

Europe and International Update

Summary and Recommendations

This paper aims to update members on the ongoing UK-EU negotiations on their future relationship and wider international work relevant for this Board notably the UN climate summit in Glasgow in 2021.

The Board is invited to:

- i. Note the developments around UK-EU negotiations.
- ii. Consider the COSLA position on level playing field between the UK and the EU.
- iii. Note progress on COSLA engagement for the UN Climate Summit in Glasgow which has been postponed to next year.

References

Previous reports:

- COSLA Leaders 28 February 2020 – UK-EU negotiations
- Environment and Economy Board 6 December 2019 – European Union

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Purpose

1. To update members on the ongoing UK-EU negotiations on their future relationship and wider international work relevant for this Board notably the UN climate summit in Glasgow in 2021.

Current COSLA Position

2. The COSLA Brussels Office has been monitoring the development of the UK-EU negotiations, and indeed forthcoming EU legislation and assessing their impact on Scottish local government powers and funding opportunities. This report seek to update members of progress on all these matters as well as seek members views on how to address the issue of level playing field in the future UK-EU relationship.

What is changing?

3. The UK withdrew from the EU on 31st of January of 2020, as the EU and the UK had ratified the Withdrawal Agreement reached last October, the UK by way of the EU (Withdrawal Agreement) Act 2020. This act also sets in UK law that the present Transition Period must end on 31st December of this year. Until then while the UK is no longer a Member State the EU budget, EU law and rules such as state aid as well as EU rules on freedom of movement continue to be binding in the UK. The Withdrawal Agreement allows for the transition period to be extended for two more years if the UK and the EU agree to do so by end of June 2020, with the UK insisting it will not do so.
4. The UK and the EU have been negotiating their longer term free trade and partnership relationship since early February. As a result of the Covid-19 crisis only one round of negotiation, involving over 100 diplomats from each side (the EU led by Michel Barnier, the UK team by David Frost) actually took place in person, with the week-long negotiation rounds restarting in virtual form at the end of April and taking place every two weeks since.
5. Before the second meeting both the EU and the UK published their negotiation aims, and in the case of the EU, a full draft treaty was published. The UK has shared with the EU team draft legal texts on trade, transport, services and fisheries.
6. COSLA had agreed a number of policy positions on this process most recently at the February Leaders meeting.
7. In addition to being discussed with civil servants and Cabinet Secretary Mike Russell MSP, the COSLA President wrote to the Prime Minister on May 6 seeking clarification on how the UK Government intends to negotiate the longer-term UK-EU relationship, as well as drafting the many pieces of complex legislation required in areas such as migration, fisheries, data and environmental regulation among others.

8. The COSLA Brussels Office working together with the other UK Brussels Offices has been regularly discussing the progress with UK civil servants from the negotiation team.
9. There are two fundamental conceptual differences between the UK and the EU side, which is slowing down the negotiations. The EU aims to develop a long term relationship with the UK that is akin to a comprehensive Association Agreement whereby the UK and the EU remain closely aligned in vast areas of policy. The UK is keen on having a set of subject-specific agreements, the most important one being a free trade agreement modelled after the present EU-Canada trade deal (CETA), and all these UK draft proposals sharing in common the basic principle of agreement between the UK and the EU as sovereign equals having complete regulatory autonomy from each other.
10. This comes down to the fundamental principle of “level playing field”. The EU believes that due to the geographic proximity, the fact that the EU is the biggest individual market for the UK and the wide scope of areas that the UK wishes to have a partnership with the EU means that the UK would need not only not protect existing common standards (environmental, consumer protection, procurement, state aid) but also retain a degree of regulatory alignment with future EU legislation, which indeed is set to increase targets and rules. The UK position is that this is not necessary as the EU is not requesting such a level of alignment in other EU trade deals. Furthermore, the UK adds, Canada and the US share a border, have an even closer economic integration but its trade deal does not contemplate the need of level playing field. Fisheries is a case in point of this fundamental disagreement and a dossier that can derail the negotiations as the UK wishes annual bilateral negotiations of access to each other waters such as the EU has with Norway and the EU would aim to essentially continue with the Common Fisheries Policy being in many respects applicable to UK waters.
11. There is real risk that sufficient progress will not be made by end of June and the UK could refuse to amend the above-mentioned Act to allow for a two year extension. Cabinet Secretary Michael Gove is responsible for no deal or pre deal “readiness” preparations and co-chair the new UK-EU Joint Committee that has been convened to develop finer details of issues already agreed in principle in the Withdrawal Agreement such as the Ireland/Northern Ireland relationship. Speaking to the UK Parliament early May, Mr Gove highlighted the possibility of introducing tariffs and other World Trade Organisation terms if no agreement is reached.

Proposed COSLA position

12. This discussion is not just about principled positions. It has implications for local government insofar as future domestic rules on state aid, environmental or trading standards could depart from existing ones. Furthermore, Scottish Government, as announced by the Programme for Government, is preparing a Continuity Bill to allow the Scottish Parliament to 'keep pace' with EU law in devolved areas. There are policy areas such as shipments of waste and emission reduction that future domestic legislation cannot effectively operate unless policy developments across the North Sea are considered. Lastly, on matters such as procurement and state aid there is an inherent tension between local government keenness to maximise local choice and local decision-making and the need to have a level of trust with the EU, set to remain the UK and Scotland largest and closer international partner.
13. In order to be able to influence these discussions a number of principles on the UK and EU level playing field are therefore proposed for members consideration:
 - a. The UK and the EU have already agreed in the Withdrawal Agreement that they are keen to maintain the present high level of environmental, social or trading standards.

- b. It is COSLA's position that the high level should not only be maintained but developed in future as the UK and the EU are two leading voices for the rules based international system and able to push for higher international ambition.
- c. The key difference is as the UK is no longer part of the EU and rather than negotiating from the inside, both the UK and the EU need to find a way to develop shared levels of ambition. This requires a sufficient level of trust, particularly between geographically, economically and socially close partners.
- d. On the other hand, the UK or indeed Scotland would find it politically and legally untenable to be a mere rule-taker of future EU legislation and targets. In the case of local government it has been the continued COSLA position that if there is any dividend from UK withdrawal, it is the possibility of increasing local choice and local decision making as there is no longer need to follow the detail of EU law which is often overcomplicated and the result of trade-offs between different countries.
- e. Therefore, a possible way forward would be for the new UK-EU treaty to include a mechanism so that each side keeps informed of future proposals and the impact on the bilateral relationship factored in at an early state of policy development. For key issues such as emissions, state aid or procurement, it would appear logical that high level terms of ambition are agreed but that the specific detail on how to achieve it would be entirely left to domestic arrangements be that at UK or Scottish level as appropriate. It is clear that this mutual consultation mechanism should not only include the governments (including Devolved Administrations) via the existing Joint Committee but also Parliamentary dialogue and cooperation between local governments from the UK and the EU.

COP 26 Glasgow

- 14. International climate negotiations have been recognised by both the UK and the EU as one of their key areas of cooperation on the global stage. The EU is proposing higher climate targets for 2030 and legislating for carbon neutrality by 2050 and the UK as chair of the COP 26 summit in Glasgow is working with the EU negotiators as a key partner to mobilise wider support elsewhere in the world for an ambitious deal that can finish the job started at COP21 Paris.
- 15. Following COSLA's participation in previous COP summits, including in Madrid last December, we are presently working with our European and international membership bodies, Glasgow and the Scottish and UK organising team to seek to organise a local government day as part of the COP 26 official programme, one in which we would hope to welcome a hundred local government leaders to Scotland. While there has been good progress in advancing that scenario there are quite a number of stakeholder interests and logistical issues that need to be addressed before this is finally confirmed and COSLA, as the national association of the host country, has been doing its best to argue for this but also to mediate between the various interested parties. Quite clearly there will be limited Scottish local government participation in the main programme (as it was the case in Madrid for our Spanish counterparts) but now that the UK and the Scottish Government appear to be in the process of resolving differences, we are working to expand and maximise the opportunities arising and to have as diverse representation of Scottish Local Government as possible. Due to the coronavirus, the UK and Italy (hosts of the COP and pre-COP respectively) have agreed to postpone the COP until November 2021. However, this does not mean that preparations have slowed down, rather it has provided further space for discussions on local government participation and allows for local government partners to develop an "offer" to the COP organising team that is as robust as possible.

Next Steps

16. The COSLA Brussels Office will continue monitoring and where applicable influencing progress on these agendas and will seek more detailed views from this Board as detail on the above issue emerge.