Does Scotland really want to stay in the single market without a say in the rules?

*The Scottish government has made a strong case for staying in the single market and the customs union, writes **Kirsty Hughes (Scottish Centre on European Relations)**. It contrasts with the lack of detail from either the UK government or the Opposition – though glosses over the democratic implications of leaving the UK with no say in the running of the single market. But with public opinion in Scotland decisively in favour of Remain, it gives Nicola Sturgeon plenty of manoeuvre if she decides to call for a second independence referendum after the details of Britain's trade deal emerge.*

The Scottish government's new paper on Brexit choices – 'Scotland's Place in Europe: People, Jobs and Investment' – makes an important contribution to the UK political debate. It argues that, if the UK is not to follow the best option of staying in the European Union, it should stay in the EU's single market and in a customs union with the EU.

But what this in-depth 54 page paper does not do is either directly make a case for halting Brexit nor for holding a second independence referendum. The detailed economic analysis in the report shows that a 'soft' Brexit of staying in the EU's single market and customs union is significantly better than a free trade agreement with the EU, let alone simply trading on WTO rules. And it does show that even staying in the European Economic Area would have costs compared to staying in the EU (less so if also in the customs union). But its purpose is to promote the single market option, not to argue to halt Brexit.

Scottish First Minister Nicola Sturgeon at the opening of the National Sports Training Centre in Inverclyde, 2017. Photo: Scottish Government via a CC-BY-NC 2.0 licence

A political challenge

The paper provides a robust analysis and estimation of how staying in the EU's single market and customs union would benefit trade, growth, foreign direct investment, productivity and jobs compared to a Canada-style free trade deal. This then throws down a political challenge to both the UK government and to Labour. The Scottish government has provided a serious in-depth analysis of the costs of different types of Brexit. So where, in that case, is the UK government's and Labour's estimates?

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The analysis shows – similarly to other independent research – that the costs of having a Canada-style trade deal are substantially higher than staying in the EU's single market. So while the UK government talks of having a 'Canada plus plus plus' deal – to the EU27's general bemusement – where is its analysis of the costs of either a 'Canada-dry' deal or a 'plus plus plus' one? So far it doesn't exist.

And while Labour continues to prevaricate, with Brexit shadow minister Keir Starmer calling again, last weekend, for a deal that has the 'exact same benefits' as being in the single market, where is Labour's detailed analysis showing what that would look like and how it could be achieved?

Special deal for Scotland?

The Scottish government's paper puts much less emphasis than its first paper in December 2016 did on the differentiated option for Scotland of staying in the EU's single market and in the UK, if the rest of the UK leaves the single market. It does reference this – not least in the context of the EU-UK provisional deal on Northern Ireland and the fact that one option could still see Northern Ireland having a differentiated deal. But it is dealt with briefly.

What the paper puts much more emphasis on is the goal of devolving immigration policy to Scotland, allowing mitigation of the damaging impact that ending free movement of people will have. An astute UK government, looking to build more positive relations with the Scottish government, might consider some version of that – but there is little to suggest Theresa May's government might head in that direction.

There are other Scottish twists here. The UK, the paper argues, should stay outside the EU's common fisheries policy as the EEA countries do. But would the EU accept this – if the UK asked for a closer relationship than any other third country of being in both the single market and customs union? The EU will drive a hard bargain at least on access to fishing waters. The paper is also rather uncertain on what it wants on agriculture – emphasising the benefits to rural communities and agriculture of being in the EU but not quite arguing to stay in the common agricultural policy.

Politically sustainable or democratic?

The key questions in the face of this report are whether its preferred solution is feasible, sustainable or desirable. The Scottish government suggests the whole UK could join/stay in the European Economic Area (EEA). The EU27 – and EEA members – would be open to this in some form, though given the UK's size, it might be that a separate arrangement would be proposed so as not to unbalance the EEA as it stands. This might anyway be necessary if the UK wanted to be in the EEA and a customs union with the EU (since the EEA members – Norway, Iceland and Liechtenstein – have their own trade policies, sometimes coordinated via EFTA).

But the real challenges here are political and democratic. For the UK to stay in the single market and customs union while giving up its vote, its presence in all relevant EU meetings, and having just a small voice with minimal influence (as Norway has), is the opposite of taking back control. It would create a major democratic deficit. Beyond that, the EU would be bound at times to take decisions on trade policy and on new EU laws and regulations that went against UK and Scottish interests.

These issues are rather glossed over in the paper – though the Scottish government argues that the UK would at least retain some influence in a single market Brexit deal compared to a Canada-style one.

Where now?

Recent polls suggest Scottish support for 'remain' is now at 68%, while in England and Wales, opinion is almost 50:50 on 'remain' and 'leave'. The Scottish government's new paper gives it plenty of political ammunition for debates at Westminster. And, if the UK government does end up with a Canada-style deal, it will also give the Scottish government plenty of room for manoeuvre to demand a second independence referendum if, come the autumn, that is what Nicola Sturgeon decides she wants to go for.

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What this paper doesn't do is give any lead to the 68% who would like to 'remain' in the EU. The LibDems – and English and Welsh Greens – remain the only parties calling for a second EU referendum. For now, there is no Scottish government strategy to push the UK towards halting Brexit – which would be in Scotland's interests even if it did choose independence in the coming years.

To argue for the UK to stay in the EU's single market and customs union is to argue to stay as close to the status quo as possible while giving up vote, voice and a seat at the table. Faced with a more damaging type of Brexit, it sounds sensible – until you look at the democratic cost. Compared to being an EU member state, it is surely absurd.

This post represents the views of the author and not those of the Brexit blog, nor the LSE. It first appeared at the Scottish Centre for European Relations.

Dr Kirsty Hughes is Director of the Scottish Centre on European Relations. She is a researcher, writer and commentator on European politics and policy, and she previously worked for a number of leading European think tanks.

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