole are not eroded”. The Welsh Government remains committed to that position and it continues to form an integral part of what we have outlined to the UK Government as our preferred negotiating position.

For these reasons, we are glad to see that amendments to the EU Withdrawal Bill made by the House of Lords ensures that the Charter of Fundamental Rights continues having legal effect in the UK. The Charter currently provides protections wherever one is within the scope of EU law.

Our consistent position is that the UK Bill should preserve it as part of the body of law derived from the EU which is to be given domestic effect on exit.

Financial Implications

None. Any additional costs will be drawn from existing programme budgets.