

REGIONAL POLICY AND STATE AID CONTROL: POST-BREXIT REGULATORY DISORDER?

Fiona Wishlade

Regional policy in Scotland after Brexit

7 February 2020, University of Strathclyde, Glasgow



STATE AID CONTROL

Cinderella or ugly sister?

- Debates focused on replacing Structural Funds
- How (whether?) State aids are controlled also key



A decorative horizontal bar with a black top section and a yellow bottom section is positioned above the title.

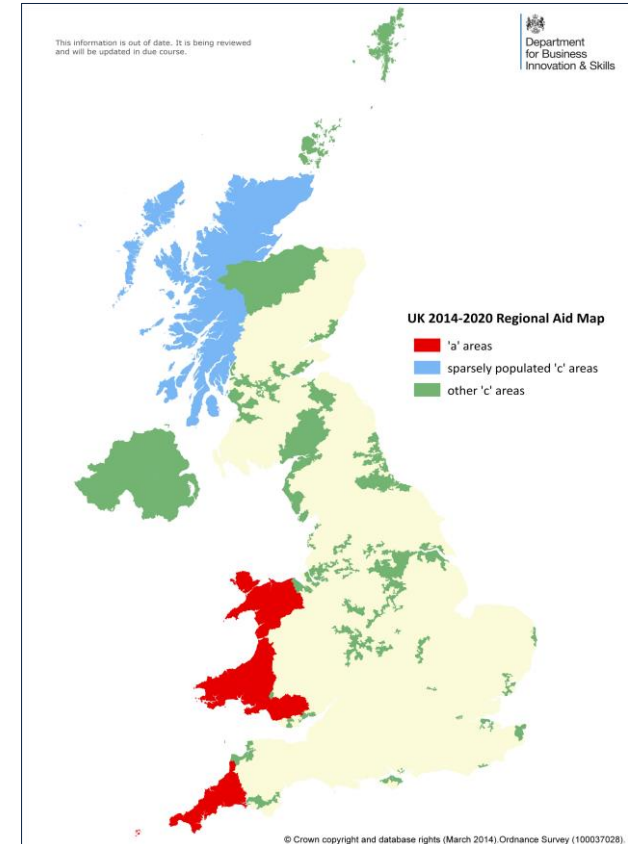
EU STATE AID RULES 'FRAME' ECONOMIC DEVELOPMENT INSTRUMENTS

- Regional aid: regional selective assistance
- Horizontal aid: Scottish Enterprise R&D&I scheme
- De minimis: Enterprise areas
- No aid: Scottish co-investment fund

Key consideration in infrastructure, taxation, policy design eg Scottish National Investment Bank...

IMPACT OF STATE AID RULES

- Forms of support
- Eligibility criteria
- Aid rates
- Assisted area map
- Most aid ‘shoe-horned’ into EU State aid block exemptions
- *Regional policy in every EEA country affected*



ROLE OF EU STATE AID CONTROL

Unique... core EU policy... extra-territorial...

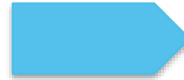
- No comparable system internationally
- Key part of 'level playing field' provisions
- Application beyond EU in EEA, association & other agreements (Ukraine, Albania...)

There will be no ambitious partnership deal without common ground on fair competition, State aid, guarantees against tax dumping.... (Berlin, 2017)



BREXIT AND STATE AID

The UK journey...



UK proposes “committing to a common rulebook on State aid, to be enforced and supervised in the UK by the Competition and Markets Authority”

Cmd 9593, July 2018

“We will back British business by introducing a new state aid regime...”

November 2019

STATE AID & BREXIT MILESTONES

- **25 November 2018:** WA has provisions on State aid
- **21 January 2019:** draft SI State aid (EU exit) Regulation
- *[Scottish and Welsh governments contend State aid is not a reserved matter]*
- **4 March 2019:** CMA consults on procedural guidance
- **17 October 2019:** new WA drops State aid **BUT** a new protocol binds Northern Ireland to EU State aid rules
- **4 February 2020:** draft SI State aid Regulation withdrawn

SHARP DIFFERENCES...



“...partnership should ensure the application of Union State aid rules to and in the United Kingdom....”

3 February 2020, Brussels



“There is no need for a free trade agreement to involve accepting EU rules on competition policy, subsidies...”

3 February 2020, Greenwich

POST-BREXIT *SUBSIDY* CONTROL OPTIONS?



No domestic rules
or enforcement?



Bespoke
domestic rules &
disciplinary
system?



Mirror EU rules
but domestic
disciplinary
system? (aka SI)



WTO *ONLY* OPTION...



- Need to manage domestic competitive outbidding
- Concordat on financial assistance currently depends on EU State aid rules (MOU, 2013)



A *BESPOKE* UK SUBSIDY CODE?

- What definitions & principles (if not EU)?
- Who decides? Role of devolveds?
- What policy drivers for divergence from EU? Free ports, rescue aid?
- What place for regional aid?

Boris Johnson backs looser state aid rules after Brexit
 PM's pledge to make it easier to prop up ailing industries is criticised by free-marketeers

The Free Ports Opportunity

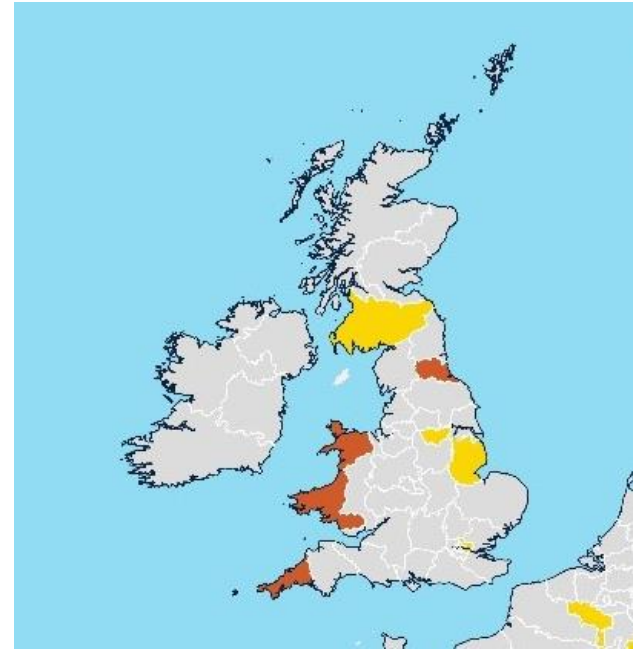
How Brexit could boost trade, manufacturing and the North

RISHI SUNAK MP

MIRRORING THE EU RULES, FOR NOW?

Even retaining EU system has challenges for regional aid

- Now defunct draft SI dropped assisted area provisions of EU rules
- Assisted areas reserved matter, (but subject to EU rules)
- What benchmarks for population coverage and area designation?
- Widening disparities increase scope to aid large firms in Southern Scotland



Additional 'a' regions post-2020?

POST BREXIT REGULATORY DISORDER?

Final thoughts...

- Northern Ireland protocol applies EU State aid rules to measures affecting trade between NI and Ireland
 - GB may not escape EU State aid rules even post divergence if aided firms sell goods in NI
 - If UK policy diverges, two subsidy/State aid regimes will apply
- EU State aid rules not perfect, but almost 'oven-ready' for post-Brexit purposes



Thanks for listening!
Fiona.wishlade@strath.ac.uk

