

UK Internal Market: Update on UKG proposals and outline position for Scotland. Note of meeting, Wednesday 20 March, SAH

Present:

Cabinet Secretary for Government Business and Constitutional Relations

Ian Davidson, Deputy Director, Constitution and UK Relations

██████████ Head of UK Frameworks, CUKR

██████████ UK Frameworks Team, CUKR

Reuben Aitken, Deputy Director, Trade Policy, DITI

██████████ Regulation, Standards & Conformity, DITI

Ewan Crawford, Special Adviser

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Officials spoke to the submission, dated 4 March 2019 and attached. The paper provided an update on policy development work on the internal market across the UK, including on discussions with the UKG and a synthesis of legal and economic considerations and academic opinion that had been undertaken to inform Scottish Government positioning. The focus of work to date had been to develop an understanding of the issues as a precursor to more substantive policy development in the context of Scottish economic and constitutional policy objectives. The paper included initial thoughts for further work on areas for policy development. Officials also provided feedback from a recent workshop the SG had held with BEIS, HMT and CO officials. Discussion at the workshop had demonstrated no significant change from the UKG in their approach to the internal market and no evidence that the UKG was prepared to take into account the arguments the SG had presented, based on legal, economic and academic evidence, that the mechanisms agreed in individual framework areas as well as existing provision in the devolution statutes would be sufficient to address any internal market issues that might emerge on EU exit.

In response, the Cabinet Secretary stated the UKG approach to the internal market, presented a clear risk to the devolution settlement. The Cabinet Secretary could see clear risks in continuing to engage in officials' discussions and determined that it must be made clear that the direction of travel was unacceptable to Scottish Ministers and we would not participate in joint analytical work and policy development associated with the UKG proposals. Officials should continue to seek to be kept apprised of UKG policy thinking as far as possible, recognising there will be limits to how effectively that can be achieved. Attendance at related policy forums and stakeholder events could be in an observer capacity only and should be cleared in advance on a case by case basis with the Cabinet Secretary.

Mr Russell supported the emerging Welsh Government proposals in relation to JMC arrangements, for example on improved collaboration on economic strategy and agreed that officials should continue to work collaboratively on those proposals as well as with UKG and the other DAs on the development of common frameworks.

The Cabinet Secretary agreed that officials should continue to explore the implications for Scotland in terms of the internal market after EU Exit. The Cabinet Secretary agreed that the following work should be undertaken:

- Further legal analysis by SGLD to provide deeper insights into a range of matters including: the legal effect of EU exit on the nexus of issues relevant to the UK's internal market; relevant provisions in the Scotland Act and subsequent case law; similarities and differences in the Welsh and NI devolution statutes;

- Economic analysis to counter the assumptions underpinning UKG analysis, in particular how different constitutional models play in to questions of facilitating intra-UK trade; and
- Further frameworks analysis to better understand policy leads' insights as to how internal market issues are emerging and are being addressed, and to understand where, if anywhere internal market issues are emerging as objective barriers to trade.

The Cabinet Secretary noted that he would alert Cabinet colleagues to the issues around the UKG work and that any substantive arrangements that emerged would be resisted by the Scottish Government.

CUKR
April 2019

