

BREXIT CONFERENCE: SCOTLAND'S OPTIONS, EDINBURGH 10 MARCH

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ACHIEVING THE BREXIT AMBITIONS OF THE SCOTTISH GOVERNMENT WITHIN THE UK GOVERNMENT'S "RED LINES" - THERE'S STILL A LOT TO PLAY FOR

A FUTURE UK-EU TRADE AGREEMENT COULD:

- SECURE SINGLE MARKET ARRANGEMENTS FOR SERVICES, WHICH WOULD ADDRESS PRIORITIES IDENTIFIED BY THE SCOTTISH GOVERNMENT
- INCLUDE REGIONAL WORK PERMITS FOR EU MIGRANTS IN SCOTLAND AS PROPOSED BY THE SCOTTISH GOVERNMENT, AS PART OF A FUTURE UK-EU TRADE AGREEMENT GIVING A FAVOURED STATUS TO EU NATIONALS
- SECURE THE FREE MOVEMENT OF GOODS FOR SCOTLAND'S EXPORTS TO THE EU
- AVOID THE BORDER BETWEEN SCOTLAND AND THE REST OF THE UK WHICH SCOTTISH EEA MEMBERSHIP COULD ENTAIL

BUT "*IT'S AN ILL WIND THAT BLAWS NAEBODY ANY GUDE*"² (apologies to Sir Walter Scott):

BREXIT OPENS UP A NEW OPPORTUNITY FOR SCOTLAND - TO PRESS THE UK GOVERNMENT TO NEGOTIATE THE NEW TRADE DEALS WHICH WILL BUILD ON SCOTLAND'S OUTSTANDING SUCCESS IN EXPORTING ITS GOODS AND SERVICES TO COUNTRIES OUTSIDE THE EU.

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² My thanks to "Project Gutenberg" which places over 50,000 copies of works of literature free online. The words quoted are from Scott's *Rob Roy*, <http://www.gutenberg.org/ebooks/7025> Chapter 10.

THE NEGOTIATING AIMS OF THE UK GOVERNMENT

1. The UK White Paper declares the UK Government's aim of negotiating *"an ambitious and comprehensive Free Trade agreement..."*³
2. The UK Government rules out:
 - Membership of the single market, and
 - Partial Membership of the EU.

BUT THE UK GOVERNMENT DOES NOT RULE OUT SINGLE MARKET ARRANGEMENTS AND CONTINUED RECIPROCAL APPLICATION OF SINGLE MARKET RULES.....

3. The White Paper states that the ambitious and comprehensive Free Trade Agreement the UK will negotiate with the EU:

"... may take in elements of current Single Market arrangements in certain areas as it makes no sense to start again from scratch when the UK and the remaining Member States have adhered to the same rules for so many years. Such an arrangement would be on a fully reciprocal basis and in our mutual interests."

4. What are the "certain areas" in which "elements of current single market arrangements" will be retained? The Prime Minister's Lancaster House Speech identifies "the freedom to provide financial services across national borders", and some trade in goods ("the export of cars and lorries for example").⁴

THE POINT AT WHICH UK NEGOTIATING OBJECTIVES OVERLAP WITH THE BREXIT AIMS OF THE SCOTTISH GOVERNMENT

5. This is a point at which at which the UK's negotiating objectives, as currently expressed, overlap with the Scottish Government's policy of the UK as a whole seeking membership of the EEA.
6. EEA membership for the UK might be off the agenda, but a hybrid trade agreement, which incorporates elements of current single market arrangements, is not.

³ "...and a new customs agreement. This agreement will help to support our aim of trade with the EU that is as frictionless as possible" (page 35, at 8.1). The reference to a customs agreement should probably be read in conjunction with the reference to single market arrangements for the export of cars and lorries. The aim of the new customs agreement will probably be to mitigate the loss of the customs union in certain sectors by UK guarantees that certain products exported from the UK to the EU will fully comply with agreed rules of origin.

⁴ <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>

THE UK WILL PROBABLY AIM TO NEGOTIATE A HYBRID TRADE AGREEMENT WITH THE EU. THE PROVISIONS ON GOODS, SOME SERVICES, AND FREEDOM OF INVESTMENT, WOULD BE BASED ON THE “CANADA” OR CETA MODEL, AND THE PROVISIONS ON (FINANCIAL + OTHER?) SERVICES WOULD BE LOOSELY BASED ON THE EEA MODEL

7. What the UK will be seeking from the EU will not be an EEA agreement, nor anything very close to it. It will be an agreement that will have a number of features of trade agreements that the EU has been negotiating with third countries in recent years, and it is likely to draw on the most recent of those, the EU-Canada, or CETA agreement.

8. That model - the CETA model - is likely to inspire the provisions on free trade in goods, services (to a greater or lesser extent) and freedom of investment. The main trade elements of the proposed “Strategic Partnership”⁵ will be drafted in the way that EU third country international agreements are drafted, and will not be copied and pasted from the EU Treaty’s internal market provisions.

9. That said, the single market arrangements which the UK thinks should be taken into the new trade agreement, could only operate if those arrangements are based on or linked to EU secondary legislation in one way or another, and some provision is made for appropriate account to be taken of judgments of the EU Court of Justice.

10. If the UK gets what it wants, the “single market arrangements” will cover financial services, including “passporting” for financial operators. That would bring a degree of market access which the CETA model would not deliver. This would accord the priorities of the Scottish Government. But the deal could go further than that, and the single market arrangements might be extended to other services, or to services generally.

11. Export statistics suggest that both Scotland and the UK as a whole could benefit from a UK-EU trade agreement which applied single market arrangements to services generally, as well as financial and insurance services.

Scottish exports of financial services to the EU, rest of the world, and the rest of the UK - the statistics

12. A major advantage of the single market as far as the UK as a whole is concerned, is the ability of UK based financial operators to market their services in other EU countries, facilitated by the “passporting” of banks, insurance companies, and other financial institutions. The importance of passporting has been stressed by the Scottish Government and by the recent Brexit Report of the Scottish Parliament.⁶ Exports of financial and insurance

⁵ The White Paper refers to “a new strategic partnership with the EU, including an ambitious and comprehensive Free Trade Agreement and a new customs agreement” (page 35).

⁶ http://www.parliament.scot/S5_European/Reports/CTEERCS052017R04.pdf pages 16 and 17.

services comprise 1.6% (£205 million) of Scotland's total exports to the EU. Scottish exports to the rest of the world in this category do much better - at £1.1 billion they are worth 5 times as much as Scottish exports to the EU.

13. Scottish exports of financial and insurance products to the rest of the UK are worth 36 times as much as Scottish exports in this category to the EU (£7.5 billion to the rest of the UK as against £205 million to the EU).

Scottish exports of professional, scientific and technical services - the statistics

14. Scotland would benefit even more from a single market approach to services in general. This would include the important category of professional, scientific and technical services, which includes legal, accounting, management, architecture, engineering, and technical testing and analysis. These services (Scotland's largest international export service) comprise 12.2% of all Scotland's international exports, though exports to the rest of the world (£2.5 billion) considerably exceed exports to the EU (£980 million), with exports to the rest of the UK totalling £4.5 billion.

15. For the UK as a whole, exports to Europe of professional, management consulting and R&D services stood at £17.7 billion for 2015. The ONS statistical bulletin: International Trade in Services, UK: 2015, states that "*the growth in exports of these types of services from within Europe was mainly due to the EU.*"⁷

THE SCOTTISH GOVERNMENT COULD PRESS THE UK GOVERNMENT TO NEGOTIATE SINGLE MARKET ARRANGEMENTS FOR SERVICES ACROSS THE BOARD, AND NOT JUST IN RESPECT OF FINANCIAL SERVICES.

16. The logic (for the Scottish Government) of doing this would be:

1. It would bring about the same result for services as would the Scottish Government's first preference, of the UK joining the EEA, and its second preference, of Scotland "joining" the EEA under a special deal.
2. It would be consistent with the importance the Scottish Government has attached to retaining opportunities provided by the single market in services,⁸ including financial services,⁹ which are of key importance to the UK economy as a whole.

⁷ <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/bulletins/internationaltradeinservices/2015#trade-in-services-products-geographical-analysis>

⁸ *Scotland's Place in Europe*, paragraph 50: "The Commission estimates that a fully functioning single market in digital services could add €415 billion to the EU economy. Additional growth would result from increased trade in cross-border services in a huge range of sectors, from cloud computing to engineering and accounting. Similarly, it is estimated that full implementation of the Services Directive could add a further 1.8% to EU GDP."

3. It would demonstrably be in the interests of the UK as a whole, and might secure cross party support in the Westminster Parliament.
4. Although the single market arrangements would not in general cover trade in goods (though the PM did refer to single market arrangements for exports of cars and lorries) the sort of agreement the UK is likely to negotiate with the EU in respect of the free movement of goods would produce commercial effects for Scotland which would be hard to distinguish in practice from membership of the EEA. Scottish membership of the EEA would not cover trade in agricultural products. The UK/EU agreement is likely to provide for tariff-free trade in all or virtually all agricultural products, which would benefit Scotland as it would benefit the UK overall.

WOULD A SCOTTISH GOVERNMENT PROPOSAL THAT SINGLE MARKET ARRANGEMENTS APPLY TO THE SERVICES SECTOR CONFLICT WITH THE UK GOVERNMENT'S NEGOTIATING AIMS?

17. In the first place, the UK Government has indicated that it will seek to retain single market arrangements for some exports of goods, and for financial services. It would be difficult for the UK Government to say that extending that ambition to the services sector generally would cut across the scheme in the White Paper.

18. That said, the "single market arrangements" aim of the UK Government does not sit entirely comfortably with other aims expressed in the White Paper, so a little more needs to be said.

19. The UK Government has made it clear (in the Prime Minister's Lancaster House Speech and in the Brexit White Paper) that it will not enter into a trade agreement with the EU which requires the UK to accept:

- The authority of EU laws
- The direct effect and supremacy of those laws
- The jurisdiction of the Court of Justice of the European Union.

20. **But** the UK Government has not (in my judgment) ruled out:

- UK access to the EU single market (for example in respect of the cross-border provision of services) being conditional on the UK applying the same standards as the EU, on a reciprocal basis.

⁹ *Scotland's Place in Europe*, paragraph 37: "Sectors like financial services have significant spillovers into other parts of the economy and, therefore, any slowdown here will impact more widely on people and businesses."

- Adapting UK law to meet evolving EU standards (for example in respect of the cross-border provision services), if this is not automatic and the UK has a choice in the matter (this would be similar to the EEA or “Norway” approach).
- Committing UK courts to interpreting UK law which incorporates EU standards by reference to those standards (this would be similar to the EEA or “Norway” approach).
- Agreeing to Interpret EU standards in accordance with judgments of the CJEU as they stand at the time of the agreement, and taking due account of the principles laid down in any subsequent judgments (this would be similar to the EEA or “Norway” approach).

21. Freedom to provide services under single market conditions has implications for the free movement of self-employed persons. The UK would be unlikely to allow individual self-employed service providers to use their status to secure residence in the UK.

**WOULD A UK DEMAND FOR CONTINUING SINGLE MARKET
ARRANGEMENTS IN RESPECT OF FINANCIAL SERVICES/SERVICES
PROVOKE AN EU DEMAND FOR CONTINUING SINGLE MARKET
ARRANGEMENTS FOR THE MOVEMENT OF PERSONS?**

22. It is unlikely that the EU will negotiate a special deal for single market access for financial services without raising the question of the free movement of persons, and clearly the same will be true if the UK seeks single market access for services in general. If the UK seeks to “take in single market arrangements in certain sectors” the EU will suggest that one of those sectors should be the free movement of persons.

23. That might justify a *quid pro quo* from the UK in respect of rights of free movement of persons, but that *quid pro quo* could not, from the UK point of view, include anything which looks like free movement of persons as it has applied in the UK to date.

**COMBINING GENUINE RIGHTS FOR EU MIGRANTS WITH GENUINE UK
CONTROL OF NUMBERS, AND REGIONAL WORK VISAS AS PART OF
THE DEAL**

24. The UK’s position on EU migration is very clear in the White Paper. It states (page 25, at 5.4):

“We will design our immigration system to ensure that we are able to control the numbers of people who come here from the EU.”

25. That policy commitment would not necessarily prevent the UK from including provisions on EU migration to the UK in a future trade agreement with the EU.

26. It is possible to combine genuine rights for EU workers with genuine UK control of numbers. This could be done through the use of a number of “filters”

- EU migrants admitted to work only if they hold a job offer
- Eligible jobs defined by area (Scotland, London), and/or salary level (more than 150% of the living wage), and/or sector (NHS, care homes, agriculture, food processing, banking, universities, information technology)
- All relevant jobs to be advertised locally first

27. What are the current plans of the UK Government? The following press report of 26/02/17 indicates the direction of travel:

“The Sunday Times reported that ministers were considering a five-year working visa whose holders would be banned from claiming benefits.

Rudd said that was one of a number of options which would be considered, alongside a work permit system where the government would control how many EU citizens could enter the UK every year to take up a job offer with a UK company.”¹⁰

28. In *Scotland’s Place in Europe* the Scottish Government argues that Scotland could have different rules for EU immigration than the rest of the UK. It notes that the Mayor of London has explored a plan for work visas for London after Brexit.¹¹

29. The UK Government has so far its face against this sort of option, on the grounds that the present national scheme adequately meets the need of employers, including employers in Scotland, and that the suggested regional variation would be administratively complicated.¹²

30. One possible criticism of the UK Government’s approach to regional work visas is that it underestimates the importance of different public attitudes

¹⁰ <https://www.theguardian.com/uk-news/2017/feb/26/immigration-will-not-dramatically-fall-after-brexitsays-amber-rudd>

¹¹ Paragraphs 160-162.

¹² “Evidence to date suggests that Scotland’s needs are broadly aligned with the rest of the UK. We do not consider a Scotland-specific visa scheme to be in the best interests of the integrity of the immigration system, or in the interests of UK employers and landlords who would be required to check whether a migrant’s status restricted their ability to work to Scotland. Such a scheme would not be practicable, for example, for employers who are headquartered in Scotland but need the flexibility to deploy their staff to other parts of the UK to engage in employment activity.” HC Scottish Affairs Committee, Post-Study Work Scheme: Government Response to the Committee’s Fourth Report of Session 2015-2016, Third Special Report 2016-17, page 12.
<https://www.publications.parliament.uk/pa/cm201617/cmselect/cmsscota/787/787.pdf>

to immigration in different parts of the UK. Granting work visas in respect of jobs in particular locations could channel immigration into areas where it was most valued by the public at large, as well as by employers.

31. There is no technical reason why the Scottish Government should not continue to press for a regional work visa scheme, not just for Scotland, but for different regions of the UK. Such a scheme could figure as a component in a UK-EU deal on the favoured status of EU nationals, which could in turn facilitate the achievement of goals in UK negotiations which would benefit Scotland and the UK as a whole.

THE SCOTTISH GOVERNMENT'S PROPOSAL FOR SPECIAL EEA MEMBERSHIP FOR SCOTLAND COULD LEAD TO A CUSTOMS BORDER BETWEEN SCOTLAND AND THE REST OF THE UK

32. The Scottish Government recognises that its proposals for special EFTA and EEA membership for Scotland would be novel and complex, and would require all concerned (including the EU) to be flexible and innovative. I shall deal with a single issue - the potential that the proposals would have for a customs border between Scotland and the rest of the UK.

33. I wanted to refer to the border question for two reasons. The first is because it could be relevant to the viability of the proposal. The second is because it raises issues about the Ireland/Northern Ireland border after Brexit which are of great public interest in themselves.

34. The Scottish Government's proposal for special EFTA and EEA membership for Scotland assumes the possibility of different tariffs on UK imports from the EU and EFTA countries, depending on whether the goods will ultimately be sold in Scotland or the rest of the UK.

35. I accept this hypothesis (the possibility of different tariffs), for the sake of argument. On this assumption, the proposal for special EFTA and EEA membership for Scotland would involve border checks between Scotland and the rest of the UK, to avoid goods cleared for sale tariff-free in Scotland being consigned, or re-consigned, over the border to be sold in the rest of the UK.

36. Goods imported into the rest of the UK, and given tariff-free status because destined for sale in Scotland, would have to be subject to a special transit procedure to Scotland to ensure that they were not diverted for sale in the rest of the UK, rather than in Scotland.

37. The Scottish Government seems to agree that a customs border between Scotland and the rest of the UK would be involved, since it considers it relevant to refer to the borders between Norway and Sweden, and Ireland and the UK, in this context. Some brief reference to these borders is appropriate.

38. First, the Scottish Government refers to the border between Norway and Sweden as having “little practical effect.” This border is a genuine border, with border checks.¹³ There are green lanes, provisions for automatic number plate recognition, customs stations, and checks on commercial vehicles. If the Scottish Government is suggesting that that is a good model for the border between Scotland and England, it is only right to make the point explicitly that crossing that border would involve customs checks.

39. Then there is the forecast of the Scottish Government that the border between Ireland and Northern Ireland will, despite Brexit, remain “invisible”. It is true that UK Government has committed itself successively to an “open” border, and a “frictionless” and “seamless” border. This is the right commitment to be making, but it is equally right to ask: what does it mean?

40. I note that Ireland’s EU Commissioner, Phil Hogan, stated in January 2017 that:

“The return of a “hard border” between Northern Ireland and the Irish Republic looks inevitable if Britain leaves the European Union’s single market.”¹⁴

41. A forecast of the Ireland/UK border after Brexit that would be close to the above description of the Norway/Sweden border has appeared recently in the Irish Examiner (6th February 2017). The authors of the article seem to contemplate a “hard border” in the form of border posts:

“Furthermore, Ireland and the UK could agree that there is only one border stop so that an export from Ireland is treated at the same time as an import into the UK, and vice versa.

This can be achieved either through a joint border office in which officials from both countries are working, or by empowering, eg, the customs officials of Ireland to act also on behalf of the UK.”¹⁵

42. The best bet for an “open” “frictionless” border between Ireland and Northern Ireland is that checks at the border can be limited to spot checks, and that fixed customs depots can be located away from the border. If that is the sort of border the Scottish Government has in mind for Scotland, if it become a special member of EFTA and the EEA, then it might be better to recognise that that border will have customs posts/depots of one sort or another, and that commercial vehicles will have to be checked.

43. The Scottish Government also cites the example of Svalbard’s relationship with Norway, to show that one country can be partly in EFTA, and partly out of EFTA. But the Scottish Government does not point out that there

¹³ David Anderson QC, Brick Court Chambers Brexit Law Blog, *Brexit and the Border* <https://brexit.law/2017/01/09/brexit-and-the-border/https://brexit.law/2017/01/09/brexit-and-the-border/>

¹⁴ <http://uk.reuters.com/article/uk-britain-eu-ireland-idUKKBN14T0U1>

¹⁵ <http://www.irishexaminer.com/viewpoints/analysis/the-irish-border-after-brexit-will-be-real-but-can-be-simplified-442136.html>

are customs checks on trade between the two, and the fact that goods moving between the two are treated for customs purposes as transit from a foreign country.¹⁶

44. If one of the aims of special EFTA and EEA membership is to provide insurance to Scotland against a UK trade deal with the EU which leaves tariffs in place for Scottish exports of goods to the EU, it should be made explicit that this would involve a customs border between Scotland and the rest of the UK. This would mean a kind of withdrawal of Scotland from the "UK customs union", since Scottish exports to the rest of the UK could not include goods imported from the EEA tariff free on condition that they be sold in Scotland. This would be a non-tariff barrier for £20 billion worth of Scottish exports to the UK. It could also operate as an actual tariff barrier, if a trader wished to export goods to the rest of the UK, which had originally been imported into the UK tariff free from the EEA, on the basis of sale in Scotland.

45. The above discussion is based on the hypothesis that the UK does not manage to negotiate a free trade agreement covering tariff-free trade in goods (leaving aside agricultural products). I would reiterate that I think that the UK will negotiate such an agreement. That would make it possible to combine special Scottish EEA membership with the UK trade agreement with the EU, without a customs frontier between Scotland and the rest of the UK. But it would also make the Scottish special arrangements largely redundant as regards trade in goods.

IT'S AN ILL WIND, ETC....

BREXIT OPENS UP A NEW OPPORTUNITY FOR SCOTLAND - TO PRESS THE UK GOVERNMENT TO NEGOTIATE THE NEW TRADE AGREEMENTS WHICH WILL INCREASE SCOTLAND'S SUCCESS IN EXPORTING ITS GOODS AND SERVICES TO THE WORLD OUTSIDE THE EU.

WILL THE UK ENJOY THE BENEFIT OF THE TRADE AGREEMENTS WITH SINGAPORE AND CANADA NEGOTIATED BY THE EU? PROBABLY "YES".

AND AN EARLY TRADE AGREEMENT WITH AUSTRALIA (NO.15 ON SCOTLAND'S TOP 20 EXPORT DESTINATIONS) LOOKS POSSIBLE

¹⁶ <http://www.spitsbergentravel.com/start/The-Travel/Customs-regulations-for-Svalbard/>
"Goods and luggage that are brought from Svalbard to Norway may be checked by customs on arrival to the mainland, as if the arrival was from abroad".
<http://www.toll.no/en/corporate/export/export-declaration/> *"If you remove or export goods from Norway, you must always declare the goods to Norwegian Customs.... Svalbard and Jan Mayen are considered as overseas for customs purposes. This means that you must declare goods that you export there."*

46. Since 2002, Scotland's exports to the EU have increased by 8%, while exports to the rest of the world have increased by 84% - even faster than Scotland's exports to the rest of the UK, which have increased by 74%. Most of this spectacular export success outside the EU has been achieved with countries which do not have a free trade agreement with the UK through the EU. Of Scotland's top 20 export destinations, the EU has free trade agreements with non-EU countries Norway, Switzerland, Singapore and Canada.¹⁷ Brexit brings two challenges, the first short term, and the second longer term.

47. The short-term challenge relates to trade with Singapore and Canada. Both are in the list of Scotland's top 20 export markets (at numbers 16 and 18 respectively). Both have concluded free trade agreements with the EU which will shortly take full effect. Will Brexit prevent Scotland enjoying the benefit of free trade agreements with those markets? Probably not.

48. Prime Minister Lee Hsien Loong said in January that Singapore would sign a trade deal with the UK after Brexit.¹⁸ Pending formal negotiation and conclusion of a new trade agreement, the UK and Singapore could agree to trade on the terms in the EU-Singapore agreement as if the UK were still a member of the EU. This could, as a matter of international law, be achieved by an "exchange of notes" (an informal binding agreement comprised by an exchange of correspondence). The relevant text of the CETA agreement could be incorporated by reference, and a formal free-standing text could be negotiated and concluded in due course.

49. The Canadian Ambassador to the UK said in February that Canada and the UK should be able to strike a speedy trade deal after Britain leaves the European Union.¹⁹ Once again, the first step could be a simple international agreement to trade on CETA terms as if the UK were still a member of the EU, pending the adoption of a new formal agreement. The UK is Canada's biggest customer in the EU, and prospects for a free trade agreement with the UK look good.

50. The second challenge is longer term. After Brexit, the UK will be able to seek its own free trade agreements with countries around the world. All of Scotland's political parties and the Scottish Government have a considerable policy interest in identifying those third country markets where a free trade agreement with the UK would increase the sales opportunities for Scottish exporters. Australia is number 15 on Scotland's top 20 export destinations

¹⁷ The Canada agreement has just taken provisional effect, and the Singapore agreement has yet to enter into force. The "Europe" Committee of the Scottish Parliament mistakenly states that the EU has free trade agreements with Brazil, the UAE, and Australia, http://www.parliament.scot/S5_European/Reports/CTEERCS052017R04.pdf , page 15

¹⁸ <http://www.straitstimes.com/business/economy/strong-ties-will-boost-any-spore-trade-deal-with-post-brex-it-uk>

¹⁹ <http://www.businesstimes.com.sg/government-economy/canadas-uk-envoy-says-fast-post-brex-it-trade-deal-is-possible>

(£555 million). In January this year Australia's finance minister indicated goodwill on both sides for a future agreement.²⁰

51. In her Lancaster House speech, the Prime Minister said:

"Countries including China, Brazil, and the Gulf States have already expressed their interest in striking trade deals with us."

52. This indication of specific countries wishing to open negotiations with the UK, sooner rather than later, is of significant policy interest to Scottish political parties, and to the Scottish Government. All these States figure in Scotland's top 20 export destinations, with Brazil at number 10 (£750 million), UAE (included in the Gulf States) at number 11 (£735 million), and China at number 14 (£605 million). It is not surprising that the Scottish Parliament's "Europe Committee" has called for the Scottish Government to be involved in UK discussions on future trade deals.²¹

53. Increasing export opportunities through free trade agreements with countries which are already receptive to Scottish exports could lead to increased growth in export sales and GDP. It could also change for the better forecasts of the future effects of Brexit for Scotland.

No forecast of the future will inevitably come to pass, and the adverse effects of Brexit can be mitigated by a policy of actively seeking new export opportunities through new free trade agreements

54. The Report prepared for the Scottish Parliament entitled "Long Term Economic Implications of Brexit" predicts Scottish GDP being between 2% and 5% lower over the long term as a result of Brexit.²² That report acknowledges that policy may respond in the aftermath of Brexit - e.g., possible new trade deals with 3rd countries, but takes that policy dynamic as *fixed*.²³ In *reality* that policy dynamic is *not* fixed. UK Government policy can generate GDP for Scotland through trade agreements that would not have been struck had the UK remained in the EU. That is not an argument that Brexit was a good idea. It is an observation that the adverse effects of Brexit can be mitigated, and that it is likely that those adverse effects will be mitigated.

²⁰ <http://www.politico.eu/article/australia-ready-to-strike-post-brexit-trade-deal-very-quickly-mathias-cormann/>

²¹ http://www.parliament.scot/S5_European/Reports/CTEERCS052017R04.pdf page 6.

²² <https://www.sbs.strath.ac.uk/economics/fraser/20161006/Long-term-Economic-Implications-of-Brexit.pdf>

²³ Page 8.