

**Written evidence submitted by Michael Russell MSP Cabinet Secretary for Constitution,
Europe and External Affairs at Scottish Government (FRE0114)**

Thank you for your letter of 14 May. At this crucial stage in the Brexit process I am glad to have the opportunity to respond to your questions below.

If I may, before turning to address the questions you raise, I would like to draw your attention to the firm position of the Scottish Government in regard to the need to extend the transition period. We believe it is not and will not be possible to conduct and conclude those negotiations, and implement the results, within the truncated time scale set for them and within the context of an unprecedented global pandemic and an economic recession, which may turn out to be the worst in 300 years.

It is therefore, in our view, essential that the UK Government indicate that it will seek the extension of up to two years in the negotiations which is provided for in the Withdrawal Agreement. Our view is supported by many businesses and the public in Scotland. New economic analysis, published on 03 June by the Scottish Government, indicates that ending transition this year would result in Scottish GDP being between £1.1bn and £1.8bn lower by 2022 (0.7 to 1.1% of GDP), compared with ending transition at the end of 2022. That would be equivalent to a cumulative loss of economic activity of between nearly £2bn and £3bn over those two years. A proportionate impact would be likely for the UK economy. This will clearly hamper recovery from the impact of the pandemic.

That would mean Scotland, and the UK as a whole, being subjected to an entirely unnecessary second economic and social shock on top of the COVID-19 crisis. More jobs would be lost, living standards would be hit and essential cooperation would be damaged. For many businesses which manage to survive the coronavirus crisis, this second, Brexit, shock would hit them at their weakest, and be the final straw to put them out of business. Each business lost is a permanent reduction in Scotland's productive capacity, and thus in our long-term prospects for inclusive, sustainable growth.

ANNEX 1: question responses

What are your priorities for the future relationship negotiations? What would be the possible consequences of a deal which does not meet these priorities?

Scotland voted to remain in the EU, and the Scottish Government continues to be opposed to EU exit. We believe the best future for Scotland is to become an independent country and member of the EU. However, in any circumstance the Scottish Government will seek to protect Scotland's interests as much as possible.

The Scottish Government's priority for the negotiations in the context of an unwelcome Brexit is therefore for the UK and EU to secure a deal that will protect Scottish jobs, protect our economy and promote and safeguard our high standards in areas including environmental protection and climate change, labour standards, citizens' rights and food standards. We do not believe these objectives can be met on the basis of the UKG's strategic objectives and approach to the negotiations. So, even if there is an agreement, it will cause considerable damage to Scotland's interests. Thus we believe UKG should fundamentally change their overall approach. However, failing that, we will continue to do what we can to influence UKG to minimise that damage to Scotland.

We absolutely want to see the avoidance of a disastrous no deal outcome at the end of the year. As such we have made clear to UK Government, alongside the other Devolved Administrations and a number of external stakeholders, that the UK and EU should agree to an extension of the current transition period as soon as possible.

Otherwise we shall face the severe economic impacts and scarring I outlined above.

It is essential that any agreement recognises and respects the differences between Scotland and the rest of the UK, including our independent and distinct legal system.

We believe that every strand of the negotiations is important, and indeed every aspect will have consequences for Scotland, our economy and our people. Throughout the negotiations process we have been kept in the dark by the UK Government as to both the negotiating detail and its strategy for reaching agreement. In the absence of knowing UK Government priorities, and how these might reflect Scottish interests, it is very hard for us to engage effectively with the process. We have sought throughout this process to influence areas of the negotiations that involve devolved competencies and interests, and where the implementation of the agreed outcomes will be required by the Scottish Government. Some of the potential consequences are outlined below, but note that these examples are illustrative only of a wide range of possible consequences and they are by no means exhaustive.

Level Playing Field / Open and Fair Competition

The EU have been clear that even the most modest agreement hinges on an agreement relating to level playing field issues. Our preference would be for the UK to remain as closely aligned with the EU as possible and, in particular, in the areas of free and fair competition which will be important to achieving even the modest objectives for trade set by the UK Government. We will introduce a Continuity Bill that will provide the ability to keep pace with EU law in areas of devolved competence.

Trade

The capacity of Scottish businesses, whether providing goods or services, to compete effectively in other markets is influenced by a wide range of factors. For goods, these include tariffs and quotas, market access arrangements, regulatory issues, rules of origin and customs procedures. Similar considerations must be taken into account for services. Our membership of the EU Single Market (which at 450 million people is around seven times the size of the UK) and Customs Union has meant we have been part of an integrated ecosystem which addresses all these issues, and the current negotiation is establishing a new regime which will be substantially less advantageous to our exporters. The precise impact will differ from sector to sector depending on what combination of outcomes there is on each of the elements identified above. We currently have no meaningful intelligence from UKG in this area, and we will judge the outcome on the basis of the combined effect of the arrangements in each of these areas on each sector of the Scottish economy.

Given the complex supply chains involved the manufacturing sector could face particularly acute challenges. Similarly frictionless trade is vital for businesses exporting perishable goods – including many agricultural and fisheries businesses.

Key issues for Scotland in goods exports remain rules and institutions for standards conformity and certification, border logistics and tariffs. This is particularly relevant for Scotland's food and drink

exports but also for industrial goods exports.

The EU is the largest market for Scotland's industrial goods exports with 63% of these exports, worth £6.7 billion, going to the EU in 2018. The chemicals sector is a priority for Scotland as exports are particularly threatened by the imposition of tariff and non-tariff barriers that could be enough to make production uncompetitive.

On services we have continued to stress the importance of avoiding barriers, including maximising options for continued cross-border trade, as well as mobility for businesses and the Mutual Recognition of Qualifications; ensuring continued free data flows and minimising administrative barriers for online suppliers.

Failure to agree to frictionless trade would mean more costs and more complexities for businesses, now also facing the catastrophic impacts of the COVID-19 pandemic. For many companies, these new burdens could prove fatal. As such we want to see the avoidance of both tariffs and non-tariff barriers to trade and the protection of existing high standards but the current approach of the UK Government makes such an outcome unlikely. Furthermore, as a result of COVID-19, there has been a shift towards digital delivery of services and failure to maintain benefits from the Digital Single Market will put at risk the opportunity digital trade brings to the economic recovery in Scotland and the UK.

Fisheries

The Scottish Government have often spoken of the importance of fisheries to Scotland. Seafood accounts for 57% of Scotland's overall food exports and has a value of approximately £916m. In contrast, seafood exports from England only account for 6% of overall food exports.

EU Exit brings the risk of tariff and non-tariff measures resulting in restricted access to the Single Market. The Scottish Salmon Producers Organisation warns that the salmon industry alone could face new certification costs of up to £9m annually; a wholly unacceptable, and entirely avoidable, impediment to the UK's biggest food export. As such it is vital that we secure frictionless trade to protect and promote coastal communities.

Our understanding is that the fisheries negotiations between the EU and UK is now into the detail of specific fish quotas, which will have a direct impact on Scotland and our fish stock. It is essential that, given the overwhelming Scottish interest, that UK Government negotiators properly understand Scottish requirements in this field.

Programmes

SG wants UK to participate in additional programmes, beyond those identified in the UKG strategy document. Failing that, the Scottish Government's position is that flexibility should be secured for the Devolved Governments to take their own decisions in areas of devolved responsibility, and potentially to take part in EU programmes independently.

What might be the economic and social consequences for the devolved nations if no future relationship with the EU is agreed before the end of the Transition Period? Would such an exit also have constitutional implications? What are you doing to prepare for this eventuality?

As previously mentioned, the Scottish Government has recently published a document (available here <https://www.gov.scot/isbn/9781839607981>) describing the consequences of leaving the European Union during the current pandemic.

Over and above the economic shock described in this publication, such is the uncertainty and lack of progress in the negotiations, businesses still do not know, for example:

- what tariffs there may or may not be on trade with the EU;
- which regulations they should follow;
- what customs paperwork and processes will apply;
- how people and data will be able to cross borders in order to make businesses work; or
- whether professional qualifications will be recognised.

The full economic and social consequences are almost impossible to fathom given this ongoing uncertainty, although it is certainly very clear that it should not be allowed to occur at the end of 2020 with the current fragile state of the economy.

In relation to constitutional implications, the views of the overwhelming majority of people in Scotland have been ignored throughout the Brexit process. The current phase, including the UK Government's determination to leave the transition period at the end of the year with or without a deal, is a continuation of that dismissive attitude. Brexit has demonstrated beyond doubt that the UK is not a partnership of equal nations and that Scotland's best interests will be served by becoming an independent country and equal member of the EU.

However, for as long as Scotland is part of the UK, we will seek to ensure devolution is respected, protected and enhanced, and that Brexit is not a pretext to roll back or dilute devolved powers.

Leaving the EU requires action to protect devolved powers, and to safeguard devolved interests as regards future relations in respect of EU and wider international matters, including trade deals. It also requires a reform of the arrangements for the conduct of inter-governmental relations. One demonstration of the scale of the challenges involved is the volume of secondary legislation generated here. The Scottish Government estimates there will need to be around four hundred statutory instruments in advance of the end of the transition period – including around one hundred and forty directly affecting devolved interests. We are continuing to progress the legislative requirements to ensure a functioning statute book, and ensuring appropriate common frameworks, where necessary, are in place for 31 December.

The Scottish Government has been preparing for the impact of EU exit ever since the 2016 referendum. This has included a significant programme of work addressing the specific possibility of a 'no deal' exit.

The UK Government position remains that the UK will leave the transition period on 31 December, despite all the arguments against. Our current planning assumption is therefore that the UK will leave the transition period with no deal agreed or at best an unambitious, 'agreement, including a bare bones FTA,, the impact of which will be relatively close to a no- deal exit. The Scottish Government's preparation for 'No Deal', planning work and proposed mitigations to deal with the impact on Scotland were published on 8 October 2019. This document can be found at:

<https://www.gov.scot/publications/scottish-government-overview-no-deal-preparations/>

My officials are now undertaking the work required to update this plan so that Scotland can be as ready as possible if the UK Government continues its current reckless course. This is of course dependent on an adequate flow of info from UKG.

To what extent do your priorities align with the negotiating aims set out by the UK Government? What are the areas of greatest disagreement?

The Scottish Government has been clear that the best option for both Scotland and the UK as a whole is to remain within the European Union. Early in the Brexit process the Scottish Government put forward compromise proposals based around Single Market and Customs Union membership, if it was not possible to remain as a full EU member. Despite our efforts to discuss compromise proposals these were ignored by the UK Government. As such the negotiating position unilaterally adopted by the UK Government in no way represents the priorities of the Scottish Government.

I have to underline that there has been no meaningful engagement whatsoever in the development of the UK Government negotiating position, and with which we are fundamentally in disagreement. We will continue to argue for a less doctrinaire approach which recognises that close co-operation with our EU partners amplifies rather than curtails sovereignty, and will produce better outcomes for our citizens.

The UK Government has consistently chosen not to share information about the details of their negotiating approach. In particular, despite repeated requests, we are unaware of what strategic choices and trade-offs the UK government may choose to make. This means we are unclear to what extent the representations made by my officials and myself have influenced the negotiating position.

Notwithstanding our concerns about minimal information sharing, the UK Government has publically expressed its desire to achieve a minimalist Free Trade Agreement based, it says, on precedent. The Scottish Government favours a much closer future relationship than that envisaged by UK Government – including alignment on areas like environment and workers' rights – to best protect the interests of Scotland's citizens and businesses, and also to provide the best prospect of good market access. Our analysis shows that the deal envisaged by UK Government is little better in its long term impact than no-deal.

As outlined before, the Scottish Government would also seek to allow the Devolved Administrations to arrange closer relationships with the European Union within their respective spheres of devolved competence.

The UK's negotiating position and legal texts demonstrate just how much will be lost with the current approach. The impact on trade is clearly one of our main areas of disagreement. Future trading arrangements look set to include customs barriers, trade-inhibiting rules of origin, heavy regulatory requirements, and very limited provisions for trade in services, including the prospect of the loss of mutual recognition of professional qualifications in many key areas. All serious independent forecasting indicates that the economic impact of a deal agreed under this mandate would be very negative indeed.

To what extent do your priorities for the future relationship align with those set out in the EU's negotiating mandate? What are the areas of greatest disagreement?

The EU has been clear that it respects the U.K.'s choice to leave the EU, and wants an ambitious partnership for the future. It makes clear it is for the UK to decide how close a relationship with the EU it wants, and its mandate sets out the consequences of those choices. The UK government's narrow strategic approach, means that the nature of the relationship will be much less close than the Scottish government would wish.

The Scottish Government shares the European Union's desire for a close relationship, with a close trading partnership based upon alignment in our respective rules to minimise barriers to trade and maintain high standards in fields like labour rights, environmental protection and climate change. Clearly, within the narrow frame the UK position has set for the negotiations, we would like to see barriers minimised and close relationships are maintained.

As I have already written, the Scottish Government believes the best future for Scotland is as an independent European country within the EU.

To what extent did the UK Government consult you before publishing its negotiating mandate? Were any amendments made as a result? Have you contributed to, or had the opportunity to comment on, any UK draft legal texts?

The UK Government did not consult us at all on the negotiating principles it published, and made clear that the subsequent publication on its negotiating approach simply translated those principles into practical proposals. The UK government provided the Scottish Government with its draft 'negotiating approach' four working days before publication. In this short time available, we were able to offer high level comment. Whilst some minor amendments were made to the text, the substantive negotiating position did not alter at all. Our involvement was far from being actively involved in agreeing or even contributing to a UK-wide position. As a result the UK Government's high level negotiating position is one with which we fundamentally disagree. We have never been shown the UK negotiators' detailed negotiating mandate.

We had no sight of the UK Government's legal texts (with the exception of a small number of piecemeal texts on specific topics) until the day before their publication.

Our objection to this situation has been stated repeatedly to the UK Government. It contradicts the terms of reference for the Joint Ministerial Committee (EU Negotiations) which seek to not only 'discuss each government's requirements for the future relationship with the EU', but also to 'provide oversight to the negotiations' and 'to ensure, as far as possible, that outcomes agreed by all four governments are secured'.

To what extent has the UK Government kept you informed of developments in the future relationship negotiations? Have you found this satisfactory? If not, what improved means would you propose?

The Scottish Government has sought meaningful engagement with the UK Government throughout this process in order to develop a negotiating position that reflects the needs and interests of Scotland. All aspects of the agreement will have an impact on Scotland though We have focused particular effort in areas of devolved competence, where there is a specific Scottish interest, and in areas where the implementation of an agreement will be delivered by the Scottish Government.

Whilst there has been more frequent contact between the UK Government and Devolved Governments at official and ministerial level in the most recent stages, there is still, to our deep regret, a complete lack of meaningful engagement. We have remained unsighted on the UK Government's negotiating strategy and whether any of our policy representations in the interests of Scotland have or have not been accommodated.

The official-level contact has been infrequently punctuated with ministerial engagement. All ministerial contact has been characterised by our setting out Scottish interests in the absence of any insight to how this might or might not align with a UK Government position or if our representations have been adopted. To illustrate the point, we were sent UK Government legal texts for the negotiations on 18 May, only hours before they were made public, and those texts were decided upon by UK ministers alone. This means we have been weeks in which the UK had the legal texts, but we did not, and were seeking to understand and influence the UK position in their absence. We have remained very much unsighted as to the UK Government's negotiating strategy and remain so in regard to how it intends to make the necessary strategic choices in the final stages of negotiations if a deal is to be secured.

In recent weeks, as rounds of negotiation have taken place, the UK Government has made arrangements for Devolved Governments to receive summarised readout of the talks after the event including at ministerial level. There has been no attempt in advance of each round to agree, or in most cases to even discuss, the positions the UK intends to take in the negotiations. This is not acceptable and all of the Devolved Administrations have called for more effective and meaningful engagement. UK Government have acknowledged requests for ministerial level engagement ahead of and following each negotiating round. Feedback following each round has been provided centrally by senior UK officials. Technical and detailed level feedback from individual UK Departments has proven to be sporadic and of varying depth and quality, which is disappointing.

In summary, despite the obvious legitimate Scottish interests in the negotiations and the fact that many aspects of them will fall to the Scottish Government to be implemented, UK ministers continue to make all decisions on the UK's position unilaterally. We believe that it is important to improve the working arrangements between the UK Government and the Devolved Administrations. To do so we must conclude the Intergovernmental Relations Review, increase and deepen the contacts between Devolved Administrations and Whitehall

departments and, as outlined below, there is considerable scope for improving the functioning of the Joint Ministerial Committee on EU Negotiations.

How would you assess the effectiveness of the Joint Ministerial Committee since the UK left the EU? Is there scope for improvement? If so, how?

The Joint Ministerial Committee on EU Negotiations has only met once since we left the European Union. By the time of that meeting, the EU-UK future relationship negotiations had already been in train for 12 weeks. Although we understand the impact that the current pandemic has upon ministerial availability we have been clear that as long as these negotiations continue the JMC (EN) must continue to meet. It is, after all, UKG which is insisting that there should be no extension of the transition period. When it has met, it has fallen far short of its terms of reference. Our view is that it has often just served as window dressing rather than representing meaningful engagement between the UK Government and Devolved Administrations.

In future we need genuine efforts to collaboratively agree a position, supported by proactive sharing of positions early enough for the Devolved Administrations to have a real influence on the final position.

Although it is no secret that the UK Government and the Scottish Government have different views on Brexit, we have sought to put forward compromise proposals and specific comments to protect the interests of Scotland within these negotiations. To make the joint committee structures work we must all approach future meetings in this spirit – not just as a tick box exercise but as a real opportunity to work with and learn from each other.

What guidance has UK Government given you as to the steps that will need to be taken to prepare for the end of the Transition Period, for example: additional infrastructure or staff?

What areas remain unclear?

The Scottish Government has consistently stated that we favour a close working relationship with the UK Government and we have sought to engage constructively with the UK Government on matters relating to EU Exit. By summer 2019, despite the fundamental differences of view on Brexit, structures for joint working had been put in place which permitted constructive collaboration – for example, through attendance by devolved ministers at relevant UK Government committees. However, these structures came to an end following the change of UK administration, and their replacements fail to provide for an adequate level of involvement by Devolved Administrations. Since then our attempts to engage have not been met with reciprocity and the consequent flow of information remains limited. The Scottish Government and other Devolved Administrations have been excluded from decision-making on issues of critical importance to our interests and have been unable to access vital information to inform our own preparations. This means months of valuable preparation time has been wasted. Even now the UK Government has signalled a willingness to share some of this information we fear it may be too narrow to properly facilitate full engagement.

For example, the UK Government has failed to engage, in particular, on issues related to the Northern Ireland Protocol and on operational and legislative readiness. Many questions remain: how will customs processes work? How should businesses be preparing for compliance? If there is to be new infrastructure at the ports? Should we anticipate delays and the need for traffic management? Major policy and operational decisions which impact on

Scotland and on Scottish Government preparations are being taken by the UK Government without consultation.

EU exit preparations must involve the sharing of information, cooperation and consultation. Additionally these preparations require full and proper consideration by the UK Government of policy or operational concerns being raised by Devolved Administrations.

What effect has the COVID-19 pandemic had on your preparations for the end of the Transition Period? What has been done and what still needs doing? What is a reasonable timetable for these steps to be taken?

The Scottish Government's recent focus has been on tackling the immediate danger presented by COVID-19. The strategy to guide Scotland through the pandemic and out of the current restrictions will be implemented at the same time as we continue in our attempts to influence the negotiations

and to prepare for the end of the transition period.

If the UK Government does not request an extension to the transition period by 30 June, government and businesses will have just six months to conclude the negotiations and implement any necessary practical, procedural and legal changes. In many areas our planning is dependent on the outcome of negotiations, or on UKG decisions. To date, very little progress has been made on legislation which is required to address shortfalls in the European Union (Withdrawal) Act 2019 (for example on fisheries and the environment) and it is deeply concerning that the lack of time could result in these important pieces of legislation receiving minimal Parliamentary scrutiny.

As a responsible government we are doing all we can to plan for and mitigate the very high risks associated with the end of the Transition Period, but we cannot overstate how damaging a disruptive departure would be for the Scottish economy and our society following hard on the heels of the COVID-19 pandemic. As such the Scottish Government is doing all that it can to build consensus on an extension of two years, as provided for in the Withdrawal Agreement. This would not only allow businesses a chance to properly prepare, but may increase the chances of reaching an agreement and averting a no deal scenario altogether.

In parallel, as part of our developing readiness planning, we continue to progress the legislative requirements to ensure a functioning statute book and ensuring vital common frameworks are in place for 31 December.

What steps have you taken to prepare businesses, local Government and civil society for the end of the Transition Period? Has there been any coordination with the UK Government about what practical changes businesses will need to make?

As indicated earlier, UKG is only now beginning to engage with us on readiness planning. At this stage it is impossible for any organisation to know with certainty what preparations to make, as the future EU-UK relationship is still under negotiation and even the arrangements already fixed in principle under the Withdrawal Agreement still require their details to be decided and communicated. In the absence of proper involvement in these processes, it is impossible for the Scottish Government to offer organisations any guidance beyond that which the UK Government has chosen to put in the public domain. Until the detail of the future relationship becomes clearer our own planning assumptions reflect that the likely outcome of the negotiations will be a no deal scenario or a very basic deal at best.

Do you expect common frameworks will be ready by the end of the year? If not, what conversations have you had with UK Government about interim arrangements? What happens if some nations have come to agreement with the UK Government, but others haven't? If common frameworks are not agreed, what do you anticipate the implications will be for areas that fall within your legislative competence?

The Scottish Government remains committed to the frameworks process, which has shown that substantive progress can be made where the four governments come proceed on the basis of agreement, not imposition.

Developing, agreeing and implementing frameworks across relevant policy areas by the end of the UK Government's self-imposed deadline for ending the transition period was already a hugely ambitious task. This is in part due to the scale and complexity of some frameworks areas, but also on the need for far greater clarity on a number of strategic dependencies: for example, the UK's future

trade and regulatory relationship with the EU, and the operation of the Northern Ireland Protocol.

However, the impact of having to divert staff to tackle Covid-19 has required a renewed focus on what can reasonably be delivered by the end of year, recognising that the only responsible course of action is to extend the transition period. SG officials are working with counterparts in UK Government and the Devolved Administrations to prioritise key frameworks areas, and to ensure that effective provisional measures are in place by the end of 2020 if these are needed.

How do you expect legislative and non-legislative frameworks will be scrutinised? Are there still areas where competence is disputed? What has changed since the NI Executive has been re-established and NI is no longer represented by civil servants?

The Scottish Government has been clear that effective parliamentary and stakeholder scrutiny is essential for all frameworks, legislative and non-legislative: this approach is reflected in the approach to frameworks development agreed between the Devolved Administrations and the UK Government before the Covid outbreak. The current crisis presents new challenges, for example in relation to new pressures on parliamentary time.

The most significant area of dispute regarding competence remains state aid. The Scottish Government is clear that state aid is a devolved matter. There has been little progress with this issue, but Scottish Government officials continue to engage with their counterparts in BEIS.

The Scottish Government has warmly welcomed the return of the Northern Ireland Executive and the crucial oversight role Northern Ireland Ministers will play in establishing common frameworks.

How do you expect the trade provisions of the Northern Ireland protocol to operate? What checks will be needed on goods moving from GB to NI to identify those at risk of entering the European Union? What will be the implication of such checks for the operation of ports and airports?

Regrettably, the practical answers to these questions about the impact of the Northern Ireland Protocol on the ability of business to continue to operate across the Irish Sea remain extremely unclear. The recent release of The UK's Approach to the Northern Ireland Protocol (May 2020, CP 226) outlines the UK Government ambitions but is more aspirational than practical; it is very unlikely that all the proposals it puts forward will be acceptable to the EU. The Scottish Government was not consulted on the drafting of that Command Paper.

It is not possible to understand which checks and controls will apply to goods crossing the Irish Sea from Great Britain to Northern Ireland until a definition of goods 'at risk' of entering the EU is agreed. That definition will have to be agreed by the Joint Committee under the Protocol. The UK proposal at present is to assume that the vast majority of goods are not at risk, which is the exact opposite of the language of the Protocol itself and thus not likely to be satisfactory to the EU. The Scottish Government has asked to be involved in the work of the Joint Committee and its sub-committees where devolved competences and interests are at stake, or at the very least in the preparation of UK positions, but to date the UK Government has made us no offer of involvement.

We have identified a number of potential trade problems which are not addressed by the UK Government's paper and which we fear will greatly disrupt trade to the detriment of businesses and consumers. First, the Command Paper does not address the issue of how goods originating outside

Northern Ireland will be handled when moving from Northern Ireland to GB. Second, if the UK should decide to create regulatory regimes diverging from those of the EU, there is a substantial risk that goods that are acceptable on the market in Great Britain (Scotland) will not be permitted on the market in Northern Ireland.

Additionally, businesses will have to comply with CE marking of goods and the certification requirements represented by this mark. Even if businesses are able to self-certify that the goods are compliant with the regulations, they will still have to take steps to ensure that they are aware of the obligations and keep records to assure that they meet the EU requirements. If a third party conformity assessment body is required then this is burdensome and can be expensive, particularly if this can only be provided by agencies in the EU. The alternative, that UK notified bodies provide certification, would be easier for GB exporters, but such bodies would need EU approval (unless the EU and UK can agree a Mutual Recognition Agreement, which is not yet in evidence).

It remains possible that a complete suite of customs, VAT, and SPS (sanitary and phytosanitary) provisions, will apply, as currently apply at EU borders with third countries. The negotiating approach of the UK means that with only six months remaining until all such provisions must be in place, we are unsighted on any information about the implications for Scottish ports or airports.

September 2020