

COSLA Lobbying on UK-EU Negotiations

Summary and Recommendations

This paper provides a brief assessment of the UK and EU opening positions ahead of the start of the UK-EU negotiations for the future long term relationship that will take place throughout 2020. It asks Leaders to consider, and agree, with any amendments, COSLA's high level lobbying positions. These may be further developed by Leaders and Boards when they are asked for views on specific issues as negotiations progress through 2020.

This paper invites Leaders to:

- i. Consider the opening positions of the UK and the EU ahead of the start of the negotiations on the future relationship due to start in March;
- ii. Agree, with any amendments, the COSLA negotiation and lobbying positions on Phase 2 of the UK-EU negotiations listed in paragraph 14; and
- iii. Welcome the developments to secure a cooperative approach with Scottish and UK partners as well as with our EU counterparts to influence the discussions both at domestic level and in Brussels.
- iv. Approve the proposal briefly summarised at paragraph 16, to help meet the additional demand for Export Health Certificates from January 2021.

References COSLA Leaders 31 January 2020 - UK Exit from the EU - Update

- **COSLA Leaders 31 January 2020 – UK Exit from the EU Update**
- **COSLA Leaders 25 October 2019 – UK Exit from EU Update**
- **COSLA Convention 7 October 2016 - Developing COSLA's Response to Leaving the European Union**
- **COLSA Leaders 25 January 2016 - Transatlantic Trade and Investment Partnership**

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Purpose

1. To ask Leaders to consider, and agree, COSLA's high level lobbying positions ahead of the UK-EU negotiations, that will take place throughout 2020, for the future long term relationship. These may require to be refined further by Leaders and Boards when they are asked for views on specific issues as negotiations progress during 2020.

Current COSLA Position

2. At the Leaders meeting in January a paper was presented which provided an update on COSLA activity around Brexit and indicating that an action plan, including current lobbying positions, would be developed before February's meeting. This paper focuses on the key positions that will inform COSLA's future Brexit work and highlights key actions set out in the current draft.
3. Following ratification of the Withdrawal Agreement by the UK and the EU, the UK ceased to be a EU Member State as of 31 January 2020. The UK remains bound by EU rules, regulations and funds until at least the end of 2020. This transition/implementation period is to allow the UK and the EU to agree a longer-term free trade and cooperation agreement ("Phase 2" negotiations). While the UK can request, before the end of June, to extend this period until end 2022; the UK Withdrawal Act 2020 aims to avoid that scenario.
4. The UK and the EU outlined their draft negotiation lines on 3 February and we have an understanding of their respective negotiation aims, secured through discussions with UK and EU civil servants close to the discussions. In this context it is important that COSLA reviews and agrees its own set of negotiation lines to ensure a continuing mandate for our political leadership and officers as we engage in discussions with the Scottish, UK and EU negotiators over the coming months.
5. Many of the proposals set out below at paragraph 14 update long established negotiating lines that COSLA agreed previously for earlier EU negotiations and for trade deals such as the Canada-EU Trade Agreement (CETA) – already concluded – and the unfinished US-EU trade deal, known as Transatlantic Trade and Investment Partnership (TTIP).

What is changing?

6. The Prime Minister and EU negotiator, Michel Barnier, have indicated that both wish to secure a Free Trade agreement – similar to that concluded with Canada and other countries - by the end of 2020. It would include financial and other services, security, justice and diplomatic cooperation, fisheries, and data protection; all of which are absent or very modest in any previous EU trade deal.
7. Both the UK and the EU share the aim of reaching a deal based on "no tariffs, fees, charges or quantitative restrictions between the UK and the EU and rules of origin". Both signal a willingness to allow for Custom and Trade facilitation, reduce Technical Barriers to trade in goods, providing for cooperation on technical regulation, standards, conformity assessment procedures and market surveillance, as organic products, motor vehicles, chemicals and pharmaceuticals, and reciprocal supervision.

8. In contrast to other EU trade deals both sides are open to a degree of free trade in some services, particularly for professional and business services, which would include mutual recognition of professional qualifications.
9. There is also a shared ambition to secure reciprocal access to road transport, freight and air services. Equally the possibility of short term work, study and professional visa-free travel will be explored. Of course, many of the similarities around broad principles may be dropped once the negotiation talks start looking into the detail.
10. There are some issues of principle that separate both sides. The UK is content with a narrowly defined set of treaties setting high principles, while the EU is seeking a very detailed and comprehensive single agreement. Similarly, differences are evident when it comes to how the respective laws on procurement, state aid, environment, climate labour and law should evolve. The EU are aiming for a “level playing field” i.e. a requirement for the UK to mirror evolving EU rules almost automatically, while the UK is resisting this, on the basis that certain EU standards (e.g. state aid subsidies) are higher in the UK than in EU27.
11. In view of these issues securing an agreed comprehensive deal by mid-October – so that the EU summit can also agree it – and enable both UK and EU Parliaments to ratify it, appears challenging.

Proposed COSLA position

12. Negotiations will start in early March and will need to have made significant progress before the end of June. The UK has legislated to avoid having to extend the transition period until the end of 2022 but the UK-EU Withdrawal Agreement does still allow this if requested by the UK before 30 June.
13. Leaders will recall from the report considered in January, that the UK-EU negotiations for the long term relationship will have implications for Local Government powers, finances and public services, for the constitutional settlement of Scotland, intergovernmental relationships and future engagement of Local Government with our EU counterparts at political, policy and funding levels.
14. Leaders are therefore invited to consider and agree the following draft COSLA negotiation and lobbying positions on Phase 2 of the UK-EU negotiations:
 - seek clarification on how, within what is a short timescale, the Government intends to negotiate the longer-term UK-EU relationship and to draft the many pieces of legislation required on migration, fisheries, data, environmental regulation among others and whether there will be opportunities for meaningful consultation with Local Government;
 - express concern about disentangling citizen rights from the Withdrawal Agreement Act 2020 and the potential reciprocal effect it might have on UK citizens residing in EU27; and request that the full set of rights of EU27 nationals agreed with the EU be reflected in domestic UK legislation;
 - lobby to ensure that the Devolution settlement, Local Government powers and existing employment, state aid, procurement, and trading standards legislation are not undermined or traded off in the Phase 2 negotiations and future Free Trade Agreements with the US or other countries;
 - insist that the new UK common frameworks to deal with cross cutting matters on EU returned powers, and participation of Scottish and Local Government, such as on

environmental or state aid matters, are at least equivalent to what has, up to now, been the case when such matters have been dealt with by the European Commission;

- support the ongoing work to secure a more cooperative approach both in terms of intergovernmental relations within the UK – including developing Local Government consultative arrangements with the UK and Scottish Governments – as well as new ways of cooperating to influence the EU by way of the UK Brussels Based Offices Organisations Group and the new UK-Committee of the Regions Contact Group;
- urge the UK Treasury to provide a positive business case and funds so that UK bodies can opt into future EU funding programmes such as those for research (Horizon Europe), Education (Erasmus), European Territorial Cooperation (INTERREG) among others;
- Liaise with UK and Scottish Governments, as appropriate, to ensure Scottish Local Government is provided with the resources required to prepare for and deliver on all the implications of the UK Withdrawal from the EU.

Next Steps

15. The year ahead will see a number of workstreams taken forward by officers in order to ensure the issues and risks for Local Government in Scotland are understood, mitigated and funded. To this end an action plan has been drafted to include a range of work such as the provision of environmental health food safety certificates (funding), EUSS/Workforce Issues, food supplies, trade, devolution of powers, UK wide engagement, and future international engagement.
16. A key immediate need is the provision of funding to meet the costs of increased demand for Export Health Certificates (EHCs). The starting position of the UK Government to negotiations does strongly suggest that EHCs will be required from January 2021. Michael Gove confirmed this himself at a recent event.
17. Environmental Health Officers have developed a proposal to recruit and train up to 50 additional officers who can be deployed exclusively to EHCs. The costs of this are £4.28 million over 2 years (2020/21 and 2021/22). After this point the costs should be met from council budgets through increased revenues from issuing EHCs, though this will need to be kept under review to ensure income does meet costs.
18. It needs to be borne in mind that recruitment of the estimated 50 additional officers required may not be possible as it relies on securing individuals who are qualified in similar areas, and as a result require significantly less training. These numbers are expected to be low, and many may already be in employment. However, this is the only route towards increasing the workforce in the time available and as such it is the proposed way forward. If Leaders approve, officers will continue to work with EHOs on this and will submit the proposal formally to the Scottish Government for urgent consideration and discussion with the UK Government.
19. Leaders and Boards, as appropriate, will continue to be apprised of developments in all areas relevant to the UK withdrawal from the EU and will have the opportunity to further develop on the detail of the above high level positions.
20. More generally, COSLA will build upon this updated position to continue working with our UK and EU counterparts to secure the best deal possible for our communities.