

# Scotland in the European Union

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## **Foreword by the Deputy First Minister**

On 18 September 2014 the people of Scotland will have the opportunity to decide if Scotland's future should be as an independent country, taking its own decisions on domestic, European and international affairs in its own Parliament, based on the aspirations of its own people. The alternative is to remain part of a Westminster system of government that has repeatedly failed to deliver for Scotland.

If the people of Scotland do vote for independence in next year's referendum, one of the main benefits will be that Scotland will be able to take its place as an independent Member State within the European Union (EU). As such, the Government of Scotland will join the other 28 sovereign governments who collectively decide the scope and content of the various laws and policies that fall within the remit of the EU level of governance.

Independence inside the EU will enable Scotland to play a full and constructive role in shaping a wide range of policies decided at EU level that impact directly on the people, and the economy, of Scotland. An independent Scottish Government will, for the first time, be able to represent and defend Scotland's national interests when EU legislative and policy proposals are being decided. This will lead to better outcomes for the people of Scotland.

Today the EU is facing one of the most serious challenges in its history. The financial and economic crises that began in 2008 led to a series of extraordinary and sometimes deeply unpopular measures being implemented at EU level, designed both to ensure the survival of the Eurozone and to reform and recapitalize Europe's troubled banking sector. These circumstances have triggered a far-reaching debate across the EU about its future direction and governance and, more immediately, the reforms that are necessary in the short-term to assist the EU economy recover from its current economic malaise.

Like many EU governments, the Scottish Government believes the crisis has exposed weaknesses in two areas. Reforms are required both at the level of individual EU policies, to boost economic competitiveness and increase the pace of economic recovery, and at the wider level of the system of EU governance in order to close the "democratic deficit" that an increasing

number of our citizens believes deprives them of an effective say over the nature and content of EU laws and policies.

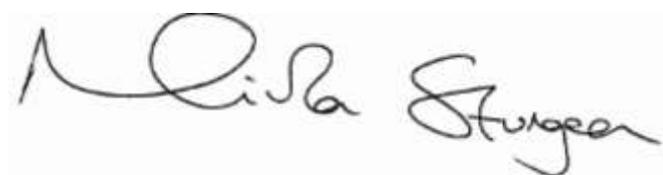
Addressing this reform agenda is one of the major challenges facing the EU today. But it is a challenge that will only be successfully met by the EU Member States working collectively in a constructive and determined manner, according to established procedures. It will not be resolved by ultimatums or threats to leave the European Union. That approach serves only to undermine the integrity of the EU system, weaken the UK's negotiating position and side-line its influence in EU policy discussions.

So while we agree that reforms to the EU are needed, our view is that, as in the past, these can best be achieved by using the mechanisms that already exist within the EU treaties. What really matters to Scotland is that it has an independent government directly involved in that process, looking after Scotland's own particular interests.

The Scottish Government recognises that membership of the EU will require negotiations with other Member States and the EU institutions in order to agree the terms on which an independent Scotland will become a full member of the EU. We also believe – and this has been echoed by independent experts – that these negotiations could be completed within the 18 month period between a 'yes' vote in September next year and day one of independence in March 2016, ahead of the May parliamentary elections. That is the intention of the Scottish Government and that is the timetable we are working to.

Accordingly, in this paper we examine the case for, and the process by which, an independent Scotland will take its place as a sovereign Member State within the EU.

The EU is both a union of nation states and a union of citizens. Independence will allow Scotland to take its proper place within the family of nation states comprising that union, and as such be better able to represent its people as citizens of that union.

A handwritten signature in black ink, reading "Nicola Sturgeon". The signature is written in a cursive, flowing style.

**Nicola Sturgeon MSP**  
Deputy First Minister

## **Executive Summary**

Independence will allow Scotland to take its place as a full Member State within the European Union.

Independence in the EU is not an end in itself. Instead it is a means to improving the lives and livelihoods of everyone living and working in Scotland. The Scottish Government firmly believes the only government capable of properly representing Scotland's interests in the EU decision-making process is a government elected by, and directly accountable to, the people of Scotland and will be able directly to promote its economic interests, protect its citizens and participate on equal terms with all other 28 Member States in EU affairs.

### **Why EU membership matters**

The Scottish Government believes that the EU provides the best international economic framework within which to optimise the economic and social gains from independence and to tackle the global challenges we, and other countries, face.

Today the EU is the world's largest single market, comprising upwards of 500 million consumers. Membership of the EU, and access to the Single Market, provides Scottish firms with access to more firms to trade with, and more potential customers to sell to.

Independent membership of the EU will protect Scotland's vital place in the EU single market allowing for the free movement of goods, services, capital and persons. As a result an independent Scotland will, as a matter of EU law, retain unimpeded access to the markets of all EU member states, including of course markets in the remainder of the UK.

### **The road to independent membership**

The process by which Scotland will become independent is based on a constitutional and democratic process agreed between the UK and Scottish governments, consistent with Article 2 of the Treaty on European Union which affirms the EU is founded upon certain core values including respect for human dignity, freedom, democracy and the rule of law. These same values are fully reflected and observed in the agreement that was reached between the UK and Scottish Governments with regard to the referendum to be held in September 2014 that will determine Scotland's constitutional future.

The Scottish Government considers that there is a legal framework within the EU Treaties by which Scotland can become an independent member State of the EU from the date of independence.

Following a vote for independence in the 2014 referendum, the Scottish Government would immediately enter into negotiations with the UK Government and all other EU Member States to ensure that an independent

Scotland achieves a smooth and timely transition to independent membership of the EU and avoids any disruption to the continuity of Scotland's current position inside the EU single market, including the rights and interests of EU citizens and enterprises located in Scotland.

The Scottish Government has always recognised that the terms of Scotland's independent membership of the EU will be subject to negotiations with the other Member States consistent with the relevant provisions of the EU Treaties.

The Scottish Government has made clear its intention that sterling will remain the currency of an independent Scotland for the foreseeable future. Therefore while the Scottish Government fully respects the political and economic objectives that underpin the decision to establish the Eurozone, an independent Scotland will not seek to participate in the Eurozone.

Nor does the Scottish Government intend that an independent Scotland will join the Schengen Area. Protecting the integrity of the current social union with the remainder of the UK and Ireland requires an independent Scotland to remain within the Common Travel Area presently comprising the UK, the Republic of Ireland, the Channel Islands and the Isle of Man.

### **Giving Scotland a positive voice in Europe**

Under devolution the Scottish Government has, and will continue to have, no direct influence over EU decisions. The UK Government speaks for the whole of the UK in EU-level negotiations even on those matters that fall within the authority of the Scottish Government. And while the Scottish Government can, and does, inform the UK Government of its views on prospective EU laws and policies, especially where these are likely to impact on devolved competences, the UK Government is not obliged to take these views into account when deciding what position it will take in EU Council negotiations.

It will fall to the government of an independent Scotland to speak in EU negotiations with a positive and constructive voice on behalf of the people of Scotland and maximize the benefits from EU membership whilst contributing to addressing common challenges faced by Member States and citizens of the EU.

### **Promoting priorities and engaging partnership**

The EU is an organization in which negotiation, compromise and consensus are more important than country size in determining EU legislative and policy outcomes.

Independence will ensure that Scotland's government is able to represent Scotland's EU interests as a full and equal partner in the EU system of governance. It is a system of governance in which legislative and policy outcomes are the result of a process of negotiation and discussion, and in which compromise is inevitable. Most certainly it is not a system of governance whose outcomes are determined by the size of particular Member States. An independent Scotland will be far from the smallest Member State by population, and will be one of the most important when measured by a range of economic criteria, including per capita GDP, research output and the educational and skill levels of its labour force. As a country with over 40 years of experience in managing EU affairs, an independent Scotland is very well placed to engage in that process to the benefit of Scotland.

### **Contributing to the EU agenda**

As a full EU Member State, and working constructively with other Member States, the Scottish Government will contribute to the development of collective measures to tackle the institutional and policy challenges confronting the EU. The Scottish Government recognises that in tackling these challenges reforms to individual EU policies and possibly the EU Treaties will be required. Independence will ensure the Scottish Government is in a position to engage these discussions on behalf of the people of Scotland, and reflect their interests in the negotiations that are required.

## 1. Introduction

1.1. Following a vote for independence in the 2014 referendum, the Scottish Government would immediately enter into negotiations with the UK Government and all other EU Member States to ensure that an independent Scotland achieves a smooth and timely transition to independent membership of the EU.

1.2. In this paper, the Scottish Government sets out the case for Scotland's independent membership of the EU, the benefits this can be expected to bring, and the process by which independent EU membership can be achieved.

1.3. There are no serious doubts that following independence Scotland will take its place as a full Member State within the EU. As an independent Member State the Scottish Government will be able directly to promote its economic interests, protect its citizens and participate on equal terms with all other Member States in EU affairs. The Scottish Government firmly believes the only government capable of properly representing Scotland's interests in the EU decision-making process is a government elected by, and directly accountable to, the people of Scotland.

1.4. Opponents of Scotland's independence assert that an independent Scotland would be required to leave the EU and take its place in a queue behind countries presently negotiating the terms of their possible EU membership. Quite simply, this is wrong.

### **And it is wrong on three counts**

1.5. The first is that there is, within the Treaties, a legal procedure by which Scotland, a country that has been an integral part of the EU for 40 years, may make the transition to independent EU membership in the period between the referendum and the date on which Scotland becomes an independent state. The process by which Scotland will become independent is based on a constitutional and democratic process agreed between the UK and Scottish governments, consistent with Article 2 of the Treaty on European Union which affirms the EU is founded upon certain core values including respect for human dignity, freedom, democracy and the rule of law. These same values are fully reflected and observed in the agreement that was reached between the UK and Scottish Governments with regard to the referendum to be held in September 2014 that will determine Scotland's constitutional future.

1.6. The second and more pragmatic point is simply that it would be against the self-interest of the EU collectively, and of the Member States individually, to seek to deprive Scotland of EU membership. Scotland's economy and society – its people, its economy, its natural resources, its research excellence, its internationally recognised strengths across a range of key sectors – are an integral and highly valued part of today's EU single market.

1.7. Scotland, with a population of 5.3 million, is home to over 160,000 EU citizens who have chosen to come to Scotland from across the EU to work, study or live, and to contribute to its economic and social wellbeing. These opportunities work in both directions, with many Scots having sought their futures in other countries of the EU.

1.8. It is inconceivable that the EU would jeopardise these deep-rooted and mutually advantageous economic and social relationships between Scotland and the rest of the EU should the people of Scotland vote for independence in next year's referendum.

1.9. And thirdly, the argument that Scotland would be excluded from the EU following independence is based on the premise that the EU is unable or unwilling to accommodate the democratically expressed aspirations of its citizens for self-government. This is fundamentally to misunderstand and misrepresent the nature and foundational purpose of the EU. Throughout its history, the leitmotif of the EU has been enlargement of its membership, not contraction. In pursuit of this goal the EU – its Member States, its institutions, and its citizens – has faced and overcome much greater challenges than those posed by Scotland's democratic transition to independence, and independent EU membership.

1.10. A majority vote for independence in next year's referendum will be a positive vote for Scotland taking its place as an independent nation on the European and world stage. It will be the properly constituted and democratic expression of a nation with a vision for its future as a thriving and successful independent European country. It will reflect Scottish values of fairness and opportunity, and promote prosperity and social cohesion. It will not be a vote that has any bearing on the desire of Scots to remain citizens of the EU, or of the Scottish Government to represent Scotland as a sovereign nation within the EU. Independence will be a reflection of the collective aspiration of Scots for democratic self-government – an aspiration that has been respected, and reflected in its treaties and its policies, by the EU since its inception. It is not credible to assert that an EU, whose founding treaties are fundamentally based on adherence to the principle of democratic liberalism, would deny an independent Scotland its position as a full Member State solely for giving voice to that principle.

1.11. Independence in Europe is not an end in itself; independent membership of the EU is a means to improving the lives and livelihoods of everyone living and working in Scotland. This will be achieved because, as a full Member State, the Scottish Government will be a fully sovereign member of the EU decision-making system. As such, and like all other EU sovereign governments, the Scottish Government will be able to represent and protect Scotland's economic, commercial and social interests when key decisions are being made. And independent membership will permit Scotland, and the Scottish Government, to contribute fully to addressing the common challenges faced by the member states and citizens of the European Union.

## **At no time in the past has the case for Scotland's independent EU membership been more compelling**

1.12. Today the EU – through its rules, regulations and policies (domestic and international) – exerts a more important influence over Scotland's economy and society than ever before. Decisions made in Brussels impact to a greater or lesser extent on a wide range of our day-to-day activities as workers, consumers, businesses and simply as citizens. Many EU rules and regulations focus on measures that are necessary to ensure the EU Single Market, an important driver of economic growth and employment in Scotland, operates as efficiently as possible. The EU also decides on a range of other policies that directly affect Scotland's interests – including the support given to farmers, the quotas that determine how much fish can be caught in Scotland's waters, common policies aimed at boosting research in universities and investment in digital technologies, measures to improve the employment prospects of young people, and the negotiation of international trade agreements that can open up new markets for Scottish businesses, to name but a few.

1.13. However, regardless of the EU regulation or policy issue under discussion, in each case it is negotiations between the governments of the 28 EU Member States that exert the greatest influence over the outcome – negotiations in which national governments ensure their country's domestic interests are taken into account. At present, Scotland has no direct presence or voice in these negotiations.

1.14. Moreover, the financial and economic crisis triggered a process that is leading to what is likely to be the most far-reaching series of reforms in the EU's history. These reforms cover measures required to bolster the stability, competitiveness and resilience of the EU (particularly Eurozone) economies, strengthen the regulation of financial services within the EU Single Market, and transform the underlying arrangements of EU governance to ensure EU citizens are more closely involved in the decision-making and policy processes that impact so significantly on their daily lives.

1.15. Across the EU, national politicians from every Member State are involved in the discussion about the future of the EU. As an independent Member State the Scottish Government will be fully involved as an equal partner in all these discussions, and the decisions taken at an EU level that result - decisions that are certain to play an important role in the future development of Scotland's economy and society. Independence is the only route that can permit this to happen. Independence will ensure Scottish interests in the EU single market are protected. It will mean that Scotland's government will be able to contribute to the broader internal and external challenges the EU faces in ways consistent with Scotland's domestic economic and social priorities. Only independence will secure Scotland's long term membership of the EU.

1.16. The tasks for an independent Scottish Government will be to represent Scotland's national interests and to get the best deal possible for Scotland's consumers, businesses, workers and citizens, while contributing to the

common purpose of the European Union in tackling the challenges that confront us all – challenges whose successful resolution will be to the benefit of all EU Member States and their citizens.

## **2. Why EU Membership Matters**

2.1. The Scottish Government firmly believes that continued membership of the EU provides the best international economic framework within which to optimise the economic and social gains of independence and tackle the global challenges that we face.

### **Access to the Single Market**

2.2. One of the key achievements of the EU is a shared arrangement between the 28 Member States to establish a single internal market. Today the EU is the world's largest single market, comprising upwards of 500 million consumers. In 2010, the EU27 accounted for over 25% of total world output (GDP). Within the EU internal market there is free movement of goods, services, capital and people – the so-called four freedoms – and this greatly benefits businesses, consumers, and workers in Scotland.

2.3. Membership of the EU, and access to the Single Market, provides Scottish firms with access to more firms to trade with, and more potential customers to sell to. The EU is therefore, not surprisingly, the main destination for Scotland's international exports - accounting for around 46% of Scotland's international exports in 2011. Scotland also benefits from the large number of bilateral trade deals that the European Union has negotiated with third countries who provide Member States with preferential, and often free, access to these markets.

2.4. The direct and indirect economic benefits accruing from membership of the EU Single Market are considerable. Exports to the EU Single Market provide an important direct source of jobs and activity across the Scottish economy, while further jobs are supported indirectly through various local and national supply chains utilised by exporting firms. Consumers also benefit from access to the wider range of products available across the internal market, while greater competition between suppliers helps keep prices down and ensures the consumer gets the best possible value for money.

2.5. Membership of the EU Single Market plays an important role in attracting foreign direct investment (FDI) to Scotland from outside the EU – an area in which Scotland has performed strongly in recent years. By investing in Scotland, foreign companies not only gain access to Scotland's highly skilled and productive labour force, they are able to export to the large EU single market free from import duties and other trade restrictions. In addition to the jobs created through FDI, foreign-owned firms have the potential to boost the underlying growth potential of Scotland's economy, particularly where there are knowledge and innovation spillover effects.

2.6. Of course, not all inward investment originates outside the EU. Indeed firms based in other EU Member States account for approximately 40% of total foreign-owned companies operating in Scotland.

2.7. The EU Single Market allows workers from any Member State to move to partner countries where their skills are best rewarded. Scotland's

economy, and society, benefits significantly from the 160,000 citizens from other Member States who have chosen to live, work or study here. Students also have the right to pursue their studies, in part or in whole, in any EU Member State and this enhances further the long term economic – and societal – rewards Scotland enjoys from being part of the EU.

2.8. Taken together the trade, investment, capital and labour flows associated with membership of the EU make a significant impact on the drivers of economic growth in Scotland. Increased competition and trade opportunities, high levels of inward investment, a strengthening of the economy's scientific, innovative and skills base, along with flows of skilled workers, provide compelling arguments in support of an independent Scotland taking its place as a full member of the European Union.

### **Contributing to the economic recovery**

2.9. Inevitably it is easy to lose sight of the economic benefits that have accrued to Scotland as a consequence of EU membership at a time when the EU is experiencing the most serious economic crisis in its history. In the Eurozone in particular, many EU Member States remain trapped in a cycle of low growth, falling incomes and rising unemployment, particularly amongst young people of working age.

2.10. Escaping this vicious circle will require a combination of competitiveness, enhanced domestic policy measures, and collective action at the EU level. It is in the interests of all Member States, including an independent Scotland, to contribute to this effort as all stand to benefit from a sustained upturn in the European economy.

2.11. An independent Scottish Government will be well placed to contribute to this collective effort, the success of which will directly benefit Scotland's economy. Under independence, Scotland will make its most important contribution to economic recovery across the EU by implementing policies that will allow the full potential of the economy to be realised and higher rates of sustainable economic growth and employment achieved.

2.12. The actions taken by the Scottish Government across the six strategic priorities set out in the Government Economic Strategy (GES) – maintaining and further developing a supportive business environment; supporting the transition to a low carbon economy; learning, skills and well-being; a focus on infrastructure, development and place; effective government; and equity (social, regional and inter-generational) – have demonstrably succeeded in mitigating the worst effects of the global downturn on the Scottish economy and creating the conditions for long-term sustainable growth in Scotland.

2.13. The same approach – one that combines the prudent management of current public spending with strategic investment in the economic infrastructure necessary to support a sustained recovery and provide the framework for improved long-term sustainable economic growth performance

– is both appropriate and necessary if the EU is to return to the path of robust, self-sustaining economic growth.

### **Participating in the Europe 2020 growth agenda**

2.14. Independent membership of the EU will better position Scotland to fully participate in, and benefit from, a range of growth-oriented economic policy initiatives and priority actions being implemented at the EU level. Many of the actions are being developed and delivered within the framework of the EU's 'Europe 2020' growth strategy and are focused on delivering smart, sustainable and inclusive economic growth – objectives that closely echo the priorities that underpin the GES.

2.15. These actions include flagship initiatives to help Europe exploit the full economic and social potential of rapidly developing digital technologies; to bolster innovation in products, services and business models; to enhance the employment prospects for young people; to promote renewable energy and improve the resource efficiency of economic activity as part of the wider shift towards a low-carbon economy; to promote industrial competitiveness; and to reduce poverty and social exclusion.

2.16. However, for this common strategy to succeed, it will fall to the national governments of the EU Member States to implement the policy measures necessary under each of these key initiatives. These measures include investment in new capital infrastructure including digital technology, encouraging more investment in research and development, promoting innovation, improving the availability of finance to Scotland's small and medium sized enterprises, investing in education and training, accelerating the transition to a low carbon economy, and reducing economic and social inequalities.

2.17. Scotland is already using the current devolved policy levers, making a substantive economic and social contribution to the challenges facing all European economies - as demonstrated through the distinct Scottish National Reform Programme. However, independence is necessary if the Scottish Government is to have access to the range of economic policy levers required to play its full part in what is a structured and far-reaching programme of national and collective actions designed to enhance Europe's competitive position in the global economy. This would ensure that Scotland is in an even stronger position to contribute towards the long-term vision of delivering sustainable, smart and inclusive growth.

2.18. While the implementation and coordination of national growth-oriented strategies is an essential pre-condition to restoring Europe's competitive position in the global economy, actions and reforms are also necessary at the EU level. These include addressing the impediments that continue to obstruct the operation of the Single Market in key economic sectors, especially services; reducing the administrative and regulatory burden on producers, particularly small and medium sized enterprises, where this can be done without detriment to consumer interests; increasing the role of EU finance in capital investment programmes that are directly linked to flagship initiatives;

and ensuring that new legislative and policy proposals make a real and lasting contribution to improved economic performance and, where necessary, revise existing rules and regulation to achieve this end.

2.19. An independent Scottish Government will play a full and constructive role in supporting reforms to EU policies that achieve these objectives.

### **Part of a club with a global reach**

2.20. As a member of the EU, the world's largest Single Market, an independent Scottish Government would contribute directly to discussions determining the collective stance the EU adopted in world trade negotiations, ensuring Scotland's trade interests were promoted, and where required, protected. In disputes over international trade, for example where Scottish exporters were being discriminated against in third markets, Scotland would be represented by the collective weight of the EU. International firms operating in Scotland would be bound to conform to rules set at the EU level, including their treatment of workers, adhering to EU competition law and, the technical product standards that provide reassurance to EU consumers over the quality of the goods that they purchase.

2.21. Important as they are, these direct economic gains do not exhaust the range of benefits to Scotland from membership of the EU as an independent country.

### **A shared social agenda**

2.22. The EU also comprises a range of policies and objectives designed to promote social cohesion across the EU. The Scottish Government is convinced Europe will not be able to achieve the reforms necessary to increase economic growth unless it can demonstrate that the gains of increased competitiveness are shared among all Europe's citizens and not reserved to the few. This is at the heart of the Scottish Government's Purpose, as set out in the Government Economic Strategy, to create a more successful country, with opportunities for all of Scotland to flourish through sustainable economic growth.

2.23. The EU today needs a modern and outward looking social agenda. One that strengthens and protects the rights and interests of workers and families, but that does not stifle labour markets or undermine economic competitiveness. The Scottish Government has demonstrated what a modern, outward-looking social agenda will look like. It is one where Scotland's citizens see their government implementing policies – be this in freezing the council tax, avoiding compulsory redundancies in the public sector, providing universal benefits to the weakest and most vulnerable citizens, and introducing policies designed to better equip young people for meaningful employment in an ever more challenging environment.

### **Matching and retaining talent**

2.24. Scotland's independent membership of the EU will also ensure businesses in Scotland are able to continue to attract the best workers from across the EU to come and settle in Scotland, and make a positive contribution to Scotland's shared economic and social future. As a member of the EU, citizens of other EU Member States will be able to move to and live in Scotland, as long as they exercise their rights of free movement under the EU Treaties, by working, studying or financially supporting themselves. Scotland has an established migrant community and welcomes the contribution migrants are making to the economy and society. Similarly, Scottish citizens will be able to move freely within the EU to work, study and live, gaining experience which they can share on return to Scotland. With independence, Scotland would be able to develop a fair, robust and secure system that ensures that those who enter Scotland to exercise their rights of free movement do so within the terms of the EU acquis.

### **Freedom, security and justice**

2.25. Outside the strictly economic benefits of EU membership, the provisions of the EU's justice and home affairs (JHA) legislation make a significant contribution to law enforcement and internal security in Scotland. Independence in Europe will enable Scotland's government to remain engaged with EU partners and the JHA agenda in the fight against organized crime, terrorism, drug and people trafficking, and money laundering. Independence will ensure Scotland remains an integral part of EU policies, across a wide range of measures in criminal, police, and civil law. Judicial co-operation in the area of civil law has helped Scottish citizens to work and live in other EU countries by, for example, facilitating the recognition and enforcement of judgements in cross-border cases, and setting out rules on applicable law with regard to both contractual and non-contractual obligations. The Scottish Government believes therefore that it is important to engage as fully as possible with regard to these matters.

2.26. Similarly, independence will allow the Scottish Government to play a more meaningful role in the development of the EU common foreign and security policy (CFSP) agenda. This includes cooperation to enhance Europe's defensive capability, enhancing the role of the EU in international peacekeeping and conflict resolution, reacting effectively to address humanitarian crises in different parts of the world, and – where appropriate – supporting NATO and UN actions that are based on the principles of international law. An effective foreign policy in an independent Scotland will be based on cooperation and policy coordination with Scotland's closest allies, and within emerging structures in which an independent Scottish Government is a full and equal partner.

2.27. Independence within the EU will also enhance the contribution that Scotland makes to international development and environment goals. Scotland will be directly represented alongside EU partners at international meetings designed to promote the Millennium Development Goals and can draw on the strength of Scottish civil society partnerships with developing

countries to promote a fairer world. By participating directly in the UN Climate Change talks we will also bring our expertise on renewable energy to bear in developing countries and increase the likelihood of achieving our ambitious climate change targets at home.

2.28. The Scottish Government is firmly of the view that continued membership of the EU is necessary if Scotland is to maximize the economic and social opportunities that will be available to it under independence. Moreover, as long as Scotland remains part of the UK, not only can these opportunities never be realised, but it is highly likely even the current benefits of EU membership will be compromised.

2.29. Independence is necessary to allow Scotland to take its proper place as a decision-maker in the EU system of governance. It seems clear that the UK has embarked on a path that will, at the very least, result in the UK Government having an increasingly marginalised role in key negotiations held in Brussels that will determine the future course of European integration. The Scottish Government wants Scotland to be at the heart of the EU decision-making process. That will only be possible if Scotland is able to take its place as an independent member of the EU.

### **3. The road to independent membership**

3.1. Should a majority of voters endorse independence in the forthcoming referendum, the Scottish Government will immediately seek discussions with the UK, Member States and institutions of the EU to agree a process whereby a smooth transition to full EU membership can take place on the date on which Scotland becomes an independent State.

#### **Membership from within**

3.2. The discussions will therefore be held during the period in which Scotland remains part of the UK and by extension, part of the EU.

3.3. The Scottish Government is committed to working with the UK Government and the other EU Member States to ensure the transition to independent EU membership proceeds smoothly and avoids any disruption to the continuity of Scotland's current position inside the EU single market, including to the rights and interests of EU citizens and enterprises in Scotland. Ensuring a smooth transition to independent EU membership will not only be in the best interests of Scotland but will also be in the best interests of all Member States and the EU in general.

3.4. The Scottish Government believes the 18-month period between the referendum and formal independence provides sufficient time for the terms of Scotland's membership of the EU to be agreed. It also provides sufficient time for the Scottish Government to undertake the necessary legal and institutional preparations for independent EU membership, albeit a large part of this is already in place. Since devolution began in 1999, the Scottish Government and Parliament, in conjunction with national regulatory agencies, have demonstrated their capacity to transpose, implement, and enforce the provisions of EU legislation efficiently and timeously.

#### **The EU Treaties**

3.5. The Scottish Government acknowledges that the EU Treaties make no specific provision for the consequences for EU membership where, by a consensual and lawful constitutional process, the democratically determined majority view in part of the territory of an existing Member State is that it should become an independent country.

3.6. Article 49 of the Treaty on the European Union (TEU) provides the legal basis, and defines the procedure, for a conventional enlargement where the candidate country is seeking membership from outside the EU. By virtue of having joined the EU in 1973 this is not the starting position from which the Scottish Government will be pursuing independent EU membership. Accordingly the Scottish Government at present, does not consider this as the appropriate route to independent membership.

3.7. The alternative to an Article 49 procedure, and a legal basis that the Scottish Government considers is appropriate to the prospective circumstances, is that Scotland's transition to full membership is secured under the general provisions of Article 48 TEU. Article 48 provides for a Treaty amendment to be agreed by common accord on the part of the representatives of the governments of the Member States.

3.8. Article 48 is therefore a relevant legal base through which to facilitate the transition process, by allowing the EU Treaties to be amended through ordinary revision procedure initiated by the United Kingdom Government with assistance from the Scottish Government before Scotland becomes independent to enable it to become a Member State at the point of independence.

3.9. The Scottish Government will approach EU membership negotiations operating on the principle of continuity of effect: that is a transition to independent membership that is based on the EU Treaty obligations and provisions that currently apply to Scotland under its present status as part of the UK, and without disruption to Scotland's current fully integrated standing within the legal, economic, institutional, political and social framework of the EU.

3.10. The Scottish Government recognises the European Parliament will play its role under the treaties in the transition process. The procedures adopted by the European Parliament in the context of German unification whilst not a direct parallel are instructive in this respect, (more details in Annex 5).

### **The opt-outs**

3.11. The Scottish Government recognises that specific provisions will be required to be included in the EU treaties as part of the amendment process to ensure the principle of 'continuity of effect', with respect to the terms and conditions of Scotland's independent EU membership, is achieved. These will involve detailed considerations around those EU policy areas from which previous UK Governments negotiated 'opt-outs' and other specific provisions – in particular the Budget Rebate, Eurozone, Justice and Home Affairs (JHA) and the Schengen travel area.

3.12. It is likely that as a relatively prosperous Member State an independent Scotland would continue to be a net financial contributor to the EU budget after 2020. The net budget contribution will reflect the outcome of negotiations on issues such as the rebate and an independent Scotland's share of EU spending programmes. The current EU budget has been agreed until 2020 and as such the Scottish Government would not intend to re-open budget discussions until the next financial period post 2020. Scotland and rUK will be required to negotiate the division of the UK's contribution up to 2020.

3.13. The Scottish Government has made clear its intention that sterling will remain the currency of an independent Scotland. This position is informed by

the work of the independent Fiscal Commission Working Group whose analysis demonstrated that it was in Scotland's – and the rest of the UK's – interests to retain sterling post-independence (Annex 6).

3.14. Therefore, while the Scottish Government understands the political and economic objectives that underpin the decision to establish the Eurozone, it is clear that an independent Scotland will not be in a position to seek, or as is demonstrated in Annex 6, to qualify for, membership of the Eurozone in the foreseeable future. Accordingly, the transition to full EU membership will include specific provisions that ensure Scotland's participation in the sterling currency area does not conflict with wider obligations under the EU treaties.

3.15. The Government of an independent Scotland will not seek membership of the Schengen area. While endorsing the objectives underpinning the Schengen Agreement, protecting the integrity of the UK and Ireland social union means that an independent Scotland will remain within the Common Travel Area (CTA) presently comprising the UK, the Channel Islands, the Isle of Man and the Republic of Ireland.

3.16. Accordingly, the Scottish Government will seek to retain the current exemptions regarding the Schengen acquis as provided for under Protocols 19 and 20 of the Treaty on the Functioning of the European Union (TFEU), both of which already apply to Scotland as part of the UK (see Annex 7).

3.17. More generally, participation by the UK in JHA measures is covered by Protocol 21. As with Protocols 19 and 20, the Scottish Government will seek to retain the flexibility to opt in to new measures provided by Protocol 21, in a new Protocol to the TFEU. We anticipate that an independent Scotland would seek to participate wherever possible in new proposals, because we recognise the significant benefits such measures bring to our citizens and the whole of the EU. There may, however, be instances where the specific characteristics of Scots law mean that it would not be in Scotland's best interests to do so.

## **4. Giving Scotland a positive voice in Europe**

4.1. Independence will allow Scotland to take its place as a full Member State within the EU. As an independent Member State the Scottish Government will be able directly to promote the economic and social interests and protect its citizens by participating on equal terms as all other Member States in EU affairs. The Scottish Government firmly believes the only government capable of properly representing Scotland's interests in the EU decision-making process is a government elected by, and directly accountable to, the people of Scotland.

### **A voice in EU Governance**

4.2. As is explained in detail in this paper, the EU level of governance exerts considerable influence over Scotland's economic and social welfare. In economic terms this results directly from membership of, and participation in, the single EU market – the legal and policy framework within which the free movement of goods, services, capital and persons across the EU takes place. But although the Single Market is a principal driver of EU rules and regulations, the common policies of the EU extend beyond the strict economic sphere and influence a wide range of social and cultural aspects of our lives. The Scottish Government believes only the democratically elected government of Scotland can speak for Scotland's citizens when EU legislation and policy is being discussed.

4.3. As an independent Member State the government of a sovereign Scotland will participate in all EU legislative and policy discussions on exactly the same terms as the other 28 EU Member States.

### **European Council**

4.4. As the leader of an independent EU Member State, Scotland's First Minister would participate on an equal basis in regular meetings of the European Council, the forum in which the Heads of Government and State of the EU Member States take key decisions that determine Europe's future direction, including reform of the EU treaties. Indeed, in recent years, and partly in response to the economic and financial crisis, the European Council has played an increasingly active role in shaping the EU policy agenda. The European Council is the centre of political gravity of the EU; the main forum in which crucial EU policy debates are conducted. Today there is a clear preference for high-level political agreement between Member States to be reached on EU-level actions based on national policy coordination to achieve shared policy objectives where practically possible rather than new EU legislation or Treaty reform. Independence would ensure that Scotland's First Minister participates in these increasingly important summit meetings.

### **Council of the EU**

4.5. Independence will mean Ministers from the Scottish Government will be able to participate in meetings of the Council of the EU. The Council is the EU's most important law and policy-making body. Its principal responsibilities

include passing EU laws, coordinating the broad economic policies of the Member States, signing agreements between the EU and other countries and developing the EU's foreign and defence policies. The Council is where Ministers ensure that collective decisions over EU law and policy properly take into account the national interest of their respective Member States. Presently, no Minister from the Scottish Government has the automatic right to attend – far less contribute to – these key meetings, regardless of how important the issue under discussion is to Scotland's national interest.

### **Committee of Permanent Representatives**

4.6. As an independent Member State the Head of the Scottish Government's representation to the EU would participate in meetings of the Committee of Permanent Representatives in the EU (COREPER), the body responsible for preparing the agenda for meetings of the Council of the EU and overseeing the work of the many important committees and working groups of national officials that assist in the making, adoption and implementation of EU laws and policies. Currently, Scotland is reliant on the Head of the UK delegation to the EU representing its national interests in these bodies.

### **Representation in the European Institutions**

4.7. Independent membership of the EU would ensure that the Scottish Government is able, for the first time, to participate at every level in the EU legislative and policy process. This is essential if Scotland's economic and social interests are to be promoted, and the interests of her citizens protected, in the corridors of EU power and influence in Brussels. Just as it falls to the Danish or Irish or Swedish governments to represent, and protect, their distinctive national interests in the policy process, independence will allow the Scottish Government to represent Scotland's distinctive national interests on an equal basis.

4.8. An independent Scottish Government would also nominate a Commissioner to join the European Commission, the executive arm of the EU with responsibility for drafting the legislative and policy proposals that are then considered by the Council of the EU and the European Parliament. Similarly, an independent Scotland would nominate senior judges to sit on the Court of Justice of the EU, the highest legal authority on matters of EU law including the interpretation and application of the EU Treaties.

4.9. Independence will bring to an end the situation whereby the land-locked countries of the EU – such as Slovakia, Austria and Luxembourg – have more formal influence over the EU fisheries policy than does Scotland; a country with the longest coastline anywhere in the EU and home to one of the EU's most important fishing industries and communities.

4.10. Independence will give Scotland its own voice in EU affairs, participating at every level in the EU policy process and ensuring the Scottish Government is able to promote and protect Scotland's national interests in EU affairs.

#### **Where devolution falls down**

4.11. In EU matters, as elsewhere, devolution is simply no substitute for independent statehood. Under devolution the Scottish Government has, and will continue to have, no direct influence over EU decisions. The UK Government speaks for the whole of the UK in EU-level negotiations even on those matters that fall within the authority of the Scottish Government. And while the Scottish Government can, and does, inform UK Government of its views on prospective EU laws and policies, especially where these are likely to impact on devolved competences, the UK Government is not obliged to take these views into account when deciding what position it will take in EU Council negotiations.

4.12. Independence will greatly enhance the role and influence of the Scottish Parliament in EU business. As EU policy is reserved to the UK Government, the Scottish Parliament presently has virtually no influence on laws and policies agreed upon at EU level. Under independence the powers of the Scottish Parliament over EU issues would be increased considerably. As parliamentarians of an independent Member State, Scotland's elected politicians would be able to scrutinize prospective EU policy and legislation and advise the Scottish Government of the position it should adopt in any subsequent negotiations in the EU Council. The Scottish Parliament would be able to hold government Ministers to account for positions taken over EU issues, and to reflect the wider public interest in broader questions of Scotland's EU strategy. A Scottish Parliament would have the power to question the appropriateness of, and potentially block, proposed EU legislation under the principle of subsidiarity. Crucially, under independence, it would fall to the Scottish Parliament to debate, agree and ratify proposed reforms to the EU treaties, without which no treaty reform could be implemented.

#### **Increased representation**

4.13. As an independent Member State, Scotland could also expect to increase – possibly double – its representation in the European Parliament (EP). Presently the UK Government assigns 6 European parliamentary seats to Scotland. This compares unfavourably to Member States of comparable size to Scotland, such as Denmark, Slovakia, and Finland with 13 seats in the EP, or Ireland with 12 seats.

4.14. Independence inside the EU will therefore bring real benefits to the people of Scotland. It will bring the EU decision-making closer to the people of Scotland. It will ensure the government of the people of Scotland could promote and protect their interests as new EU laws and policies are

developed and passed into law. It will create the situation in which the Scottish Parliament will be able to debate and shape EU rules and regulations. It will ensure that no reforms to the EU treaties can be implemented unless these had the approval of Scotland's citizens. Independence will make sure that Scotland is no longer a mere bystander when decisions that fundamentally affect our lives and livelihoods are taken in Brussels.

## **5. Promoting priorities and engaging partnership**

5.1. An independent Scottish Government, participating on equal terms in EU negotiations, would be significantly better able than at present to ensure Scotland's businesses, producers, citizens and communities get the best possible outcome from EU policy negotiations. Independence will ensure that Scotland's priorities are reflected in EU negotiations, and national interests protected.

### **Influence of "small" states**

5.2. Today most EU legislation and policy is the product of a dual decision-making process that involves both the Member States, meeting under the aegis of the Council of the European Union (more commonly referred to as the Council of Ministers), and the European Parliament. A common misconception is that the largest EU countries dominate the negotiations in the Council to the detriment of the smaller Member States. As recent research has shown, this is simply not the case. In fact, there is a growing body of evidence suggesting that the "smaller" EU Member States (Finland, Sweden, Denmark) are relatively more successful in Council negotiations by achieving legislative outcomes closer to their preferred position than are the large Member States (e.g. France, Germany, Spain).

5.3. This flatly contradicts the assertion often made that an independent Scotland would have little influence in EU-level negotiations: that not being part of the UK would reduce Scotland's influence in Europe. This is a fallacy, and indeed evidence suggests that an independent Scotland would be better placed than the UK to look after Scotland's interests in EU-level legislative negotiations that decide the rules and regulations that govern economic activity in Scotland – including the production of goods and services, working conditions, the regulation of financial services, fishing, agriculture, the environment, free movement of workers, state aid rules, and energy.

5.4. This is not surprising. The position the Council of Ministers finally agrees on any legislative or policy proposal is almost always a compromise position that is acceptable to all Member States. There is no basis to argue that the size of a particular country will significantly influence that consensus outcome.

5.5. In the rare occasions in which a consensus cannot be reached, a formal vote will be held in the Council to settle the common position – most commonly on the basis of a qualified majority of the votes cast. At the moment Scotland is represented by the UK in this voting process, leading some to claim that Scotland is better served as part of a large country in the EU system than it would be as an independent Member State. This is not the case. As an independent country the Scottish Government would always have the option of voting in the same way as the rest of the UK (rUK) Government where the Scottish and rUK positions converged. Indeed, an independent Scotland voting with rUK is likely to increase rather than diminish the likelihood of their common position winning the vote. On the other hand,

independence will allow Scotland's government to vote for a different position from rUK where that alternative position is in the best interests of Scotland. At present the Scottish Government has no option but to adhere to the UK Government's position, even where this is not in Scotland's best interests.

5.6. Therefore, in the EU regime of permanent negotiation, an independent Scotland can never find itself in a less favourable position than at present with respect to influencing EU legislative and policy proposals in Scotland's interests. It is in fact more likely that Scotland will regularly find itself in a more favourable position by contributing directly to the negotiations.

5.7. Moreover, the trend towards shared EU objectives being achieved by the coordination of national policies rather than through the implementation of binding EU law also demonstrates the weakness of the proposition that "size matters" in EU policy negotiations. Today, many shared EU policy objectives are achieved by national governments implementing domestic policy measures that are appropriate in the context of the economic and social circumstances of individual Member States. Independence will ensure that the authority to implement the measures appropriate within Scottish economic and social context will fall to the Scottish Government and not, as at present, to the UK Government. For example, over the course of the recent economic crisis, the Scottish Government has demonstrated that it is better able to design economic policies that suit the specific needs of Scotland than the UK Government. Independent membership of the EU will allow the Scottish Government to utilize the full range of economic levers to help achieve its wider policy objectives in the context of EU membership.

### **Focused engagement**

5.8. Independence within the EU will allow the Scottish Government to significantly enhance the actions it currently takes to secure real benefits to Scotland from EU membership. Presently the Scottish Government has focused its EU-engagement around four key areas, which are articulated in the Scottish Government's Action Plan for European Engagement. These are areas where Scotland's interests, expertise and potential converge with a recognition at EU level of the importance of the issue at stake:

- energy and climate change
- marine environment including fisheries
- research and creativity
- freedom, security and justice

5.9. Although, these have been identified as priority areas, the Scottish Government recognises the importance of maintaining and strengthening engagement in all areas of EU competence, including economically important areas such as agriculture where Scotland has a long history of engagement with the EU. As an independent Member State, the Scottish Government will play a much more prominent role in shaping current and future EU policies affecting these, and other, sectors, especially where economic coordination

can promote growth and tackle key challenges such as youth unemployment. This will increase the real benefits coming to Scotland from EU membership.

5.10. Independence will also give the Scottish Government influence over the wider EU economic and social agenda. There are a number of key EU-level actions the Scottish Government considers to be strategic priorities in an independent Scotland.

5.11. First, as a modern, competitive and outward-looking economy, it is in Scotland's interests that completing the internal market remains a central priority for the EU. Today the EU economy faces a growing economic challenge in its domestic and export markets from the fast-growing economies of emerging Asia and the so-called BRIC nations whose share of global manufacturing output is increasing rapidly. The single EU market represents the main destination for Scotland's international exports, and it is in Scotland's interests that progress continues to be made in removing those obstacles that prevent the full potential of the internal market being realised (and which could provide more Scottish firms with the opportunity to expand into the market).

5.12. In particular, Scotland's economy stands to benefit considerably from a truly EU-wide single market for commercially traded services. An independent Scottish Government will be a strong advocate for the EU collectively promoting measures to further liberalise the internal market for services.

5.13. Second, an independent Scottish Government will seek to utilise the emerging EU framework to help maximize the potential opportunities for firms operating in Scotland. The European Commission has identified a number of priority actions to stimulate investment in new technologies, to improve the business environment, to help companies access markets and finance (especially for SMEs) and to ensure workers have the skills necessary to meet the needs of 21<sup>st</sup> century manufacturing industry. These actions correspond to the strategic priorities of the Scottish Government, and independence will remove the constraints on domestic economic policy that presently restrict engagement in these EU-level initiatives.

5.14. Third, an independent Scotland will continue to engage with EU partner countries in collective action designed to tackle major societal challenges. These include improving energy security; combatting – and mitigating the effects of – climate change; healthy and active ageing; innovating for sustainable growth; and, improved public health and reducing societal inequalities. Meeting these challenges will involve extending and intensifying research collaborations between leading Universities and scientific research centres. It will also require new policies that ensure that the fruits of scientific research are translated into innovative products and services capable of making a real contribution in meeting these challenges and improving the lives of Scotland's citizens.

5.15. Fourth, the Scottish Government will continue to focus on Justice and Home Affairs policy (JHA), and seek to foster co-operation with Member

States and EU institutions in such matters. The Scottish Government believes strongly that cross-border co-operation is an essential element in tackling problems such as organised crime and terrorism, and in matters of civil law, helping Scottish citizens to live and work in other EU Member States, and vice versa. The Scottish Government therefore believes that it is important to co-operate with other Member States to the maximum extent possible in this area.

## **6. Contributing to the EU reform agenda**

6.1. An independent Scotland will play a full and constructive role as a Member State of the European Union, working with its partners to address common economic and social challenges on a basis of mutual respect in co-operation in accordance with the terms and spirits of the EU Treaties. Many countries in Europe believe that there is a need for reform in order to bring Europe closer to its citizens to address more accurately their concerns. The Scottish Government is developing proposals for the reforms an independent Scotland would like to promote in co-operation with other Member States.

6.2. The reforms would tackle the following 3 main issues:

- a deep seated sense of a growing distance between EU institutions and EU citizens – we need to act to bring decision making closer to the people and the institutions that represent them;
- the development of longer-term EU level policies better able to deliver a sustained economic recovery across all Member States – a greater focus on boosting growth and employment; and
- Promoting an active role for Member States to work together in partnership to deliver key EU objectives.

6.3. A key starting point for Scotland is to ensure that we approach these negotiations firmly within the EU and not by threatening to leave it.

### **Enhancing democracy: restoring legitimacy in the institutions**

6.4. It is a political fact that an increasing proportion of EU citizens feel increasingly remote from the decisions taken at EU level that impact on their lives and their livelihoods. The Scottish Government believes it is important that reforms are made, or accelerated, which re-connect the citizens with all aspects of governance that impact on them and which make EU decision-making more responsive to local needs and circumstances.

6.5. As such, by taking its place as an independent state with full rights in the EU institutions, Scotland's distinctive voice will be heard directly at Europe's top table, helping to bridge the growing divide between decisions made by the EU and the democratic voice of Scotland's citizens. The European Union's role has developed considerably in recent years, both for those countries within the Eurozone which are developing plans for closer economic and monetary union, and those outwith who work together with the Eurozone countries to promote common issues in the wider European framework. This is particularly important given the need to reinforce European wide regulation of financial services in order to promote a sustained recovery, as well as the rules governing the public finances of Eurozone countries, in order to help them from breaching public deficit and public debt rules that are set out for Euro members.

6.6. The Scottish Government agrees with the President of the European Commission that the EU needs new thinking if it is to manage successfully the profound internal and external challenges it faces. However, this does not mean more competences being assigned to Europe. Instead, it means that Member States should engage in constructive and cooperative discussions over policy measures and reforms that will advance their common economic and social interests. It is particularly important to tackle the deep seated problems that affect all EU Member States, not least the unacceptably high levels of unemployment, particularly among young people.

6.7. By having a voice at Europe's top table, the Scottish Government will be able to make a direct contribution to these issues and to promote Scotland's distinctive approach and to make this more effective. Through this direct representation the Scottish Parliament's role will also be considerably enhanced, since it will be able to scrutinise more effectively EU legislation and to hold Ministers to account on their role in driving forward European reform. In this context, the Scottish Parliament may wish to look at examples of other Parliaments throughout Europe which have developed their role in this regard.

For example:

The Danish European Parliamentary Committee's role in monitoring and contributing to the agenda of European Council Meetings is increasingly regarded as constructive as a model for other states.

The role of the Dutch Parliament's European Committee in developing the subsidiarity mechanism, including its current work on a report on proposed measures, is a model that is also worth considering given the Scottish Parliament's existing role on subsidiarity.

6.8. Coupled with the enhanced role in decision making being played by the European Parliament following the Lisbon Treaty, an independent Scottish Government and Parliament will play a key role in bringing European decision making closer to the people. The Scottish Government will work with the Parliament and interested parties as well as its European partners to prepare proposals for strengthening Scottish engagement in EU decision making.

### **Economic reform and unemployment**

6.9. The economic and social consequences of the financial crisis that broke in 2008 continue to be felt across the EU. The persistence of low rates of economic growth and high unemployment, especially among young people, are posing unprecedented challenges to Member States across the EU.

6.10. With a place at the top table, Scotland will make a direct contribution to the development of European wide policies to tackle these challenges. A top priority will be youth employment, which remains one of the most challenging problems facing Europe. Youth unemployment across the European Union had reached 22.9% in August 2013. Although only 10 of the 28 Member States have a lower youth unemployment rate than Scotland, the Scottish youth unemployment rate remains far too high at 20.9% (in the period July to September 2013)<sup>1</sup>.

6.11. The Scottish Government is taking direct action to tackle unemployment and ensure that people who are out of work or underemployed, particularly young people, have access to the right training, skills and education opportunities. Scotland is also committed to ensuring high-quality education which is reflected in its internationally renowned institutions. In addition, Opportunities for All guarantees an offer of an education or training opportunity for all 16-19 year olds in Scotland not already in work, education or training.

6.12. At European level, the Scottish Government is fully supportive of the principles of the 'Youth Guarantee' adopted by EU Employment Ministers, in particular the need to intervene as early as possible to prevent young people becoming long-term unemployed. As an independent member we will urge the Council to fully implement this guarantee in order to ensure that Europe can work together to tackle this most pressing problem.

6.13. In particular, the Scottish Government would look to explore further with its European partners the ways in which their public employment services have supported young people and how their strong vocational systems have contributed to low unemployment. Working together with Scotland's partners and strengthening European action, would both more effectively help people in Scotland in a manner which suits Scottish circumstances, and permit Scotland to play a leading role in driving forward participation by young people across the EU.

6.14. For more than 20 years Scotland has taken a prominent role in working collaboratively with other Member States. Scotland's strong track record of sharing expertise and promoting innovation can be evidenced through participation in EU-funded transnational cooperation programmes. The Northern Periphery Programme was originally established with strong counsel from Scotland and promotes innovation and competitiveness, sustainable community development, and the protection of natural resources. We continue to be respected and valued in this Programme, shaping policy with a diverse range of partners to tackle challenges across some of the most geographically challenging Northern territories.

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<sup>1</sup> Sources: Scotland: Labour Force Survey (not seasonally adjusted), ONS (Jul-Sep 2013); European Union: Eurostat.

6.15. Similarly, Scotland's ability to lead innovative tripartite projects under the Cross Border Cooperation Programme with Northern Ireland and Ireland has brought new dimensions to generating prosperity and sustainability within this important region. The Irish-Scottish Links on Energy Study (ISLES) was a successful Scottish Government-led project to assess the feasibility of creating an offshore interconnected transmission network and subsea electricity grid based on renewable energy sources off the coast of western Scotland and in the Irish Sea/North Channel area. The project is now in its second phase to support the development of a joint approach to guide implementation, address planning and consenting issues, and develop a funding plan for the grid. This valuable cooperation experience underpins programmes designed to strengthen economic, social and cultural cohesion across national borders and will remain an integral part of an independent Scotland's reform plan. Scotland will be working from strong foundations for joint working that have been built up over time, and where our contribution is widely recognised by partner countries.

6.16. Scotland has also taken the lead in recent years in promoting European greenhouse gas emissions, renewable energy and energy efficiency targets for 2020. The Scottish Government now calls for further action to promote the low carbon economy and deliver affordable energy to the consumer to maximise the benefits to Europe from the planned world climate change deal in 2015. Scotland already has a reputation for high ambition and for the delivery of renewable energy objectives, which contribute substantially to the Scottish Government's objective for sustainable economic growth.

6.17. The experience of joint working partner countries in the North Atlantic in promoting marine energy, could be used to urge Europe to reform policy delivery to support low carbon technologies, especially off-shore renewables and carbon capture and storage. As an independent country, Scotland would work together to create strong cross-border partnerships to make this work. In particular, the Scottish Government would emphasise the need in the European Council and the Energy and Environment Councils for joint work on cross-border infrastructure including the North Sea Grid to deliver on this potential and to create employment through infrastructure.

6.18. A top priority for the European Council is to improve economic performance. As set out in the Government Economic Strategy, the purpose of the Scottish Government is:

6.19. "To focus the Government and public services on creating a more successful countries, with opportunities for all of Scotland to flourish through increasing sustainable economic growth."

6.20. As both the Fiscal Commission Working Group noted in their first report and the Scottish Government paper on Building Security and Creating Opportunity: Economic Policy choices in an independent Scotland noted, Scotland is already a wealthy and productive economy but the economic growth performance has underperformed relative to both the UK and other

small EU countries. Only with the full economic policy levers available through independence will we be able to maximise Scotland's potential and boost Scotland's sustainable economic growth rate. This focus on improving sustainable economic growth would be a key principle of Scotland's engagement with the EU. In this context, we would focus our attention in the process of economic reform by increasing the emphasis on infrastructure development, maximising the opportunities from the low carbon economy and promoting innovation in order to deliver improvements in productivity.

### **Working together in partnership to deliver key EU objectives**

6.21. In developing our role as an independent country within Europe, we would emphasise the importance of working constructively with fellow partners from countries and regions as well as the EU institutions to deliver outcomes of benefit to the people of Europe. We would build on our existing experience supporting EU Presidencies such as Cyprus, Ireland and now Lithuania to promote our role in delivering success for Europe as a whole. Scotland would work with the European Commission to focus on delivering economic benefit and making sure that the state aid regime delivered the right type of support and freedom of competition to ensure that all parts of Europe can deliver effective economic growth.

6.22. A key priority for Scotland will be to show leadership where we have expertise, and to learn from others where we can build up our capacity and knowledge. For example, on energy, climate change and the marine environment, but also on key aspects of scientific innovation, where we have a tremendous strength of depth in our companies, research institutions and Universities, which offer major opportunities to help drive the European agenda.

6.23. By working as an independent country we will be much more effective in ensuring that the key interests of Scotland, along with its partners, are driven forward. By acting directly rather than through intermediaries we will be much better placed to support Europe to make compromises in areas which are controversial, and to deliver progress in areas which have proved problematic, such as a worldwide climate change agreement. By pressing a strong reform agenda in partnership with colleagues and friends, an active Scotland will be to the benefit of all of Europe and its citizens.

## 7. Conclusion

7.1. Independence offers Scotland the opportunity to take its proper place as a full Member State within the European Union. Over the course of the past 40 years Scotland has made major contributions to achieving the aims and objectives of the European integration, not least through its steadfast support for the enlargement of the EU during periods of great uncertainty.

7.2. As an independent Member State the Scottish Government will be responsible for representing Scotland's interests at all levels within the European Union and in each legislative and policy matter over which the EU has competence, including the crucial issue of future reforms to the EU Treaties. This is the position that 28 Member States presently occupy, and it is only through independent membership that Scotland's vital EU interests can properly be represented.

7.3. Although the principal purpose of this paper is to explain the benefits to Scotland of independent EU membership, there should be no doubt that remaining part of the UK is likely to undermine Scotland's interests in, and influence over, the EU. The increasing Eurosceptic stance being taken by successive UK Governments has already marginalized the influence the UK has at the EU level.

7.4. As we head towards a referendum on the UK's membership of the EU there is a growing sense, both here and on mainland Europe, the UK's relationship with the EU is set to change fundamentally. Indeed it is far from inconceivable the UK will leave the EU before the end of this decade. By contrast the Scottish Government is firmly committed to an independent Scotland remaining inside the EU because, as this paper demonstrates, EU membership delivers considerable benefits to Scotland's economy and society. It is no longer fanciful to suggest these are benefits we risk losing unless we achieve independent statehood.

7.5. No international organization is perfect, and the EU is no different. As a full Member State within the EU the Scottish Government would work – and would be able to work – constructively with other Member States to ensure that EU laws and policies were fit-for-purpose in Scotland. Even more importantly the government of an independent Scotland would be fully involved in any discussion about the future of the EU, including Treaty reforms.

7.6. Independence will ensure that it will be a Scottish Government that defends, promotes and represents Scotland's interests in all EU legislative and policy decisions that affect the lives and livelihoods of those working and living in Scotland.

## **Annex 1: The Scottish Government's Economic Strategy and the Europe 2020 Agenda**

The broad economic policy priorities of the Scottish Government and the European Union are closely aligned. The Scottish Government shares the long-term objectives set out by the European Commission in its Europe 2020 growth strategy, which is focused on creating the conditions for delivering growth that is smarter, more sustainable and more inclusive.

### **Economic Strategy Approaches**

#### **A Shared Long-term Vision**

The global economic crisis, which hit in 2008, continues to impact on economies across Europe, with a sustained recovery yet to emerge. Output (GDP) in many countries is still below pre-recession peaks, whilst labour market conditions remain challenging. Overall unemployment has increased across most Member States since the crisis with unemployment reaching 10.9% for the EU28, and 12.0% across the Eurozone countries in August 2013<sup>2</sup>. The high level of unemployment among young people is particularly challenging, with youth unemployment for the European Union sitting at 22.9% in August 2013<sup>3</sup>.

The events of recent years have highlighted that aspects of the pre-crisis growth across many developed economies were not sustainable. In order to create more resilient economies the shortcomings of the previous growth model must be addressed.

Europe 2020 is the European Union's ten year growth strategy for both responding to the short-term challenges confronting the economies of the EU, and providing a framework for delivering long-term growth that is smart, sustainable and inclusive<sup>4</sup>. It sets the long-term focus for economic and social policy across Member States in the shape of structural reforms, while also addressing the immediate short-term priorities, tackling the economic crisis, and the social challenges that it brings. The duration of the crisis has not helped Member States advance this agenda but progress is needed to move towards a smart, sustainable and inclusive EU.

The Scottish Government shares the values and aspirations of the Europe 2020 vision, although it recognises that realising its underlying objectives will largely depend on the actions taken by the national governments of the EU Member States. Independence will ensure the Scottish Government has the full range of powers necessary to contribute to the wider EU growth strategy, a strategy from which Scotland's economy ultimately stands to benefit considerably.

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<sup>2</sup> Eurostat, 1 October 2013, [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/3-01102013-AP/EN/3-01102013-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-01102013-AP/EN/3-01102013-AP-EN.PDF)

<sup>3</sup> Eurostat, non-seasonally adjusted  
[http://epp.eurostat.ec.europa.eu/portal/page/portal/employment\\_unemployment\\_ifs/data/data\\_base](http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_ifs/data/data_base)

<sup>4</sup> [http://ec.europa.eu/europe2020/index\\_en.htm](http://ec.europa.eu/europe2020/index_en.htm)

The Europe 2020 strategy is closely aligned with the Scottish Government's economic framework, set out in the Government Economic Strategy (GES), for delivering our core Purpose:

“...to focus the Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.”

The GES sets out the measures that the Scottish Government will take to accelerate Scotland's recovery and support jobs. The strategy focuses our actions on a consistent set of Strategic Priorities<sup>5</sup> which will drive sustainable economic growth and develop a more resilient and adaptable economy.

Accordingly, the Scottish Government has - through the Scottish National Reform Programmes (NRP)<sup>6</sup> - taken the opportunity to highlight its commitment to contributing to the delivery of the Europe 2020 ambitions. The NRP shows the distinct approach being pursued across Scotland to meet these aims.

Scotland is already, within the powers currently available, making a substantive economic and social contribution to the range of challenges facing all European economies – from youth unemployment to global warming. However, as an independent nation, Scotland would, with access to the full set of policy levers, be in an even stronger position to contribute to the delivery of this shared vision.

### **Europe 2020**

Europe 2020, which was agreed at the June 2010 European Council, is the European Union's growth strategy and the successor to the Lisbon Strategy<sup>7</sup>. The strategy deals both with the continued short-term challenges linked to the economic crisis and the need for structural reforms through growth-enhancing measures that are required to make Europe's economy fit for the future.

The Strategy highlights that the structural weaknesses in Europe's economy, which have been exposed by the crisis, can only be addressed by moving ahead with reforms. These reforms will be developed at the national level in order to address the unique structural challenges facing individual Member States.

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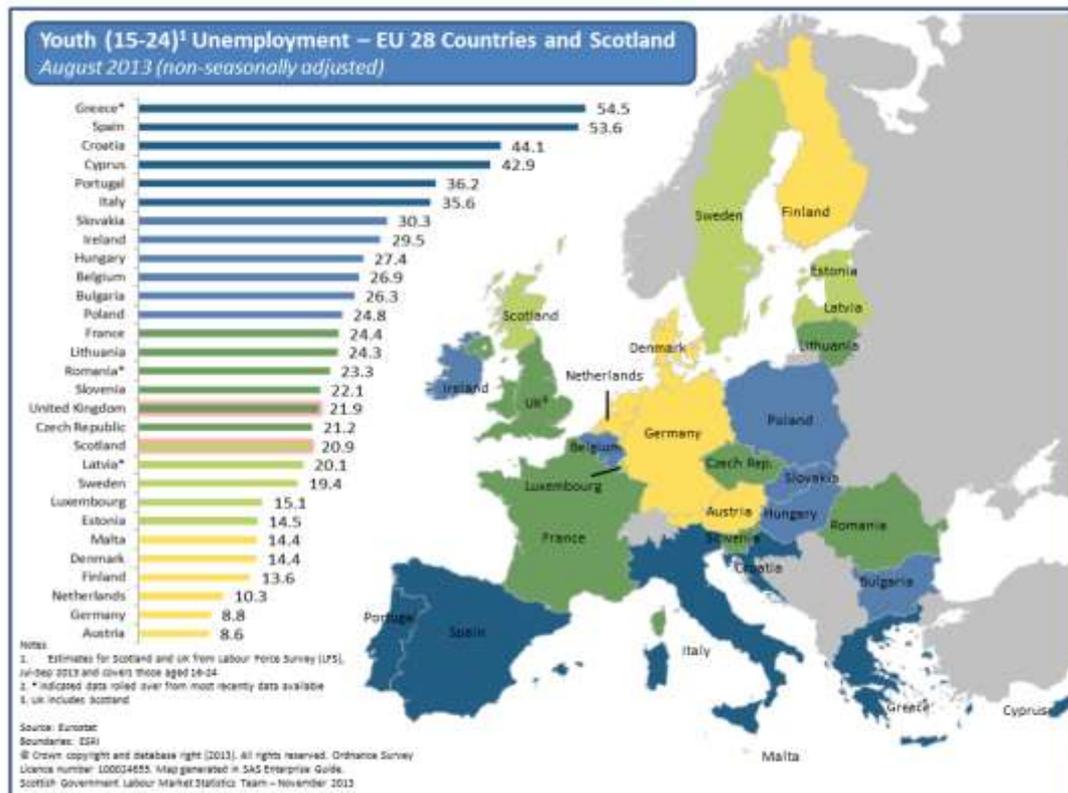
<sup>5</sup> Supportive Business Environment; Learning, Skills and Well-being; Infrastructure Development and Place; Effective Government; and Equity

<sup>6</sup> Europe 2020: Scottish National Reform Programme 2013, <http://www.scotland.gov.uk/Publications/2013/04/9331>.

<sup>7</sup> The EU launched the Lisbon strategy for growth and jobs in 2000 as a response to globalisation. Its aim was for the EU and its member countries to cooperate on reforms aimed at generating growth and more and better jobs by investing in people's skills, the greening of the economy and innovation.

## Youth unemployment

Youth unemployment remains one of the most challenging problems facing Europe. In August 2013, EU youth unemployment had reached 22.9%. This high unemployment rate creates the risk of a lost generation. Scotland's youth unemployment rate is lower than that seen across the EU and the UK, at 20.9% for the period Jul-Sep 2013 (youth unemployment across the UK stood at 21.9% in the same period)<sup>8</sup>.



The Scottish Government is fully supportive of the principles of the Youth Guarantee adopted by EU Employment Ministers, in particular, the need to intervene as early as possible to prevent young people becoming long-term unemployed. We have committed to 25,000 new apprenticeships, and in 'Opportunities for All' we offer a place in education or training for all 16-19 year olds not in learning, training or employment. As an independent Member State, Scotland would work with other EU countries to make the most of this priority in Europe 2020.

Many of the EU's other policies and activities, which support growth and competitiveness, will support the delivery of the Europe 2020 vision. In particular:

<sup>8</sup> Sources: Scotland: Labour Force Survey (not seasonally adjusted), ONS (Jul-Sep 2013); European Union: Eurostat.

- the single market, which allows for the free movement of goods, people, services and capital across EU member countries
- the EU budget, which is strategically used to support the priority areas of the Europe 2020 strategy – for example, the 2014-2020 European Structural Funds Programming Period will be targeted on the Europe 2020 priorities
- the EU's trade policy, which promotes stronger trade relations which can provide European enterprises with access to government procurement and research programmes in third countries

In order to make the aims more tangible, Europe 2020 sets out five key targets for the EU to achieve by 2020. These targets cover employment; education; research and innovation; social inclusion and poverty reduction; and climate/energy.

### Europe 2020 Targets

The strategy defines where Europe wants to be by 2020 through a set of headline targets:

1. **Employment:** 75% employment rate for women and men aged 20-64
2. **R&D:** 3% of the EU's GDP should be invested in R&D/Innovation
3. **Climate change and energy:** The "20/20/20" climate/energy targets should be met (including an increase to 30% of emissions reduction if the conditions are right)
4. **Education:** The share of school drop-outs should be less than 10% and at least 40% of 30-34 year olds should have completed tertiary education
5. **Poverty/Social exclusion:** Lifting at least 20 million people out of the risk of poverty and exclusion

Europe 2020 has also established seven 'flagship initiatives' which provide a framework through which the EU and national authorities mutually reinforce their efforts in areas supporting the Europe 2020 priorities such as innovation, the digital economy, employment, youth, industrial policy, poverty, and resource efficiency.

Whilst Europe 2020 establishes the long-term vision and direction for the European Union, the path to achieving these ambitions will vary across Member States. It is therefore for Member States to develop policy approaches appropriate to their domestic situation, which contribute to the Europe 2020 ambitions.

Access to the additional levers provided through independence would allow for the development of an overall policy framework which was most suitable

for maximising Scotland's potential, and which would, in turn, strengthen Scotland's contribution to the delivery of the Europe 2020 vision.

### **Flagship Initiatives**

Seven flagship policy initiatives have been put forward by the European Commission to drive progress against the Europe 2020 priority themes:

1. **'Innovation Union'** – to improve the framework conditions and access to finance for research and innovation so as to ensure that innovative ideas can be turned into products and services that create growth and jobs
2. **'Youth on the Move'** – to enhance the performance of education systems and to facilitate the entry of young people to the labour market
3. **'A digital agenda for Europe'** to speed up the roll-out of high-speed internet and reap the benefits of a digital single market
4. **'Resource efficient Europe'** – to help decouple economic growth from the use of resources, support the shift towards a low carbon economy, increase the use of renewable energy sources, modernise transport sector and promote energy efficiency
5. **'An industrial policy for the globalisation era'** – to improve the business environment, notably for SMEs, and to support the development of a strong and sustainable industrial base able to compete globally
6. **'An agenda for new skills and jobs'** – to modernise labour markets and empower people by developing their skills through the lifecycle with a view to increase labour participation and better match labour supply and demand, including through labour mobility
7. **'European platform against poverty'** – to ensure social and territorial cohesion such that the benefits of growth and jobs are widely shared and people experiencing poverty and social exclusion are enabled to live in dignity and take an active part in society

### **Government Economic Strategy**

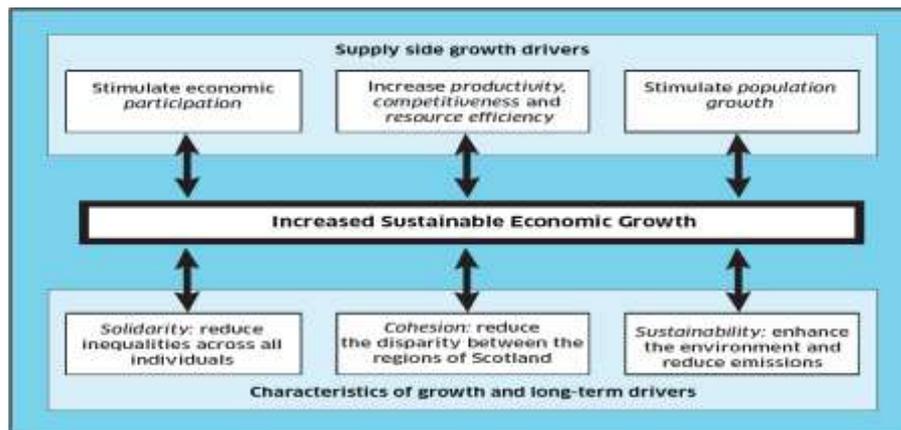
The Government Economic Strategy (GES)<sup>9</sup> sets out how the Scottish Government will continue to make full use of the levers currently devolved to the Scottish Parliament in order to accelerate recovery, drive sustainable growth and develop a more resilient and adaptable economy.

Originally launched in 2007, a refreshed GES was published in September 2011 to take account of the marked change in economic conditions over the intervening period and to provide added focus toward new and emerging growth opportunities. In September 2012 the Scottish Government published a progress report which set out the series of actions which are being taken

<sup>9</sup> *Government Economic Strategy*, Scottish Government, September 2011, <http://www.scotland.gov.uk/Topics/Economy/EconomicStrategy>

forward across the public sector to accelerate recovery, deliver sustainable economic growth, boost employment and tackle inequality<sup>10</sup>. The framework provided by the GES, as set out in Figure 1, is focussed on improving performance against the key drivers of sustainable economic growth – **Productivity**, Competitiveness and Resource Efficiency, **Participation** in the Labour Market and **Population** Growth – and the delivery of the Scottish Government’s desired characteristics of growth – Solidarity, Cohesion, and Sustainability.

**Figure 1: The Purpose Framework**



Each of these drivers and characteristics are underpinned by ambitious long-term Purpose targets which form a key part of the National Performance Framework (NPF). As highlighted through the Scottish National Reform Programmes<sup>11</sup>, these targets cover the five priority target areas set out in Europe 2020.

The NPF, which is set out in figure 2, provides a clear vision for the kind of Scotland that we want to see. It provides a broad measure of national well-being, incorporating a range of social and environmental indicators and targets covering issues such as mental well-being, income distribution and carbon emissions as well as economic growth.

Progress against the priorities set out in Europe 2020 is captured through the NPF’s 7 Purpose Targets and 50 National Indicators, with performance monitored through Scotland Performs<sup>12</sup> - the Scottish Government’s online reporting tool.

<sup>10</sup> Supporting Recovery and Delivering Sustainable Growth – GES Progress Report, Scottish Government, September 2012, <http://www.scotland.gov.uk/Resource/0040/00401529.pdf>

<sup>11</sup> <http://www.scotland.gov.uk/Publications/2013/04/9331>

<sup>12</sup> <http://www.scotland.gov.uk/About/Performance/scotPerforms>

**Figure 2: The National Performance Framework**



### **Europe 2020 Performance Measures**

Europe 2020 sets out five key targets for the EU to achieve by 2020, covering: employment; education; research and innovation; social inclusion and poverty reduction; and climate change/energy.

Scotland is capturing through the National Performance Framework – which includes 7 Purpose Targets and 50 National Indicators – the target priorities set out in Europe 2020. In light of this the Scottish Government has not set any additional targets, but does report, where possible, on the Europe 2020 targets through the Scottish NRPs.

#### Employment

- The Government Economic Strategy established a target to close the gap [in employment rates] with the top five OECD economies by 2017.

#### Education

- National Indicator to increase the proportion of young people in learning, training or work
- National Indicator to increase the proportion of graduates in positive destinations

#### Research & Innovation

- National Indicator to Increase Research and Development Spending in Scotland – which compares Scotland’s Gross Expenditure on Research and Development (GERD) as a percentage of GDP with the equivalent average figure for the EU27
- Improve knowledge exchange from university research

#### Social Inclusion and Poverty Reduction

- National Indicator to Reduce the proportion of individuals living in poverty
- National Indicator to reduce children’s deprivation
- The Solidarity target, established in the GES, to increase overall income and the proportion of income earned by the three lowest income deciles as a group by 2017

### Climate Change and Energy

- The Scottish Government has established ambitious targets for reducing greenhouse gas emissions by at least 42% by 2020 and at least 80% by 2050
- A range of targets focused on driving the transition to a low carbon economy have also been established
- An energy efficiency target for a 12% reduction in final energy consumption against a 2005-2007 baseline
- Target for 31% of electricity demand from renewables by 2011 – a target which has been exceeded
- Renewable heat target of 11% of Scotland's heat demand to come from renewables by 2020

### **Priority Policy Areas**

As an open economy, Scotland is not immune from global economic pressures. The GES provides a flexible and adaptable framework to support the Scottish economy. This has allowed the public sector to quickly mobilise resources to accelerate recovery, and build the foundations for long-term sustainable economic growth. In order to mitigate the impact of the on-going uncertainty in global economic conditions and to build on the recent positive signs of recovery in the Scottish economy the Scottish Government is focusing on:

- supporting an investment led recovery;
- taking direct action to boost employment, create more economic opportunity and enhance business confidence; and
- rebalancing the economy, through supporting innovation, internationalisation, and the transition to a low carbon economy.

In order to deliver the long-term ambitions the GES identifies six Strategic Priorities that represent the broad policy levers that shape the drivers of growth and the desired characteristics of growth. It is against these priorities that our policies and resources are aligned.

Each priority is critical to the delivery of the Purpose and they are closely aligned with the priorities – in particular the Flagship Initiatives - set out in Europe 2020.

### **Delivering the Long-term Ambition**

Delivery of Europe 2020 relies heavily on the new governance structures and processes that the European Union has been putting in place since 2010.

At the heart of these is the European Semester, a yearly cycle of economic policy coordination involving EU level policy guidance by the European Commission and Council, reform commitments by the Member States and country-specific recommendations prepared by the Commission and endorsed at the highest level by national leaders in the European Council.

These recommendations should then be taken on board in the Member States' policies and budgets.

Part of this cycle sees Member States report annually on their structural reform programmes and the progress they are making in delivering the Europe 2020 ambitions through National Reform Programmes (NRPs).

### **Strategic Priorities for Delivering Sustainable Economic Growth**

The Government Economic Strategy identifies six Strategic Priorities that represent the broad policy levers for influencing the drivers of growth – **Productivity**, Labour market **Participation**; and **Population** – and the Scottish Government's desired characteristics of growth – **Solidarity**, **Cohesion** and **Sustainability**.

- **Supportive Business Environment** – focused on growth companies, growth markets and growth sectors with a range of measures being taken forward in: international trade and investment; supporting business growth; helping small businesses to create jobs; innovation and commercialisation; and taxation.
- **Transition to a Low Carbon Economy** – reflecting the opportunity to place Scotland within an advantageous position within the global economy and ensure that the benefits of this transformational change are shared across the economy and all our communities;
- **Learning, Skills and Well-being** – with a particular focus on: giving every child a strong start in life; equipping our young people with the knowledge and skills to flourish; delivering education that is responsive, and aligned, to demand; supporting employability and tackling youth unemployment; and promoting health and well-being.
- **Infrastructure Development and Place** –with a focus on: harnessing the strength and quality of our cities, towns and rural areas; infrastructure development; transport; Housing; and Digital.
- **Effective Government** – ensuring that the actions by the public sector are aligned to maximise their positive impact on the Purpose, with a focus on: public service reform; public procurement; and streamlining the public sector's dealings with business;
- **Equity** – focused on ensuring that growth is shared and sustainable and provides the most disadvantaged areas and people in society with the opportunity to prosper through: tackling the causes of inequality; alleviating pressures on household incomes and protecting the low paid; and through supporting social enterprise and the third sector.

The European semester starts with the publication of the Annual Growth Survey (AGS) by the European Commission, which details the EU priorities for the coming year to boost growth and job creation. In the 2014 Annual

Growth Survey<sup>13</sup>, published in November 2013, the Commission advised that efforts in the coming year should be focussed on:

- Pursuing differentiated growth-friendly fiscal consolidation
- Restoring lending to the economy
- Promoting growth and competitiveness for today and tomorrow
- Tackling unemployment and the social consequences of the crisis; and
- Modernising public administration

In March of each year, EU Heads of State and Government issue EU guidance for national policies on the basis of the Annual Growth Survey. The Annual Growth Survey also provides the basis for the Spring meeting of the European Council, which looks at:

- The overall macroeconomic situation
- Progress towards the five EU-level targets (set out in Europe 2020)
- Progress under the flagship initiatives

In April, Member States submit both their Stability or Convergence Programmes<sup>14</sup>, and their National Reform Programmes (NRP) in response to the priorities set out in the AGS.

During May and June, the European Commission assesses the Stability or Convergence Programmes and NRPs, and provides country-specific recommendations (CSRs), which are designed to highlight the particular challenges that the individual Member State may face and constitute advice from the Commission to Member States to help guide national policies.

These recommendations are discussed in great detail in committees with the representatives of the Members States. The Council formally adopts the country-specific recommendations at the end of June or in early July.

### **Scottish National Reform Programme**

The Scottish Government is already playing an active role in the European Semester.

For example, the Scottish Government has fully contributed to the development of the UK Government's National Reform Programmes<sup>15</sup> to ensure that actions being pursued in Scotland are reflected in the UK's programme.

In addition, and in order to highlight our commitment to the Europe 2020 vision and the distinct approach we are taking forward, National Reform Programmes have been produced for Scotland. This approach, which has

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<sup>13</sup> [http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index_en.htm)

<sup>14</sup> Stability and convergence programmes are prepared by Member States to present their medium term budgetary strategy. Euro members produce a Stability Programme, whilst non-Euro Member States submit a Convergence Programme.

<sup>15</sup> Europe 2020: UK National Reform Programme 2013, [http://ec.europa.eu/europe2020/pdf/nd/nrp2013\\_uk\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/nrp2013_uk_en.pdf)

been positively received by both stakeholders and by the Commission, has allowed us to send a strong message about Scotland's positive engagement with the European Union and to showcase particular Scottish strengths in areas such as Energy, Food and Drink, and Life Sciences.

As an independent Member State Scotland would fully contribute to all aspects of the European Semester, including submitting a Convergence Programme alongside its National Reform Programme.

Following submission of these Programmes, there are extensive discussions with Member States as consideration is given to the actions being pursued and whether country specific recommendations will be issued. As an independent Member State, representatives from Scotland would be involved in these discussions and therefore better promote the actions set out in the Scottish Programmes.

Following consideration of its National Reform Programme and Convergence Programme, an independent Scotland may receive country specific recommendations from the Commission. Were CSRs to be received then an independent Scotland would engage constructively with the Commission as to how this advice would be reflected in policy development in Scotland.

### **Future Action**

Europe 2020 provides the long-term vision for the European Union and a key element of the Union's reform agenda. The continuing impact of the global downturn makes delivery of these long-term ambitions particularly challenging. Further reform and action will be necessary if the Europe 2020 targets are to be achieved.

The Scottish Government shares the Europe 2020 vision, and there is close alignment with the priorities in our Government Economic Strategy.

Within the powers currently available, Scotland is already making a contribution to the delivery of these ambitions. However, our ability to influence progress towards some aspects of this agenda is constrained by the current constitutional framework.

As an independent member of the European Union, with access to the full set of policy levers, Scotland would be in a stronger position to take forward the necessary actions and reforms to deliver growth which is sustainable, smart and inclusive.

## **Annex 2: Why Scotland, a wealthy and productive country, can be influential in EU Decision-Making**

Following independence Scotland would become a full Member State within the European Union. With a population of over 5 million, an independent Scotland would take its place alongside the 12 other Member States which are of similar size (Denmark, Finland and Slovakia) or significantly smaller than Scotland (Cyprus, Malta, Luxembourg). Indeed it is worth noting that sixteen Member States have populations of less than 10 million - that is more than half of all EU Member States. These range from Hungary with around 10 million to Malta with a population of just over 400,000 – less than 10% of Scotland's population.

As highlighted by the Fiscal Commission Working Group Scotland is, by international standards, a wealthy and productive country:

- In terms of GDP per capita, Scotland was positioned as the third highest nation or region in the UK in 2011; and with an illustrative geographic share of North Sea Output it is estimated that Scotland would be ranked 8<sup>th</sup> in terms of GDP per capita in the OECD in 2011<sup>16</sup>.
- Productivity levels (measured as GDP per hour worked) in Scotland were the same as UK levels in 2011<sup>17</sup>.
- Scotland's employment rate of 72.8% (for the population aged 16-64) in June-August 2013 was higher than the UK rate (of 71.7%)<sup>18</sup>.

As highlighted below, Scotland is a country with considerable strengths and potential. Drawing on these, Scotland would have a great deal to offer as an independent Member State.

Scotland has many strengths – ingenuity, natural resources and competitive advantages across a range of growth sectors – that would be invaluable as a constructive and active independent member of the EU.

### **Resources**

- Scotland has 25% of Europe's off-shore wind and tidal resource and also 10% of Europe's wave resource.
- There are estimated to be up to 24 billion barrels of oil to be extracted from the North Sea.
- Scotland is a world-leader in the fast growing green technology sector.

<sup>16</sup> Scotland's International GDP Per Capita Ranking – 2011, <http://www.scotland.gov.uk/Topics/Economy/Publications/GDP-Per-Capita>

<sup>17</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-313606>

<sup>18</sup> <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/october-2013/statistical-bulletin.html>

### **Global Reputation**

- Scotland has an international reputation for producing quality goods and services.
- Boasts a tourism industry which employs almost 200,000 people and is a country that is famed across the world for its beauty and hospitality.

### **Ingenuity**

- Scots have been among the greatest entrepreneurs and innovators the world has ever seen.
- Scottish innovators are responsible for pioneering the ATM, Cloning (Dolly the Sheep), MRI scanning, penicillin, and television.

### **World-class Education System**

- Scotland's universities are renowned for their excellence and continually punch above their weight internationally. In the latest Times Higher Education (THE) World University Rankings five of our universities feature in the top 200, reinforcing the success of Scotland's universities highlighted in the 2013-14 QS university rankings that ranked the University of Edinburgh 17<sup>th</sup> in the world and which showed improved standings in the top 150 for the universities of Glasgow, St Andrews and Aberdeen.
- Moreover, when adjusted for population, Scotland has more universities in the Times Top 200 world universities per head of population than any other country<sup>19</sup>

### **Growth Sectors**

- Due to existing comparative advantages or the potential to capitalize on Scotland's unique assets, certain sectors offer particular opportunities for growth.
- These seven growth sectors include Life Sciences, Creative Industries, Food and Drink, Energy, Financial and Business Services, Tourism and Universities.

For the purposes of analytical clarity, in this chapter we adopt the distinction that is conventionally made in the EU decision-making literature between “big” and “small” EU Member States, where size is a direct function of population. Accordingly in that literature a distinction is drawn between the “big” population countries such as France and Germany on the one hand, and the relatively smaller countries in population terms such as the Netherlands, Belgium and Denmark on the other hand. As we demonstrate in this annex, it is clear that population difference per se (i.e. size) is not translated into any systematic advantage, or disadvantage, when it comes to the outcomes of EU-level negotiations. Instead a range of factors other than size are found to be more significant in determining negotiated outcomes.

Indeed it is one of the many myths surrounding the EU legislative and policy process that the few relatively “large” EU Member States (such as France,

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<sup>19</sup> Source: SG calculations based on THE World University Rankings 2013-14 and World Bank population data

Germany, the UK) tend to dominate EU legislative and policy negotiations – especially in the Council of the EU – with the smaller Member States having little effective influence in these discussions and outcomes.

The assumption that only “size matters” in EU-level negotiations has led opponents of Scotland’s independence to assert that an independent Scotland would have little influence, and so be less able to protect its EU interests, in Council negotiations than at present. In fact, the evidence does not support this assertion. Indeed, if anything the evidence demonstrates the opposite – that smaller Member States, especially those like Scotland with a history of EU-level engagement and expertise, can be more successful at negotiating EU legislation than larger Member States.

**Sweden** managed to be very influential in the debate around the revision of the old pesticide regime within the EU in 2006. Denmark, Luxemburg and Sweden pushed for stricter regulation of pesticides whereas the UK, Ireland, and Poland among others pushed for less stringent rules. Sweden conducted its own large-scale study on the effect of pesticides and the results from this study became a strong scientific argument in negotiations. The fact that Sweden based its arguments on the study made the Swedish Government appear impartial and not driven by national self-interests<sup>20</sup>. The stricter regulations were adopted as a result.

**Denmark** was successful as a broker in negotiations over the definition of Vodka. Poland, the Baltic countries, Sweden and Finland were pushing for a stricter definition of vodka only being made from potatoes and cereals whereas the UK, France and Spain among others were backing a wider definition, including grapes and sugar cane. Sweden tried to frame the arguments technically and scientifically in terms of taste differences which was unsuccessful as there was no agreement on the taste issue. In the end, the matter was resolved by Denmark. Rather than putting forward scientific arguments, the Danes framed the issue in terms of fairness and norms. The solution was the requirement to state ‘vodka made from...’ on any bottles containing vodka from alternative materials. Since Denmark does not have a substantial vodka industry, it was considered neutral in the negotiations and was taken seriously by the other states<sup>21</sup>.

Independence will allow the Scottish Government to take its place alongside all other EU Member States – many of which have smaller populations than Scotland – at the heart of the EU decision-making process.

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<sup>20</sup> Panke, D. 2012c. Being small in a big union: Punching above their weights? How small states prevailed in the vodka and the pesticides cases, Cambridge Review of International Affairs, 25(3), pp. 329-344.

<sup>21</sup> As above

### **Scotland in the EU: from dependence to independence**

Under devolution the Scottish Government is entirely dependent on the UK Government to represent its EU legislative and policy interests within the EU decision-making process. At the apex of that process is the Council of the European Union, where Ministers from national governments negotiate and agree a common position on specific legislative and policy proposals – including any amendments proposed by the European Parliament. The overwhelming proportion of EU legislation, including almost all internal market rules, is subject to qualified majority voting in the Council. In practice however, the Council seldom reverts to a formal vote. Instead the Member States seek to find a consensus outcome – not least because this strengthens the Council’s collective position in later negotiations with the European Parliament with which it shares the role as EU legislator across a wide range of policy (including internal market) issues. Presently the Scottish Government has no right to attend, or to participate, in these key Council discussions, despite their importance to Scotland’s national interest. With independence this would change, and the Scottish Government would be present at all Council negotiations ensuring Scotland’s interests are represented across the wide range of policy issues on which the EU is competent to pass laws and make policy.

Although the Council is the EU’s senior law making body, a considerable amount of preparatory work is undertaken by officials from Member State governments (and the EU Institutions) whose task is to find compromises and agree common positions on legislative and policy proposals ahead of Ministerial-level discussions. Independence would also ensure officials from the Scottish Government also attended these meetings which constitute a central element in the representation of national interests in the overall EU law and policy-making process.

**The Council of the EU** is the forum where a range of key decisions are taken that impact directly on Scotland. The Council passes EU laws; coordinates the economic policies of the Member States; signs agreements between the EU and other countries; approves the annual EU budget; develops EU foreign and defence policies; and, coordinates between the courts and police forces of the Member States.

Independence would transform Scotland’s representation in these EU negotiations. With independent EU membership it would fall to Scotland’s government to represent directly Scotland’s interests in all EU-related affairs such as fisheries, agriculture, energy, justice and home affairs. Scotland’s interests would be looked after by a government directly elected by the people of Scotland rather than by a UK Government that is out of touch with the wishes and aspirations of the people of Scotland.

### **The fallacy that “size matters” in EU decision-making**

Critics argue that independence will weaken Scotland’s voice in EU negotiations and that by being part of the UK delegation Scotland currently can “punch above its weight” in EU legislative and policy discussions and that

“smaller” EU Member States are disadvantaged in EU negotiations. The basis of this assertion is that because, under the current procedures, votes in the Council are weighted according to population size an independent Scotland with a population of around 5 million will find itself less able to defend its interests than it would through remaining part of one of the EU’s ‘larger’ Member States.

This, it is claimed, is important because most decisions reached in the Council formally fall under the Qualified Majority Vote (QMV) procedure. However, this claim is incorrect for two basic reasons. First, it ignores the long-standing convention that the Council reaches the overwhelming majority of its decisions through consensus.<sup>22</sup> A formal vote is very seldom held – and even when a vote is called the arithmetic of the QMV system ensures that even where the larger Member States do share a common position – and there is no particular reason why they should – they nonetheless require the support of a number of smaller Member States before the qualified majority threshold is reached. Second, and more significantly, arguing that ‘size’ equates to ‘influence’ in the EU decision-making process is to fundamentally misunderstand and misrepresent the sources of national influence in the EU negotiating and decision-making process.

There are three basic fallacies in the “size matters” argument leveled by opponents of Scottish independence.

### **Fallacy One**

The first fallacy is the assumption that the UK Government will always agree outcomes in EU negotiations that are in Scotland’s interests, and that these outcomes could not be secured if Scotland becomes an independent Member State.

It is simply not the case that the negotiating position the UK Government adopts in Council necessarily reflects the interest of Scotland. Under independent EU membership, Scotland would be free to adopt a different position from rUK on EU proposals and align itself with those Member States whose position most closely accords with its own. In that case, the prospects that the EU policy ultimately agreed will more closely meet the position advocated by the Scottish Government are increased.

### **A divergence of views – Common Agricultural Policy (CAP) Budget**

Launched in 1962, the Common Agricultural Policy (CAP) is a partnership between agriculture and society, between Europe and its farmers. Its main aims are: to improve agricultural productivity, so that consumers have a stable supply of affordable food and to ensure that EU farmers can make a reasonable living.

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<sup>22</sup> A point expressed by experts giving evidence to the House of Lords Select Committee on the EU, 10<sup>th</sup> Report (Session 2007-08) assessing the impact of the Lisbon Treaty. See in particular evidence cited in Chapter 4, especially at 4.37-4.64. The same point is made by Miller, V. “Voting behavior in the EU Council”, SN/IA/6646 House of Commons Library.

The CAP's budget is spent in 3 different ways:

- Income support for farmers whereby farmers receive direct payments, provided they live up to strict standards relating to food safety, environmental protection and animal health and welfare. These payments are fully financed by the EU, and account for 70% of the CAP budget.
- Market-support measures: these come into play, for example, when adverse weather conditions destabilise markets. Such payments account for less than 10% of the CAP budget.
- Rural development measures: these are intended to help farmers modernise their farms and become more competitive, while protecting the environment, contributing to the diversification of farming and non-farming activities and the vitality of rural communities. These payments are part-financed by the member countries, generally extend over a number of years, and account for some 20% of the CAP budget.

Scotland has a diverse agriculture sector that faces distinct challenges, operating with a limited amount of high grade arable land. Financial support via the European Common Agricultural Policy (CAP) is therefore hugely important to the viability of many of Scotland's farms which in turn are an important part of the fabric of many rural areas.

By refusing to acknowledge the critical and transformative potential of CAP in Scotland - both in terms of direct payments to farmers (CAP Pillar 1) and rural development support for businesses and communities (CAP Pillar 2), successive UK Governments have failed to negotiate better deals for Scotland in Europe. As a result, Scotland has the lowest per hectare rate of support for rural development in the EU and the third lowest in the EU for direct payments to farmers. Within the current constitutional set-up this position is not set to improve with the UK Government pressing for the eventual removal of all CAP payments, except those that deliver environmental benefit.

An independent Scotland, with its own seat in the Council, would work directly with other like-minded Member States and develop alliances to help deliver better outcomes for Scotland. For example, if Scotland had been independent when the last CAP budget was being decided it would, in time, have qualified for the €196 per hectare minimum payment and as a result Scotland would have received an extra €1 billion between 2014 and 2019.

The story is similar on support for rural development (CAP Pillar 2). Scotland's share of the Pillar 2 budget for 2014-2020 equates to around 12 euros per hectare. This is lower than every Member State's allocation, and less than one-sixth the EU average of 76 euros.

Despite having less than 25% of the agricultural land of the UK, Ireland has provisionally negotiated a €2 billion allocation for rural development. Ireland is a country, of similar size of Scotland. This highlights what Scotland could achieve as a similar sized Member State at future negotiations.

This isn't simply an issue about subsidy. It's about a future Scotland, that would be a net contributor to the EU budget. It's about Scotland, as a Member State, being prepared to negotiate better outcomes for its farmers and its rural areas, putting them on a level playing field with their counterparts in Europe.

Where Scotland's post-independence EU interests do converge with the rUK Government position, an independent Scottish Government will have the option of aligning itself (and casting its vote accordingly if necessary) with the rUK Government and all other governments who share the same position.

With independence the Scottish Government can therefore never find itself in a less advantageous position in EU negotiations than at present, where it has no formal influence over EU decisions. Under independent EU membership, not only will the Scottish Government be able to negotiate on an equal footing with all other EU partner countries on the basis of Scotland's national interest, in the event that a vote is called in Council the Scottish Government will be able to align itself with whatever position best protects that national interest. This would include the rUK if that were the appropriate strategy, but otherwise not. Independent EU membership can therefore only improve Scotland's representation in the EU; it cannot make it less advantageous.

### **Changes to voting systems in the Council**

In 2014 the qualified majority voting system in the EU Council will change from the current system in which a Member State is allocated a number of Council votes according to its size, to a voting system based on the "double majority" principle. Under this simpler regime, a qualified majority will be achieved if the proposal commands a "double majority" – defined as 55% of Council members (with each member having one vote) which together comprises a minimum of 65% of the population of the Union.

The counterpart of a qualified majority in Council is what is referred to as a "blocking minority" – i.e. the minimum number of votes required to block a proposal being agreed upon in Council. Under the new procedure a blocking minority requires at least four Council members representing more than 35% of the population of the Union.

The shift to a double majority system of Council voting poses no challenge to the advantages to Scotland of independent EU membership. Indeed, it is more likely to strengthen the role that smaller states play in the wider EU negotiating process. As under the current voting regime, an independent Scotland will be able to negotiate based on Scotland's national interest and, should a vote be called, align itself to whatever compromise position most closely approximated that interest.

### **Fallacy Two**

The second flaw is the presumption that the decisions taken by the Council tend to favour the preferred position of the larger Member States – i.e. that the

larger EU Member States consistently achieve more of what they want from Council negotiations than do smaller Member States.

In fact, recent evidence<sup>23</sup> points to precisely the opposite conclusion – namely that the “smaller” EU states can be more successful than their larger counterparts in this respect. If the only “winners” from the process of European integration were the large Member States then the EU as a whole would quickly have lost its political legitimacy.

Research has demonstrated that smaller Member States achieve success when they adopt an appropriate strategy with respect to the EU policy-making process. The main elements of such a strategy are:

- Having a high level of domestic expertise in EU policies and having a solid record of competence in implementing EU legislation;
- Being active early in the cycle of legislative and policy debates and utilising the experience and reputation of long and effective membership;
- Exploiting national sources of scientific and policy expertise to influence legislative and policy proposals being developed by the European Commission<sup>24</sup>;
- Using domestic institutions and officials to produce timely, high-quality negotiating positions;
- Engaging in the range of expert networks associated with the EU policy-making process, especially those surrounding the European Commission; and
- Building and coordinating a consensus with other Member States, especially in Council working groups.

As an independent Member State Scotland has the attributes that are recognised as necessary if a Member State government is to be well positioned to make a substantial contribution to the EU policy process.

Over the 40 years since Scotland became part of the EU, the Scottish Government and a range of private companies and public bodies have built up a very high level of expertise in, and competence and influence over, EU legislative and policy matters. Scotland is home to many expert agencies, research institutions and private sector companies and organisations very capable of making a substantial input to EU policy negotiations.

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<sup>23</sup> See for example: Panke, D, “Small states in the European Union: structural disadvantage in EU policy-making and counter-strategies”, *Journal of European Public Policy* 16:6 799-817: Golub, J. “How the European Union does not work: national bargaining success in the Council of Ministers”, *Journal of European Public Policy* 19:9 1294-1315: Panke, D. “Small states in EU negotiations: Political dwarfs or power-brokers?”, *Cooperation and Conflict* 46(2) 123-143. Skilling, D. 2012. In uncertain seas: Positioning small countries to succeed in a changing world. Landfall Strategy Group. <http://www.landfallstrategy.com/wp-content/uploads/2012/03/Small-countries.pdf>:

<sup>24</sup> See Haverland, M. & Liefferink, D. “Member State interest articulation in the Commission phase. Institutional pre-conditions for influencing ‘Brussels’” *Journal of European Public Policy* 19:2 179-197

Equally, the Scottish Government has a permanent presence in Brussels. The Scottish Government European Union Office (SGEUO) supports Government work on EU policy by helping officials strengthen their relationships with the EU Institutions and the UK Permanent Representation to the EU (UKRep) and other Member State and sub-Member State representations.

### **Open Innovation Project**

Scotland has a track record of delivering in partnership with other Member States. Through the Interreg IVB North West Europe funded Open Innovation Project (total project value of €8,407,809.40), the City of Edinburgh Council has brought together a partnership of local governments, universities, business support services and other public bodies across the UK, France, Germany, Ireland and Belgium.

The project creates new businesses and jobs through supporting co-creation and commercialisation, focusing on the development of new products and services.

**Open Communities:** bringing together diverse groups to tackle societal challenges and create new value through innovation.

**Open Business:** helping SMEs become more competitive by adopting open innovation techniques and strategies. This includes specialised workshops, networking events and one-to-one mentoring.

**Open Research:** promoting entrepreneurship amongst students and researchers in the higher education sector and commercialisation of the academic knowledge base.

**Project achievements** to date in Edinburgh are:

22 new jobs created;  
19 new business start-ups;  
50 new products or services;  
96 activities and events run

Local partners are University of Edinburgh, Heriot Watt University, Edinburgh, International Science Festival, Cultural Enterprise Office, Edinburgh Chamber of Commerce and Edinburgh Science Triangle.

### **Scotland - an advocate for the Environment in Europe**

Progressive action on protecting and enhancing the environment, led by the Scandinavian countries, has been one of Europe's success stories. The quality of our natural environment is dependent on actions by all European partners to reduce pollution to the environment and support biodiversity. Scotland is a country rich in natural resources and these play an important role in its economy and identity. As such, the Scottish Government places emphasis on improving Scotland's environment, which is demonstrated by Scotland's progress towards its climate change commitment - Scotland is at the top of the EU-15 league table for emissions reductions. Between 1990 and 2011, emissions in Scotland fell by 29.6%. This is the largest reduction among EU-15 Member States, and higher than the EU-27 Member States average of 17.1%, when emissions from international aviation and shipping and land use are factored in. An independent Scotland with a seat at the table would join other nations, in advocating EU progress on protection and improvement of the Environment in Europe and sustainable economic growth.

### **Environmental Impact Assessment Directive**

The Scottish Government has been active in streamlining the process of managing planning and energy consenting requirements. Following the Lewis Wind farm case in 2008, where a major wind farm was refused planning permission because of incompatibility with the Habitats Directive, the Scottish Government has put in place a new management system. This system manages the impact of proposed developments in partnership with key stakeholders so that a range of economic, energy and environmental objectives can be reconciled. In Lewis itself a series of major projects has now been approved in a way which meets both community and environmental concerns. The Scottish Government led the EU-funded GP Wind project, which brought together diverse stakeholders from around Europe to develop best practice in reconciling objectives on wind energy with wider environmental objectives. This has led to comprehensive online guidance for dealing with environmental issues, which has in turn led to further significant improvements relating to environmental engagement. The Scottish Government is now engaging with the UK Government and European Partners to promote a more streamlined approach to the revision of the Environmental Impact Assessment Directive, to ensure that better regulation is a key theme of the Seventh Environmental Action Programme.

Despite success in this field, Scotland is still regarded as a region within Europe. An independent Scotland, free to negotiate in the Council of Ministers, will be a voice for high ambition on de-carbonisation of electricity through renewables and Carbon Capture and Storage, improved interconnection, and long term EU energy security through full exploitation of Scotland's oil and gas and renewables resources. In contrast, successive UK governments have tried to resist EU efforts to raise our ambition on using our huge renewable resources to guarantee EU energy security; instead distorting the internal energy market to enable subsidies for wasteful, insecure forms of energy, such as nuclear power.

### **Fallacy Three**

The third flaw is the erroneous assumption that the smaller EU Member States do not exercise leadership and influence over the legislative and policy direction taken by the EU. In fact all Member States, regardless of size, have a range of opportunities to shape EU initiatives and strategic direction.

Regardless of its population size, a Member State can provide leadership in a specific EU policy area by making its domestic expertise available to the European Commission during the important pre-legislative phase of the law-making cycle. Individual countries can also act as “role models” for EU policy-makers where they have developed innovative scientific or legislative approaches to successfully tackling particular challenges. Moreover it is the nature of the EU policy-making process that all Member States have to build coalitions of support around a specific initiative or policy approach it wishes to champion at EU level.

Under independence the Scottish Government would be well positioned to contribute to EU policy development as it has done, albeit to a lesser extent, throughout its 40 years within the EU.

#### **Innovative Medicine Initiative (IMI) European Lead Factory Programme**

Scotland is a major partner in the IMI European Lead Factory programme which aims to speed up the development of new drugs. This pan-European programme will pool the best resources from across Europe and represents a new innovative approach to drug discovery. Scotland is at the heart of the programme with the establishment of the project's European Screening Centre based at BioCity Scotland and Scottish Universities Life Sciences Alliance's (SULSA) scientists, through the University of Dundee, carrying out an essential programme screening and medicinal chemistry activities for the project.

It is anticipated this will create up to 40 new jobs and direct investment of £16.3 million will be received from the European IMI programme. It will also see the project's Scottish partner, BioCity Scotland, emerge as a growing international life sciences hub and underlines SULSA's growing international reputation in this field.

Individual Member States, regardless of size, also have the opportunity to influence the EU's strategic direction during the 6-monthly period in which they hold the Presidency of the EU Council. Although the principal task for the Member State holding the presidency is to ensure the collective business of the EU is advanced effectively and efficiently, it also provides an opportunity for the Member State to initiate or prioritise EU-wide discussion on matters that they regard as of particular importance. An excellent example of the important role smaller EU Member States can play in this respect has recently

been demonstrated by Ireland. In the first 6 months of 2013, Ireland held what is now regarded as one of the most successful Presidencies of the Council of the EU, achieving progress on a wide range of significant and complex portfolios, not least securing agreement on the new multi-annual financial framework and furthering reform of the Common Fisheries Policy and the Common Agricultural Policy.

### **Leadership through Alliance - Common Fisheries Policy (CFP)**

The EU's Common Fisheries Policy (CFP) is perhaps one of the more contentious of the EU policies. Legislation can often be inflexible and complex, with a plethora of derogations. The Scottish Government recognises that sea fishing in Scotland will only be sustainable if shared policies at EU level are more flexible and managed to better effect.

Denmark, a country comparable in size to Scotland and a respected fishing nation, has long played a leading role in helping to shape the EU's fisheries policies. Recently it has been a pivotal player in the development of policy on discard-free fisheries, reform of the Cod Recovery Plan and regional-level decision-making. During the Danish EU Presidency in 2012 the Danes led key changes in European Fisheries Policy by building alliances and seeking compromises between Member States to influence the Commission.

Scotland and Denmark have worked closely together on many of these issues and often share a common approach to fisheries management, such as advanced measures to prepare for discard free fisheries by trialling CCTV systems onboard vessels. Like Denmark, Scotland is a key fishing nation in Europe, and with independence the Scottish Government would be better able to build its alliances with other like-minded Member States to fundamentally shape the future of EU fisheries policy and bring decision-making affecting Member States' fisheries closer to home.

Fisheries is six times more important to the Scottish economy than to the UK economy. This means that an independent Scotland would naturally give international fisheries management a level of priority and undiluted focus not afforded by the UK Government, where fisheries, as a relatively small UK sector in relation to other sectors, is simply not afforded the importance and profile it holds within Scotland.

An example of how Scotland fares as part of the UK can be found in the case of the European fisheries funding received by Scotland in comparison to other EU Member States. Under the current arrangements negotiated by the UK our share of the EU's European Fisheries Fund is one third of the share received by Denmark (a country of comparable size to Scotland) and less than half the allocation given to Latvia (a country less than half the size of Scotland by population.)

A successor to the European Fisheries Fund, the European Maritime and Fisheries Fund, will commence in 2014. An independent Scotland would ensure that it negotiated its fair share of such a vital resource for an industry which is so important to its economy and identity. It could pursue such a goal without being hampered by constraints applied by other priorities being juggled by the UK Government.

This reflects a fundamental truth that the best people to take decisions affecting Scotland are those who live and work here – and that a small nation with sovereign control over its own destiny can play an enormously positive role within the European Union in areas of importance to it - through innovation; leadership; and collaborative working with other countries.

Finally, an independent Scotland would be directly represented on the European Council, described by one leading academic as:

“...the centre of political gravity in the field of economic governance”.<sup>25</sup>

In part, the growing prominence of the European Council reflects the collective EU response to the post-2008 financial and economic crisis. As quickly became apparent, such was the scale of that crisis and the subsequent challenges that Member States had to act swiftly and with innovative and far-reaching measures if an economic catastrophe was to be avoided. The European Council emerged as the dominant EU-level institution in the development of these responses.

The growing importance of the European Council may also be viewed as a response to concerns that the EU-level of governance was acquiring too many powers over domestic policies. The preferred alternative by Member States to formally assigning policies to the EU level was to develop structures that enabled national policies to be coordinated around common objectives and implemented by national parliaments and governments.

With independence the First Minister of the Scottish Government would attend European Council summits and represent Scotland's interests, just as heads of government across the EU attend these meetings to represent their national interests.

### **Going forward**

Independence will ensure that Scotland's government is able to represent Scotland's EU interests as a full and equal partner in the EU system of governance. It is a system of governance in which legislative and policy outcomes are the result of a process of negotiation and discussion, and in which compromise is inevitable. Most certainly it is not a system of

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<sup>25</sup> Peutter, U. (2012) "Europe's deliberative intergovernmentalism: the role of the Council and the European Council in EU economic governance" *Journal of European Public Policy* 19:2 161-178

governance whose outcomes are determined by the size of particular Member States. An independent Scotland will be far from the smallest Member State by population, and will be one of the most important when measured by a range of economic criteria, including per capita GDP, research output and the educational and skill levels of our labour force. Moreover, the Scottish Government is an experienced player on the Brussels scene.

This chapter has exposed the fallacies that relatively small EU member states have less negotiating capital – and are less successful negotiators – than larger member states.

The evidence presented in this annex suggests that “size” is no indicator of the ability of a Member State to achieve legislative and policy outcomes in the EU bargaining process that best match its ambitions. Many smaller Member States are more successful in that regard than the larger members. In that light it is clear that an independent Scotland, with all the experience and expertise it has in EU business, is extremely well-placed to maximize the gains from independent membership of the EU.

## Annex 3: The Economics of European Union Membership

### The European Single Market

The Scottish Government firmly believes that continued membership of the European Union provides the best international economic framework within which to optimise the economic potential of an independent Scotland.

Membership of the European Union provides a range of economic benefits to Member States. The key mechanism for delivering many of these benefits is the European Single Market (ESM). The Single Market came into force on 1<sup>st</sup> January 1993 and allows for the free movement of goods, people, services and capital – the so called Four Freedoms - across EU member countries.

The European Single Market provides Member States with access to the largest economy in the world – with over 500 million potential customers, and over 20 million firms<sup>26</sup> – and the biggest global player in international trade and investment. Scottish firms and consumers are already benefitting from Scotland being an integral part of the EU through increased trade activity, improved mobility of labour, and increased competition which has led to lower prices for consumers. The Single market has also provided Scots with opportunities to live, work or study in other EU countries.

#### Overview of the Economy of the European Union

Taken as a whole the European Union (EU27) is the world's largest economy and trading area.

In 2010 the EU27 had a Gross Domestic Product (GDP) of EUR 12, 260 billion – accounting for around 25.8% of world GDP<sup>27</sup>. The EU has a population of over 500 million, which equates to over 7% of the World population.

The EU is the world's biggest exporter and the second biggest importer. Analysis by the World Trade Organisation (WTO) shows that in 2011 the EU27 accounted for<sup>28</sup>:

\* 15% of world merchandise exports, and 16% of world merchandise imports; and

\* 26% of world commercial services exports and 22% of world commercial services imports.

<sup>26</sup>

[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Structural\\_business\\_statistics\\_overview](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Structural_business_statistics_overview)

<sup>27</sup> *The EU in the World 2013: A Statistical Portrait*.

[http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-30-12-861/EN/KS-30-12-861-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-30-12-861/EN/KS-30-12-861-EN.PDF)

<sup>28</sup> WTO Country Profiles:

<http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=E27>

However, the benefits from European Union membership extend beyond the ability to trade freely with other member states. For example, Member States benefit through a number of routes including:

- increased trade opportunities with a wide range of non-EU countries across the world through preferential bilateral EU trade deals
- increased foreign direct investment flows
- the free movement of labour, which can improve the functioning of the labour market
- access to cross-border networks in areas such as energy, and innovation

#### **Estimates of the Impact of the Single Market**

- Assessing the overall economic impact of the Single Market is difficult. This reflects not only the wide range of policy measures associated with its development, but also the increases in the size of the market that have occurred since inception through enlargement (in particular in 2004).
- A number of studies<sup>29</sup> have attempted to estimate the economic impact of the Single Market. Due to variations in the methodology applied, it is difficult to draw direct comparisons across studies, although as noted in a recent report by the UK Government<sup>30</sup>, “..most studies suggest that the GDP of both the EU and the UK are appreciably greater than they otherwise would be, thanks to economic integration through the Single Market.”
- Analysis by the European Commission suggests that over the period 1992 to 2006 the Single Market has generated an additional 2.75 million jobs in the EU and an additional 2.2% in GDP<sup>31</sup>.

#### **Completing the Single Market**

Whilst already delivering substantial economic benefits, there is still work to be done to complete the single market and to maximise its potential through further reform and development. In particular, there is considerable potential to improve the movement of services between Member States – with the service sector accounting for over 70% of EU-27 GDP in 2011<sup>32</sup>.

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<sup>29</sup> An overview of these studies is provided in the following report:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227069/2901084\\_SingleMarket\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227069/2901084_SingleMarket_acc.pdf)

<sup>30</sup> *Review of the Balance of Competencies between the United Kingdom and the European Union: The Single Market*, July 2013,  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/227069/2901084\\_SingleMarket\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/227069/2901084_SingleMarket_acc.pdf)

<sup>31</sup> *Steps towards a deeper economic integration: the Internal Market in the 21<sup>st</sup> Century – a contribution to the Single Market Review*, January 2007,  
[http://ec.europa.eu/economy\\_finance/publications/publication784\\_en.pdf](http://ec.europa.eu/economy_finance/publications/publication784_en.pdf)

<sup>32</sup> Eurostat

The House of Lords European Union Committee – in its Report on Re-launching the Single Market - noted in April 2011 that: “the creation of the European Union has already provided significant benefits for consumers and businesses alike in the EU and reaching its full potential will take time and effort.”<sup>33</sup>

Analysis by the Department for Business Innovation and Skills (BIS) estimated that the complete elimination of all remaining barriers to trade inside the EU over a period of ten years could generate national income gains of around seven per cent of GDP in the UK<sup>34</sup>.

The European Commission is currently pursuing the introduction of a range of further actions – through the Single Market Act II – to further develop the single market and exploit its untapped potential.

As an independent Member State Scotland would be in a stronger position to influence these developments and further strengthen the opportunities for Scottish firms.

Drawing on the available evidence, we set out below the range of economic benefits that accrue to EU Member States through membership of the Union. Whilst there is a range of evidence available at both the EU and Member State level, estimates of the precise impact of EU membership on the Scottish economy are more limited.

In assessing the economic impact of EU membership it is important to consider all aspects of membership which impact on economic performance. For example, the economic effects of the UK’s membership of EU extends beyond just the net fiscal costs associated with membership. This reflects the UK being - along with the majority of the more established and prosperous Member States<sup>35</sup>, including Germany, France, Italy, Sweden and Denmark - a net contributor to the EU Budget<sup>36</sup>.

However, fiscal flows are only one aspect of the overall economic impact. For example, in addition, EU membership impacts on the economic performance of Member States through its effect on: trade, competition, foreign direct investment flows, access to various networks, and flows of labour between members.

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<sup>33</sup> Re-launching the Single Market, House of Lords European Union Committee, 15<sup>th</sup> Report of Session 2010-11, April 2011

<sup>34</sup> The Economic Consequences for the UK and the EU of Completing the Single Market, BIS Economics Paper No. 11, <http://www.bis.gov.uk/assets/BISCore/economics-and-statistics/docs/E/11-517-economic-consequences-of-completing-single-market.pdf>

<sup>35</sup> European Union Finances 2012: statement on the 2012 EU Budget and measures to counter fraud and financial management, HM Treasury, July 2012

<sup>36</sup> In 2010 there were 10 net contributors to the EU Budget: Germany, UK, France, Italy, Netherlands, Sweden, Denmark, Austria, Finland and Cyprus.

## Trade Flows

The Single Market allows Member States to trade freely with each other, providing members with access to the world's largest trading area. Put simply, membership of the EU provides firms with access to more firms to trade with, and more potential consumers to sell to.

The single market enables companies to reach a much larger pool of customers, suppliers, partners and labour, effectively making EU countries an extension of the domestic market.

Increased trade activity provides firms with the opportunity to grow their markets, innovate, and become more competitive. Higher levels of trade activity will also drive improvements in the long-term growth performance of the Scottish economy – for example, there is clear evidence that companies that are exposed to international competition become more productive<sup>37</sup>.

The principle of mutual recognition is a key element for enabling the free movement of goods in the Single Market, and for strengthening trade flows between Member States. It means that a product lawfully marketed in one Member State and not subject to Union harmonisation should be allowed to be marketed in any other Member State, even when the product does not fully comply with the technical rules of the Member State of destination.

Scottish exporters are already benefiting from access to the Single Market. The European Union (EU27) is the main destination for Scottish international exports – accounting for 46% of international exports in 2011, with an estimated value of around £11 billion<sup>38</sup>.

Since 2006, the value of Scottish exports to the EU has increased by 35.1%, which compares to growth of 29.1% in total international exports over the same period.

**Table 1: International Exports by Destination, EU27<sup>39</sup> and Total International Exports**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
EU (£m)	10,920	9,995	9,350	8,340	8,165	8,935	9,640	9,770	9,615	11,030
Total (£m)	19,495	18,695	18,270	17,860	18,530	19,450	21,250	21,570	22,350	23,915
<b>EU as % of Total</b>	<b>56.0%</b>	<b>53.5%</b>	<b>51.2%</b>	<b>46.7%</b>	<b>44.1%</b>	<b>45.9%</b>	<b>45.4%</b>	<b>45.3%</b>	<b>43.0%</b>	<b>46.1%</b>

**Source:** Global Connections Survey

<sup>37</sup> Productivity in the UK 6: Progress and New Evidence, HM Treasury: [http://webarchive.nationalarchives.gov.uk/http://www.hm-treasury.gov.uk/ent\\_prod\\_index.htm](http://webarchive.nationalarchives.gov.uk/http://www.hm-treasury.gov.uk/ent_prod_index.htm)

<sup>38</sup> *Global Connections Survey 2011*, Scottish Government, <http://www.scotland.gov.uk/topics/statistics/browse/economy/exports/GCSIntroduction>

<sup>39</sup> Timing of the survey means that Croatia was not included.

Certain sectors of the Scottish economy are also particularly reliant on the EU as an export market. For example, the Oil Refining sector is both the largest contributor to total EU exports from Scotland (accounting for £3 billion of exports) and the sector which is most reliant on the EU as an export market (with 81.5% of international exports from the sector destined for the EU).

In contrast, although the Food & Drink sector makes the second largest contribution to total Scottish exports to the EU (over £1.5 billion of exports), it is less reliant on the EU as a destination for its exports (with 36.6% of international exports from the sector destined for the EU).

**Table 2: Importance of the EU27 as an Export Market by Sector, 2011**

<b>Sector</b>	<b>% of total exports that are destined for the EU27, 2011</b>	<b>Value of Exports to the EU27 (£m), 2011</b>
Manufacture of coke, refined petroleum and chemical products	81.5%	2,990
Manufacture of basic pharmaceutical products and pharmaceutical preparations	76.9%	250
Utilities	68.8%	165
Manufacture of rubber and plastic products, and other non-metallic mineral products	66.4%	385
Wholesale, retail trade; repair of motor vehicles and motorcycles	64.1%	750
Manufacture of textiles, wearing apparel, leather and related products	61.4%	215
Real estate activities	57.1%	20
IT and other information services	56.6%	280
Other professional, scientific and technical activities	55.9%	95
Manufacture of computer, electronic and optical products	53.5%	765
Construction	52.9%	45
<b>All Exports to the EU</b>	<b>46.1%</b>	<b>11,030</b>

**Source:** Global Connections Survey

Trade flows in both directions. Therefore, as well as exporting goods and services to the EU, Scotland also imports goods and services from across EU Member States.

This can be through producers expanding their supply chains to purchase inputs into their production processes, or through the expansion of the range of goods and services (from across Europe) that are available to Scottish consumers. Work is currently underway, through the Scottish National Accounts Project (SNAP)<sup>40</sup>, to improve the estimates of Scottish imports.

<sup>40</sup> <http://www.scotland.gov.uk/Topics/Statistics/Browse/Economy/snap>

In order to assess overall trade flows with the EU we focus on data at the UK level. Data from the UK Trade Statistics highlights that in 2012, the EU accounted for just under half of all UK trade (both exports and imports) in goods and services<sup>41</sup>. In 2012 the UK exported £222 billion of goods and services to the EU, whilst £267 billion of goods and services flowed into the UK from the EU.

**Table 3: Value of UK Trade in Goods and Services, 2012**

	Value of UK Exports and Imports, 2012 (£million)		
	Exports	Imports	Balance
<b>Goods</b>			
EU27	150,144	206,378	-56,234
World Total	299,457	407,350	-107,893
<b>Services</b>			
EU27	71,982	60,163	11,819
World Total	193,353	119,361	73,992
<b>Goods and Services</b>			
EU27	222,126	266,541	-44,415
World Total	492,810	526,711	-33,901

**Source:** Pink Book, ONS

The trade benefits associated with membership of the European Union extend beyond just the trade with other Member States through the single market.

<sup>41</sup> *The United Kingdom Balance of Payments – The Pink Book 2013 Dataset*, <http://www.ons.gov.uk/ons/rel/bop/united-kingdom-balance-of-payments/2013/tsd-pink-book-2013-time-series.html> (figures are not seasonally adjusted)

## **EU External Trade Policy**

Member States benefit from the European Union's extensive efforts to liberalise trade and secure improved terms of trade for its members.

Through the customs union, which forms an essential part of the Single Market, a Common Customs Tariff (CCT) is applicable throughout the Union to third country goods (with the income obtained forming part of the Community's own resources).

The Common Commercial Policy (CCP) is one of the main pillars of the EU's relations with the rest of the world, and it is the external dimension of the customs union. Through the CCP the EU is able to speak with one voice at international level. The CCP implies uniform conduct of trade relations between Member States and third countries, in particular by means of a common CCT and common import and export regimes. The CCP was expanded, through the Treaty of Lisbon, to also include direct foreign investments.

The Commission negotiates international agreements on behalf of the Union at the bilateral and multilateral levels. This includes free trade agreements with a number of countries. Whilst the Union supports the abolition of trade and customs barriers, it can, where required, defend the European market. The Union has at its disposal tools such as anti-dumping and anti-subsidy measures, the Trade Barriers Regulation and safeguard measures.

The European Commission also plays an active part in the World Trade Organisation (WTO) - the international organisation responsible for dealing with the rules of trade between nations in order to supervise and liberalise international trade. A key part of the work of the WTO is securing multilateral trade agreements, and the EU is a vital player in these negotiations.

As part of its trade strategy the European Union has negotiated a number of bilateral trade deals, many of which include free trade agreements, with a range of countries. These deals allow Member States preferential access, and sometimes free access, to a wide range of markets – increasing the opportunities for growth. Correspondingly partner countries gain improved, and often free, access to the Single Market – increasing competition and the range of products available to consumers across the EU.

The EU currently has trade agreements, many of which are Free Trade Agreements (FTA), with a wide range of countries, including South Korea, Mexico, Chile, South Africa, Egypt and Morocco. In addition, the EU is in the process of negotiating FTAs, which would go above and beyond WTO agreements, with a number of countries including the USA, India and Japan, as well as a number of high growth and emerging economies including Brazil, Singapore, Malaysia and Vietnam.

The European Union's power to negotiate as a single entity enables it to secure better terms in these trade agreements than Member States would be expected to negotiate on their own; whilst the EU is also a key influencer in the development of World Trade Organisation (WTO) multilateral trade agreements.

### **Case Study: EU – South Korea Free Trade Agreement**

From 1<sup>st</sup> July 2011 the EU-South Korea Free Trade Agreement (FTA) came into action – this marked the EU's first trade deal with an Asian country.

As a result of the deal South Korea and the EU will eliminate 98.7% of duties in trade value within 5 years from the FTA coming into force.

The agreement was described by the EU Trade Commissioner Karel De Gucht as "...the most ambitious trade deal ever concluded by the EU and should become a game-changer for our [EU] trade relations with Asia."

Goods trade between the EU and South Korea was estimated to be worth around €66 billion in 2010. Whilst the EU was running a deficit with South Korea in goods trade, the market offers significant growth potential for EU exporters.

As a result of the trade deal<sup>42</sup>:

- 1) EU exporters of industrial and agricultural goods to South Korea are relieved of paying tariffs - and once the agreement is up and running, exporters will save €1.6 billion annually from not paying import duties;
- 2) It is estimated that bilateral EU-South Korea trade in the next 20 years could more than double compared to a scenario without the FTA; and
- 3) It is estimated that EU exports could grow by up to €19 billion.

The EU is currently negotiating to create free trade agreements with both the United States and Japan, which would provide Scottish firms with even greater access to these markets.

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<sup>42</sup> The EU-Korea Free Trade Agreement in Practise,  
[http://trade.ec.europa.eu/doclib/docs/2011/october/tradoc\\_148303.pdf](http://trade.ec.europa.eu/doclib/docs/2011/october/tradoc_148303.pdf)

### **Case study: EU – US Free Trade Deal**

The EU and US have agreed to launch negotiations on the “Transatlantic Trade and Investment Partnership” (TTIP). The aim of the agreement is to make it easier to buy and sell goods and services between the EU and the US.

When negotiations are completed, the EU-US agreement would be the biggest bilateral trade deal ever negotiated – it is estimated that it could result in considerable savings to companies, create hundreds of thousands of jobs and it has the potential to add 0.5% to the EU's annual economic output<sup>43</sup>.

The TTIP will aim to go beyond the classic approach of removing tariffs and opening markets on investment, services and public procurement. It will tackle those barriers that lie behind the customs border – such as differences in technical regulations, standards and certification. These often cost time and money for companies. For example, when a car is approved as safe in the EU, it currently has to undergo a new safety check in the US. The deal will aim to reduce this regulatory burden and red tape.

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<sup>43</sup> <http://ec.europa.eu/trade/policy/in-focus/ttip/>

## **Competition**

Competition is an important driver of productivity. Competitive markets increase the pressure on firms to become more efficient, increasing the incentives for them to invest and innovate in order to be able to continue to compete.

Competition also benefits consumers, both through lower prices, and through greater choice of products and services.

A key aim of removing trade barriers between Member States is to create a more competitive market. Analysis by the European Commission estimates that a 1% increase in the trade openness of an economy results in an increase of 0.6% in labour productivity the following year<sup>44</sup>.

## **EU Regulation**

The EU has the power to legislate in a number of areas including competition, which forms a key aspect of the rules underpinning the operation of the Single Market.

A key objective of EU legislation is to harmonise laws across Member States through a common European regulatory framework in order to facilitate the efficient operation of the Single Market. In addition to competition law this legislation can cover areas including employment, consumer protection, and product technical specifications.

### **Examples of legislation which have supported the functioning of the Single Market include:**

- The Community trade mark and the registration of industrial designs have reduced the burdens on business and protected intellectual property, as EU businesses can register a trade mark or an industrial design once and have it recognised in all 28 Member States.
- EU competition law has been of great importance in opening up previously closed markets to new entrants, and has enabled market monopolies to be tackled in a way not seen before in Europe.
- A key benefit from the single market is that businesses only have to deal with one set of rules rather than 28 different sets of rules when exporting to or operating in more than one EU Member State.

## **Benefits of EU Membership for Consumers**

Consumers across Europe benefit from EU membership in a number of ways, including:

- Lower prices in some sectors as a result of increased trade and competition.
- Greater choice of goods and services.
- Reassurance over the quality of goods being sold throughout the EU as a result of common standards.

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<sup>44</sup> *European Competitiveness Report 2007*, European Commission

**Examples of these benefits include:**

- EU consumers benefit from the fairer regulation of mobile telecoms, which, since their introduction were often notorious for high prices, especially when travelling abroad – further reductions in roaming charges took effect on 1<sup>st</sup> July 2013 and there is an aim to effectively remove roaming charges across the EU by July 2014.
- As a result of the deregulation of air travel across the EU the number of airline routes in the EU has dramatically expanded with increased competition on key air routes - including the introduction of low cost carriers into the market.
- Deregulation has been balanced with measures to protect EU citizens against unfair practices – such as the 2005 air passenger rights which provide some protection for passengers whose flight is cancelled or who are denied boarding.
- EU citizens are free to shop in any Member State without being charged customs or excise duties on goods for their personal use when they return home; whilst consumers have the same rights when shopping as they do when at home.
- Rules to protect consumers against car price cartels, which artificially inflated the prices of both cars and car parts in Europe - for example, cars can be imported from other EU countries to take advantage of lower prices on the continent; and
- Improved standards such as EU toy standards – where parents can buy toys marked with CE symbol and be confident that the toy meets the basic standards of toy safety agreed across the EU - and EU food labeling rules which provide consumer protection as they require all ingredients to be listed and potential allergens identified.

**Foreign Direct Investment Flows**

Inward investment plays an important role in delivering growth and employment opportunities, and Scotland has performed strongly in recent years in attracting foreign investment.

Foreign Direct Investment (FDI) plays an important role in driving improvements in productivity performance<sup>45</sup> - and has the potential to boost the underlying growth potential of the Scottish economy, particularly where there are knowledge and innovation spill over effects from this investment to domestic firms.

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<sup>45</sup> For example, analysis by Harris & Moffat (2013) finds that over the period 1997-2008, "...foreign-owned firms contributed relatively more to aggregate productivity growth than UK-owned plants over the period." *The Contribution of FDI to Productivity Growth in Britain, 1997-2008*, Harris and Moffat, March 2013

## Foreign Direct Investment in Scotland

Scotland has a strong recent record in attracting Foreign Direct Investment (FDI).

In 2012 there were over 2,100 foreign-owned companies in Scotland employing over 290,000 people with a combined turnover of £87 billion.

Around 40% of these foreign-owned companies are ultimately owned by firms based in other European Union member states.

The Ernst and Young UK Attractiveness Survey is an annual study of inward foreign direct investment flows across the UK<sup>46</sup>. The Survey shows that in two out of the last three years Scotland has been the top ranked UK country or region outside London in securing FDI projects.

The most recent survey<sup>47</sup> shows that in 2012 Scotland attracted 49% more FDI projects in 2012 compared to 2011.

The USA is the predominant source of FDI into Scotland, accounting for 41.6% of FDI projects in Scotland over the period 2003-2012. The other leading sources of FDI over the period 2003-2012 were: France (7.8%); Germany (6.4%); Japan (5.5%); and Norway (5.5%).

Global flows of foreign direct investment (FDI) increased substantially in the 1980s and peaked in 2007 before falling as a result of the global downturn. The establishment of the Single Market has allowed European Member States to benefit from this expansion. For example, in 2012 the EU27 accounted for \$7,805 billion of global inward FDI stock (34% of global inward FDI stock) and nearly twice the size of the inward FDI stock in the USA (\$3,932 billion)<sup>48</sup>.

Membership of the European Union helps support this investment, as the Single Market has removed many of the barriers to FDI. It allows investment to flow from other EU countries, whilst the opportunity to gain access to a large EU market can help attract investment from outside the EU.

Membership of the European Union also provides firms based in Scotland with the opportunity to invest in other EU countries and expand their operations.

Although some information on Foreign Direct Investment (FDI) in Scotland is provided through the Ernst & Young UK Attractiveness Survey, more extensive analysis is available on FDI at the UK level. At the end of 2011,

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<sup>46</sup> Ernst & Young UK Attractiveness Survey 2013, <http://www.ey.com/UK/en/Issues/Business-environment/2013-UK-attractiveness-survey>

<sup>47</sup> 2013 Scotland Attractiveness Survey, Ernst & Young, <http://www.ey.com/UK/en/Issues/Business-environment/2013-Scotland-attractiveness-survey>

<sup>48</sup> World Investment Report 2013, UNCTAD, [http://unctad.org/en/PublicationsLibrary/wir2013\\_en.pdf](http://unctad.org/en/PublicationsLibrary/wir2013_en.pdf)

around 48% of the total FDI stock (with an estimated value of £766 billion) in the UK was from the European Union<sup>49</sup>.

**Table 4: FDI International Positions in the UK by area (% share)**

	2006	2007	2008	2009	2010	2011
Europe	57.2%	57.1%	59.0%	61.1%	57.5%	57.1%
European Union	51.7%	49.8%	50.8%	53.2%	48.8%	47.7%
EFTA	3.9%	5.2%	4.5%	4.4%	4.9%	5.0%
The Americas	34.6%	32.6%	31.8%	30.6%	33.4%	32.4%
USA	29.4%	26.9%	25.5%	25.0%	27.3%	26.6%
Asia	6.8%	8.6%	7.6%	6.2%	7.6%	8.6%
Australasia & Oceania	1.3%	1.5%	1.2%	1.9%	1.3%	1.6%
Africa	0.1%	0.2%	0.3%	0.2%	0.2%	0.3%
World Total (£ million)	<b>580,313</b>	<b>620,419</b>	<b>660,373</b>	<b>681,273</b>	<b>725,557</b>	<b>766,166</b>

Source: Foreign Direct Investment, ONS

### Migration and Labour Flows

Membership of the EU allows people to move freely across Member States. The free movement of workers allows employers to find the people with the right skills for the right jobs. Migrants, particularly those of working age, can help increase the size of the labour force, which will contribute to long-term economic growth performance. Indeed, in recent years migration flows from EU Member States – in particular the 2004 Accession States - have helped Scotland to mitigate some of the potential impacts of demographic change.

This freedom of movement has also provided opportunities for people to work and study in other Member States. As well as providing opportunities for people to live and work in Scotland – and contribute to Scotland’s economic performance – it has allowed Scots the opportunity to live and work in other Member States. For example, in 2011-12 there were 17,000 non-UK EU students enrolled at Scottish Universities<sup>50</sup>, whilst over 1,350 Scottish students were studying at universities throughout Europe through the Erasmus programme (although this includes universities in some European countries that are not members of the EU)<sup>51</sup>.

However, there are still some barriers to the free movement of labour – such as variations in the recognition of qualifications across Member States – which have limited the extent of migration flows between Member States.

<sup>49</sup> Foreign Direct Investment Involving UK Companies, 2011, February 2013,

<http://www.ons.gov.uk/ons/rel/fdi/foreign-direct-investment/2011-ma4/stb-ma4-2011.html>

<sup>50</sup> Fiscal Commission Working Group – First Report – Macroeconomic Framework, February 2013, <http://www.scotland.gov.uk/Publications/2013/02/3017>

<sup>51</sup> British Council, Erasmus Participation Statistics, <http://www.britishcouncil.org/erasmus-facts-and-figures.htm>

## **Fiscal Flows**

European Union members contribute to the EU budget through three sources:

- Traditional Own Resource (TOR): Consists of agriculture duties and customs duties levied on agriculture and non-agriculture products from outside the EU
- VAT based own resource: calculated as a percentage of a countries' VAT tax base
- Gross National Income (GNI) based own resource: Calculated as a percentage of countries' GNI. This is the EU's single largest source of revenue

The EU Budget is then distributed across Member States through a range of policy programmes, such as the Common Agricultural Policy (CAP) and European Structural Funds. Dependent on the size of receipts received some members are net recipients from the EU Budget, whilst others are net contributors.

The UK is a net contributor to the EU Budget, however, since 1985, the UK has received a rebate broadly equal to 66% of the UK's net contribution in the previous year – which has reduced the size of the UK's contribution. In 2010, there were 10 net contributors to the EU Budget – generally covering the wealthiest and most established members<sup>52</sup>.

As the Fiscal Commission Working Group has highlighted, an independent Scotland would be a wealthy and productive nation<sup>53</sup>. It is therefore estimated that an independent Scotland would be a net contributor to the EU Budget, like countries of similar size such as Finland and Denmark. Government Expenditure and Revenue Scotland (GERS)<sup>54</sup> estimates that Scotland made a notional net contribution to the EU budget in 2011-12 – contributing approximately £697m before the rebate and £402m after the rebate, when an illustrative geographical share of North Sea GDP is included. Under the current fiscal framework Scotland does not contribute directly to the EU, therefore its contribution can only be estimated.

## **Access to Networks - Research & Development**

Membership of the European Union provides Member States with access to a range of networks, including energy, transport, and Research and Development networks.

Investment in Research and Development (R&D) activity is a key component of driving innovation and supporting improved long-term productivity performance.

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<sup>52</sup> European Union Finances 2012: statement on the 2012 EU Budget and measures to counter fraud and financial management, HM Treasury, July 2012

<sup>53</sup> Fiscal Commission Working Group – First Report – Macroeconomic Framework, <http://www.scotland.gov.uk/Publications/2013/02/3017>

<sup>54</sup> Government Expenditure and Revenue Scotland 2011-12, March 2013, <http://www.scotland.gov.uk/Publications/2013/03/1859>

Scotland plays a prominent role on the world stage as a country which punches well above its weight in research and innovation<sup>55</sup>. Scotland is home to one of the most rapidly growing life-science research and development communities in Europe. Scotland has long been known as home to world-class and life-changing scientific innovation, now with over 650 organisations employing over 32,000 staff<sup>56</sup>. Scotland therefore provides access to world-class research and education facilities which allow EU citizens to live, work and study, do business and travel freely in Scotland.

This benefits Member States through a number of routes including access to funding streams, opportunities to share and develop ideas, opportunities for more cost efficient developments, etc.

Scottish education institutions and businesses have benefited from EU R&D funding schemes. In return the EU benefits from Scotland's membership in its efforts to compete globally in relation to research and innovation.

### **European Union Research & Development Funding Schemes**

**Horizon 2020**<sup>57</sup> aims to ensure that Europe remains competitive in research and innovation, to create growth and jobs and to facilitate collaboration across Member States to address common challenges. Within Scotland there are a wide range of opportunities for EU citizens to participate; from studying as undergraduates for a semester to working as professionals in specific areas of expertise. Scotland has particularly valuable experience in research pooling.<sup>58</sup>

Scotland has taken an active and enthusiastic part in pursuing the aspirations of the **Bologna Process**. As part of Bologna, the European Higher Education Area<sup>59</sup> EHEA was launched in 2010 with objectives including the removal of obstacles to student mobility; facilitating recognition of qualifications; enhancing the global attractiveness of European HE; and, establishing a common framework for HE systems across Europe. In the 2009 Bologna Stocktaking Report, Scotland achieved maximum scores for all action lines and was unique among the 46 countries in doing so.

Scottish institutions have a good track record of attracting **EU funding from the Seventh Framework Programme (FP7)** and other funding sources within the EU. Scotland has secured €505m from the Framework Programme 7 (FP7) which ran from 2007-2013, equating to 9.7% of the UK total and 1.5% of the EU total over the period, of which Scottish universities and Research

<sup>55</sup> Scotland performs well in relation to the three key world rankings for universities; the Times Higher Education World University Rankings, QS World University Rankings and the Shanghai Academic Ranking of World Universities.

<sup>56</sup> Scottish Enterprise Source Book 2012

<sup>57</sup> [http://ec.europa.eu/research/horizon2020/index\\_en.cfm?pg=home](http://ec.europa.eu/research/horizon2020/index_en.cfm?pg=home)

<sup>58</sup> E.g. see discussion of the assets of research in Scotland at –

[www.universities-scotland.ac.uk/uploads/Researchbrief2011-final%282110511%29.pdf](http://www.universities-scotland.ac.uk/uploads/Researchbrief2011-final%282110511%29.pdf)

<sup>59</sup> <http://www.ehea.info/>

Institutes received €448m for Research and Technological Development (90% of the total share).<sup>60</sup>

Another indicator of Scotland's global high performance is the number of papers published by Scotland-based scientists. In 2008 Scotland ranked 3rd out of a comparator group of 26 countries (responsible for approx. 95% of the world's top research) in terms of the number of academic papers published per researcher<sup>61</sup>.

Students from other EU states are eligible to study in Scotland, often through **Erasmus** and other formal programmes, and they do so with confidence in the standards of teaching and resources they will experience. At Scottish HEIs in 2011/12, there were 17,475 EU (non-UK) domiciled students (both undergraduate and postgraduate), accounting for 8.1% of all students in Scotland. With the sector's excellent status, Scottish HEIs attract students and staff from around the world, especially the USA, China and India. In 2011/12 there were 28,500 non-EU international students enrolled at Scottish HEIs representing 13.2% of all students in Scotland<sup>62</sup>.

## Maximising the Economic Potential of the European Union

Scottish firms and consumers are already benefiting from the European Union. However, as highlighted in this paper the full economic potential of the EU, and in particular the Single Market, is yet to be realised.

Further reforms are currently being progressed – through the Single Market Act II. This builds on the Single Market Act I, and puts forward twelve key actions for rapid adoption by the EU institutions which are concentrated on: a) integrated networks, b) cross border mobility of citizens and businesses, c) the digital economy, and d) actions that reinforce cohesion and consumer benefits.

As the European Commission has noted<sup>63</sup>:

“The completion of the Single Market is a continuous exercise and is a central element of the European growth agenda to address the current economic crisis.”

Therefore further reforms are to be anticipated. As an independent Member State, Scotland would have the opportunity to influence these reforms and directly represent our interests.

<sup>60</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255788/bis-13-1115-scotland-analysis-science-and-research.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255788/bis-13-1115-scotland-analysis-science-and-research.pdf)

<sup>61</sup> <http://www.scotland.gov.uk/Topics/Business-Industry/science/research-1>

<sup>62</sup> <http://www.universities-scotland.ac.uk/uploads/Richer%20For%20It%20US%20-%20270813SMALL.pdf> and <http://www.hesa.ac.uk/>

<sup>63</sup> Single Market Act II: twelve priority actions for new growth, European Commission, October 2012, [http://europa.eu/rapid/press-release\\_IP-12-1054\\_en.htm](http://europa.eu/rapid/press-release_IP-12-1054_en.htm)

## **Annex 4: Why the alternatives to membership are not attractive**

Full membership of the European Union brings considerable benefits to Member States. A key element of these benefits is the economic and social gains that accrue from access to the European Single Market (ESM). However, as highlighted in Annex 3, the direct economic benefits of membership extend much wider and include participation in the preferential trade deals that the EU has secured with third countries; access to extensive networks covering innovation, energy and transport; and the ability to influence the development of EU legislation and regulation.

### **Membership of the single market remains beneficial to Scottish firms exporting to the EU**

The European Single Market comprises, first and foremost, the 28 EU Member States, with a total population of over 500 million people, making it the largest single market in the world. Around 20 million businesses<sup>64</sup> operate in the EU single market, supplying goods and services to consumers and businesses both in the EU and on the global market. It is estimated that in 2010 the EU27 had a Gross Domestic Product (GDP) of EUR 12, 260 billion – accounting for around 25.8% of world GDP<sup>65</sup>.

Formally the single market is defined as a “common market”. Accordingly goods, persons, services and capital originating in any of the 28 Member States are, in principle, free to move across the single market as a whole without impediment. Goods and services lawfully produced in any one Member State can be distributed and marketed in any other Member State, and citizens of any Member State have the right to reside, work and carry out their business activities anywhere in the single market.

A common EU external commercial policy is applied to goods and services entering the single market from the rest of the world. This means that a product manufactured in the USA, for example, is subject to identical import rules (tariffs or other restrictions) regardless of which city or country within the EU it enters the single EU market. Establishing a single common commercial policy for the EU as a whole was necessary in order that customs posts operating at the borders between Member States could be removed – a measure that has benefited EU citizens and commercial firms alike.

Over the last 20 years, the single market has delivered significant economic gains through increased competition, creating new jobs, delivering lower prices to consumers and extending the choices of goods and services available to businesses and citizens. The EU single market has also been important in improving the international competitiveness of goods and

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<sup>64</sup> [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Business\\_economy\\_-\\_size\\_class\\_analysis](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Business_economy_-_size_class_analysis)

<sup>65</sup> *The EU in the World 2013: A Statistical Portrait.*

[http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-30-12-861/EN/KS-30-12-861-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-30-12-861/EN/KS-30-12-861-EN.PDF)

services produced in the EU Member States. Having access to the single market has allowed EU companies to exploit economies of large scale production and encouraged companies to engage in frontier research and development. The combination of lower production costs and more sophisticated product ranges has greatly enhanced the competitive position that EU firms occupy in the global marketplace.

It has also improved the attractiveness of Member States, including the UK, as destinations for foreign direct investment from non-EU countries. For example, Scotland and the United Kingdom receive considerable levels of FDI from firms based in the USA<sup>66</sup>.

The single market is supported by EU competition rules that ensure companies do not collude to suppress welfare-enhancing competition.

Estimates by the European Commission suggest that over the period 1992 to 2006 the Single Market has generated an extra 2.75 million jobs in the EU and an additional 2.2% in GDP<sup>67</sup>. However even today the single EU market is not complete. Further economic benefits will accrue, not least by a determined effort to achieve the free movement of services. Although services account for just over 70% of total EU GDP, only 3.2% is a result of intra-EU trade<sup>68</sup>.

The provisions of the single market also enable the European Union to negotiate as a single trade and commercial entity on the world stage. The sheer size of the EU single market means the EU has considerable bargaining power in the context of multilateral and bilateral commercial diplomacy. In recent years the EU has negotiated a number of Preferential Trade Agreements (PTAs) with third countries that deliver economic benefits to the EU beyond those available within the multilateral negotiating framework of the World Trade Organisation (WTO). The EU, through its power to negotiate as a single entity as one of the world's largest economies, has secured better terms of trade than would generally have been expected had Member States had to negotiate on their own. Many of these deals have established free trade agreements between the EU and a range of countries.

### **What are the alternatives?**

Despite the substantial benefits deriving from membership of the single market, some critics continue to argue that the price of EU membership remains excessive. These arguments are typically couched in terms of the loss of national control over specific policies that Member States have agreed should be decided collectively at EU level. They also include understandable concerns that EU membership has increased the burden of 'red tape' that our

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<sup>66</sup> 2013 Scottish Attractiveness Survey, June 2013, <http://www.ey.com/UK/en/Issues/Business-environment/2013-Scotland-attractiveness-survey>

<sup>67</sup> *Steps towards a deeper economic integration: the Internal Market in the 21<sup>st</sup> Century – a contribution to the Single Market Review*, January 2007,

[http://ec.europa.eu/economy\\_finance/publications/publication784\\_en.pdf](http://ec.europa.eu/economy_finance/publications/publication784_en.pdf)

<sup>68</sup> *Trading Places: Is EU membership still the best option for UK trade?*, Open Europe, 2012

companies have to navigate to comply with EU rules over a range of aspects of their commercial operations, including employment regulation.

The increasing frustration with these costs, coupled with a lack of progress in some key single market areas, has led some to look at alternative trading arrangements outside the EU, in particular membership of the European Economic Area (EEA).

### **The EEA membership or the 'Norwegian way'**

Signed in 1992, the agreement on the EEA effectively extends the EU's rules on the free movement of goods, services, capital and persons to Iceland, Liechtenstein and Norway, each of which is a member of the European Free Trade Association (EFTA). Switzerland, also a member of the EFTA, voted not to join the EEA.

The EEA came into force in 1994 and effectively extends the geographical reach of the EU single market to the three EEA countries, allowing them tariff-free access to the Single Market – although the EEA countries still set their own independent external trade policy with other nations.

However, the agreement on the EEA includes a range of conditions that EEA members must meet in order to gain access to the Single Market. This includes adhering to all EU legislation governing the operation of, and conduct in, the single EU market. In addition, EEA countries also make annual financial contributions directly to the EU budget in return for access to the single market and in order to participate in specific EU policies.

However, the EEA agreement does not cover a range of EU policies including the agricultural or fisheries policies, the EU external trade policy, the common foreign and security policy and monetary union. It also allows cooperation between the EU and EEA countries in some EU policy areas including research and development, environmental policy, social policy, consumer protection and education. EEA members therefore participate on several fields of EU policy related to the Single Market, although they have no direct voting rights or say on the implementation of legislation.

Any evaluation of the EEA alternative to full EU membership has to recognise the conditions imposed by the EU under the EEA agreements – conditions that are quite controversial in some of these countries. The principal condition is that, as a matter of law, the EEA obliges its three members to adhere to a substantial amount of EU law. Under the Agreement, the EEA countries must implement on an equivalent basis all EU legislation that regulates the access of all economic operators to the EU single market: that is, all the rules and regulations that EU economic operators are also obliged to adhere to. In practice that means implementing 21 out of 35 Chapter of the Acquis Communautaire. For example, Norway has adopted three quarters of the EU's rules and regulation.

The EEA agreement is the closest form of relationship that the EU has to offer, other than full membership. But it is not a relationship that enables non-

EU members easier or less costly access to the single market than the EU Member States themselves.

To many however, the real cost of the EEA is that it imposes on these countries a whole range of EU laws and regulations over which they have no legislative control. Whilst EEA members are consulted on the development of relevant EU regulation and legislation, the EU legislators are under no obligation to consider their views. Nor do the EEA countries participate at any stage in the EU legislative process, and have no vote (or influence) over whether these laws and regulations should be adopted, amended or rejected. As a result critics argue that EEA countries suffer a very serious “democratic deficit” by having no input to many of the laws adopted in their country. Some critics have even gone so far as to describe the EEA countries as “fax democracies” because a substantial proportion of their domestic laws appear by fax from Brussels!

“...The democratic deficit is apparent. We have no formal political representation in Brussels or Strasbourg, and no voting rights on the legislation that eventually will become national laws. We are not at the negotiating table when the EU is assembled and we’re lucky if we’ve made it into the hallways of Brussels. There is also a significant delay in the implementation which is causing a backlog of EU legislation and creating a different legal basis between the EU member states and Norway...” Erna Solberg, leader of the Conservative Party of Norway and Prime Minister of Norway

### **The European Free Trade Association (EFTA) membership**

The European Free Trade Association (EFTA) is an intergovernmental organisation set up for the promotion of free trade and economic integration to benefit the four of its Member States – Liechtenstein, Switzerland, Iceland and Norway.

EFTA serves as a free trade area and allows for members to work together in putting forward suggestions to the EU, in making improvements, as a group proposal. It is responsible for the management of three sets of trade agreements: The EFTA Convention, EFTA’s free-trade and partnership agreements and the EEA agreement.

It has neither the political nor the economic influence of the EU. Unlike the EU, it is not a single market and it has only a limited capacity for joint action.

### **Do the benefits outweigh the costs?**

The argument that membership of the EEA is desirable because it allows members to gain access to the Single Market but without having to adopt all of the regulations that full EU membership requires is simply wrong. Not only are companies and other economic operators in the EEA countries obliged to adopt all aspects of legislation associated with the single market, they have only very limited input into the decision-making process from which these laws emerge.

The Scottish Government therefore does not consider that EEA membership is a desirable option from a democratic perspective – Scotland's citizens would lose all ability to influence the laws and regulations to which they would be subject.

Equally, the Scottish Government does not consider EEA membership as preferable to full EU membership on straightforward economic grounds.

As a member of the EU an independent Scotland will continue to benefit from the significant amount of job-creating foreign direct investment (FDI) attracted here in order to access the single EU market. If an independent Scotland left the EU and joined the EEA instead, it would become a less attractive destination for foreign investors not least because the Scottish Government would lose all influence over the laws and regulations to which foreign investors would be bound. In that scenario it would make more sense for foreign investors to locate in a country that exerted real influence over these laws and regulations.

If an independent Scotland left the EU and joined the EEA it would be excluded from the range of important and favourable bilateral trade agreements the EU has signed over the years, and the potential future agreements that it is currently negotiating with some of the world's major economies – including Japan and the USA. These agreements provide vital new trading opportunities for our companies and increase the choices available to our consumers. It is difficult to conceive an independent Scotland being able to strike such favourable international trade deals outside the framework of the EU.

### **Rules of Origin Requirements for EEA Members**

Although EEA countries technically enjoy free access to the EU internal market, this privilege is qualified insofar as these countries are obliged to establish complex procedures to ensure that goods and services originating in third countries do not benefit from the EEA provisions. As a result Norway is subject to the EU's Rules of Origin requirements.

These rules of origin relate to the 'Economic Nationality' of goods and services and have to be observed by Norway comply with its EEA obligations. This can create significant and costly complications regarding products that draw on wide international supply chains as part of their development, as only a certain proportion of input components can be imported (with each input potentially having a different allowance depending on the EU's preferential arrangements with non-EU countries).

The Rules of Origin requirements can add an extra layer of complexity, which can raise compliance and administrative costs to firms.

The limitations imposed on EEA members has led to some questioning on the relative merits of EEA membership. For instance, Norway has recently launched a public debate in a White Paper that reflects concerns over the EEA-related democratic deficit, as summarised below.

### **Key Points on Norway's membership of the EEA**

Although Norway rejected full EU membership - following referendums in 1972 and 1994 – it has looked to secure a close relationship with the EU through a series of individual agreements, including the EEA agreement. Indeed, Norway has gone beyond the requirements of the EEA in becoming a member of the Schengen area, and has agreements with the EU on a number of areas such as policing, security and fishing.

Through its EEA membership Norway:

- gains access to the single market, although products produced in Norway are subject to the EU's Rules of Origin requirement;
- implemented around three quarters of EU regulations and legislations;
- has no direct influence, or voting rights, on regulations and legislations;
- makes annual financial contributions to the EU Budget (which is used to reduce economic and social disparities across the EU); and
- is not subject to the common external EU tariff, but does not benefit from the EU's trade agreements with third countries.

Whilst many aspects of this agreement appear to work for Norway, concerns have been raised regarding some aspects of the model, in particular that Norway has to introduce a wide range of EU policies and rules without having any voting rights on their implementation.

## **The FTA membership of ‘Swiss way’**

Unlike Norway, Iceland and Lichtenstein, Switzerland is not a member of the EEA. The “Swiss option” is another variant on non-EU membership that some have suggested an independent Scotland could pursue. This would essentially involve negotiating an entirely new treaty with the EU from scratch. The Scottish Government does not regard this as a feasible or economically viable option.

Switzerland is a member of EFTA but not a member of the EEA and has also chosen to remain outside of the EU and negotiate special arrangements with Brussels. Negotiations began in 1994 and but only came into force in 2001.

Switzerland has, through a range of agreements, secured free access to most parts of the Single Market. However, since Switzerland rejected membership of the EEA in 1992 these agreements have been the result of lengthy, and complex, negotiations which took many years to complete.

### **Chronology of Swiss-EU relations and agreements**

1972 – FTA with the EU  
1989 – Insurance Agreement  
1990 – Agreement on Customs Facilitation and Security  
1992 – Rejection of the EEA agreement in referendum  
1999 – Bilaterals I (free movement of persons, technical barriers to trade, public procurement, agriculture, transport, civil aviation, research)  
2004 – Bilaterals II (Schengen/Dublin agreement, taxation of savings, fight against fraud, processed agricultural products, environment, statistics, MEDIA programme, pensions)  
2005 – Extension of free movement to the ten new EU Member States  
2009 – Continuation of free movement and extension to Bulgaria and Romania  
2009 – Agreement on customs facilitation and security  
2010 – Agreement on education, vocational training and youth

Access to the Single Market would be dependent on the deal that an independent Scotland could negotiate with the EU – for example, the Swiss deal currently excludes the vast majority of services, including financial services.

Under these bilateral agreements, just as in the case of the EEA members, the Swiss Government has no say in the decision making processes of the EU.

Similar to the other EEA countries, the Swiss Government is required to ensure that all goods and services exported to the EU conform to the complex and costly EU “rules of origin”. This is not only a source of more “red tape” but the cause of significant delays and expense for importers and exporters. The Swiss Government has estimated that EU border controls impose costs of

between 0.5–1% of total value of transactions and rules of origin paperwork impose additional costs<sup>69</sup>.

Just as with the EEA countries, Switzerland is solely responsible for implementing and enforcing its agreements with the EU. However, since 2008, the EU has called for a more comprehensive approach to cooperation, involving stepped up enforcement and dispute settlement mechanisms to ensure that Swiss law is compatible with EU law and, significantly, ECJ case law. Following a December 2010 meeting, the General affairs Council stated:

“Since Switzerland is not a member of the European Economic Area, it has chosen to take a sector-based approach to its agreements in view of a possible long-term rapprochement with the EU. In full respect of the Swiss sovereignty and choices, the Council has come to the conclusion that while the present system of bilateral agreements has worked well in the past, the challenge of the coming years will be to go beyond this complex system, which is creating legal uncertainty and has become unwieldy to manage and has clearly reached its limits”.

Swiss-EU bilateral agreements amount to around 120 agreements. These took several years to agree and are largely equivalent to EU regulations and legislation. Where the EU adopts new rules the Swiss Government has to set up new bi-lateral agreements and in the interim could find themselves penalised by trade barriers. Where they do fall within the agreement products may also be subject to rules of origin.

Switzerland does not contribute directly to the EU budget yet it has made substantial financial contributions to EU policies and to European infrastructure which are described as “an investment in partnerships with growing economic potential”. Some of these investments have been to fund transport links to enable transit through Switzerland.

Since 1991, Switzerland has contributed 3.5bn Swiss Francs (€2.7bn) to development and stabilisation in Eastern Europe and the Balkans. In addition, following the EU enlargements in 2004 and 2007, Switzerland pledged 1.3bn Swiss Francs (€1bn) in support over five years to the new Member States, supporting ‘cohesion’ within the EU. However, these funds are not part of the EU’s dedicated ‘cohesion fund’ but are managed under bilateral framework agreements with the recipient countries and a ‘Memorandum of Understanding’ with the EU.

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<sup>69</sup> The UK Government, The economic effects of EU membership for the UK: revised Scoreboard, 2005

### **Staying as part of the UK only adds uncertainty to EU membership**

Allowing Westminster to retain the power to determine Scotland's future relationship with Europe has potential consequences for Scotland's continued membership of the EU.

On 23 January David Cameron promised to hold an 'in/out' referendum on the UK's membership of the European Union. The Conservative Party has said that if it is elected at the next UK General Election it will hold a referendum by the end of 2017 to either "stay in a reformed Europe, or come out altogether". Therefore, under the current constitutional arrangements, it is a real possibility that in less than four years' time Scotland could be forced out of the EU even if a majority of people in Scotland want to retain membership.

It is unclear which precise reforms the Prime Minister is seeking or whether or not other EU states would agree to his demands. It should be noted that two senior UK Cabinet ministers have said that if a referendum were to be held now they would vote to leave the EU. The Prime Minister has also described support for EU membership in the UK as being "wafer-thin". This begs the question that if the Prime Minister could not secure the reforms he deems necessary for the UK's continued membership of the EU, what stance he and his party would take during a referendum campaign.

The Prime Minister's stance has created a lot of uncertainty and triggered a strong reaction from many, including the business community, arguing the benefits of the EU.

"The creation of the Single Market was instigated by Britain, and is now the world's largest trading bloc, containing half a billion people with a GDP of £10 trillion. To Britain, membership is estimated to be worth between £31bn and £92bn per year in income gains, or between £1,200 to £3,500 for every household." Business leaders in open letter, Independent, 19 May 2013<sup>70</sup>.

There has been much commentary and debate about the motives for the Conservative Party's referendum policy with particular focus on the rise in England of UKIP and the views of a group of prominent Conservative back-benchers. In a recent House of Commons debate on the European Union (Referendum) Bill the Shadow Foreign Secretary, Douglas Alexander said: "This is about external electoral threats and internal leadership threats. This is not about trusting the people; it is about these Back Benchers not trusting the Prime Minister."

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<sup>70</sup> Signatories include: Sir Richard Branson, founder, Virgin Group; Lord Kerr of Kinlochard, deputy chairman, Scottish Power; Dame Helen Alexander, chairman, UBM; Sir Michael Rake, chairman, BT; Sir Roger Carr, chairman, Centrica; Sir Nigel Sheinwald, non-executive director, Shell; Sir Andrew Cahn, former head of UKTI; Sir Win Bishoff, chairman, Lloyds Banking group, David Cruickshank, chairman, Deloitte LLP, Nicolas Petrovic, CEO, Eurostar among others

However, in that same debate the Labour chairman of the House of Commons Scottish Affairs Committee, Ian Davidson, said he supported a referendum on UK membership of the EU on renegotiated terms. In relation to his party's policy he said: "The Labour party's view on these matters is best described as being in a state of flux. It is a caterpillar, which, in a short time, will emerge as a butterfly. I believe that we will change our position in a relatively short time, as events change, because we are clearly heading for a crisis in the European Union."

Lord Wood, a close adviser to the leader of the Labour Party, and shadow cabinet minister without portfolio, based in the Leader of the Opposition's office, has been asked if it is conceivable that Labour would also offer an in/out referendum on EU membership, to which he replied: "It's conceivable because we are going to make up our minds before the next election when we have a manifesto to put to the British people."

In order that people in Scotland can make an informed decision about independence it is necessary to be clear about the consequences of both a Yes and a No vote. This paper has set out the Scottish Government's position that Scotland will remain inside the European Union in the event of a Yes vote. The public statements from representatives of both the major parties at Westminster make it clear that Scotland's continuing membership of the EU will be uncertain in the event of a No vote.

Scottish Ministers' position is that we do not want to leave the European Union. As such the Conservative-led coalition government does not represent Scotland's interests on Europe. As already demonstrated in this paper this would deny people in Scotland the benefits of free movement and access to a common market covering 500 million fellow European citizens and 20 million businesses. While the Scottish Government does consider that there is a case for reform of certain aspects of the EU those reform ambitions can only be achieved through dialogue with Member States from within the EU. That is why Scottish Ministers do not propose to hold an in-out referendum on EU membership. The hope and expectation is that before the UK government holds its planned in-out referendum on the EU in 2017, Scotland will have become an independent nation with its voice and seat at the table.

"I think the position on the EU is absolutely clear at the moment. The uncertainty in the EU lies with the UK government." ..... "Will the UK still be a member of the European Union in 2020?" Deputy First Minister, Nicola Sturgeon, the benefits and possibilities of independence, 13 May 2013

### **EU membership is the best alternative**

The Scottish Government has no doubt that an independent Scotland should remain part of the EU. Neither membership of the EEA nor the "Swiss option" of negotiating a series of bilateral treaties between Scotland and the EU are desirable from an economic or social perspective. These non-EU members have to comply with a substantial number of EU laws and regulations if they wish to maintain access to the single market. However, unlike EU member states they have no influence on the legislation to which they are bound. As a

result these countries experience a severe “democratic deficit” compared to EU Member States.

Moreover, as non-members of the EU these countries have no ability to reform the laws and regulations governing the single market. The Scottish Government recognises that EU rules impose burdens on our companies, particularly small and medium sized enterprises. However, these burdens will not become any less burdensome by leaving the EU and joining the EEA. As a Member State within the EU an independent Scotland will be able to work with other Member States to reform unnecessary or overly burdensome EU laws and regulations. This is not an option Scotland would have outside the EU.

## **Annex 5 – Scotland’s transition to EU membership**

Following an affirmative vote in the 2014 referendum, the Scottish Government is committed to continuing Scotland’s membership of the EU as an independent country, and plans to initiate negotiations to achieve this end immediately following that referendum. The negotiations will involve the Scottish and UK Governments, the Governments of all EU Member States and EU institutions. The purpose of the negotiations would be to agree the terms of Scotland’s independent membership of the EU. In these negotiations the Scottish Government will at all times represent the best interests of the people of Scotland.

Although detailed negotiations cannot begin until after a “yes” vote has been secured in the independence referendum, an element of preparatory work could be undertaken in the meantime. The European Commission has made clear it is prepared to provide detailed advice on the prospective transition process to enable an independent Scotland to assume full EU membership on submission of a request by the UK Government.<sup>71</sup> This position was restated in a letter dated 22 January 2013 from Maroš Šefčovič, Vice President of the European Commission to Scotland’s Deputy First Minister Nicola Sturgeon.<sup>72</sup> To date the UK Government has declined to approach the European Commission in these terms. This lack of cooperation is regrettable.

### **Scotland and the European Union**

Scotland has been a constituent part of the EU since the accession of the UK in 1973 and over the intervening 40 years its economy and society has become an integral and fully integrated jurisdiction within the EU single market. This will continue to be the case following an affirmative result in the 2014 referendum. The Scottish Government’s intention is that negotiations leading to Scotland’s independent membership of the EU will begin immediately following the 2014 referendum and be concluded prior to the point of independence. Accordingly, these negotiations will take place during the period in which Scotland remains part of the UK and, as such, will be conducted “from within” the EU.

When Scotland becomes an independent Member State within the EU Scotland might appropriately be described as an “old” new Member State – that is a country fully integrated in, and conversant with, the structure and roles of the EU Institutions, and the legislative and policy processes for which these Institutions are responsible. Scotland has engaged the EU Institutions and policy processes as part of the UK Member State throughout the course of her 40 years of EU membership, and has, since 1999, been responsible for transposing, implementing and enforcing those EU legislative obligations that impact upon devolved competences, which include matters such as environment, health, education and rural affairs.

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<sup>71</sup> [http://www.parliament.uk/documents/lords-committees/economic-affairs/ScottishIndependence/EA68\\_Scotland\\_and\\_the\\_EU\\_Barroso's\\_reply\\_to\\_Lord\\_Tugendhat\\_101212.pdf](http://www.parliament.uk/documents/lords-committees/economic-affairs/ScottishIndependence/EA68_Scotland_and_the_EU_Barroso's_reply_to_Lord_Tugendhat_101212.pdf)

<sup>72</sup> [http://www.scotreferendum.com/wp-content/uploads/2013/01/CAB08\\_0122142752\\_001.pdf](http://www.scotreferendum.com/wp-content/uploads/2013/01/CAB08_0122142752_001.pdf)

Article 2 of the Treaty on European Union (TEU) sets the general context within which the process of negotiating Scotland's independent EU membership will ensue:

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women prevail.”

As explained elsewhere in this paper the process by which Scotland will achieve independent statehood is wholly consistent with these principles.

The Scottish Government intends that detailed negotiations to secure the transition to Scotland's independent EU membership will begin immediately after the referendum. At that time the Scottish Government will formally request the UK Government to notify the Council of the EU (hereinafter the 'Council') to initiate the procedure necessary to allow Scotland to assume independent membership of the EU on the date at which Scotland becomes an independent country. This will include negotiations to determine the terms, and where necessary any transitional arrangements, under which an independent Scotland will take its place as a full EU Member State. The Scottish Government intends that these negotiations will be conducted between the date of the vote on 18 September 2014 and the date on which Scotland becomes an independent state in March 2016 – a period during which Scotland will remain part of the UK. There is no point in this transition process where Scotland requires to be, or will be, outside the legal and institutional framework of the EU.

The Scottish Government is therefore committed to working with the UK Government, the EU Member States and the EU Institutions to ensure the transition to independent EU membership is achieved smoothly and without interruption to the existing legal, political, financial, commercial and personal relationships, liabilities and obligations that collectively defines the totality of Scotland's engagement with her EU partners and their citizens. Inter alia this engagement includes approximately 160,000 workers and students who have chosen to come to Scotland from other countries of the EU whose rights and interests under EU law must continue to be protected. As indeed must the EU citizenship rights of Scottish citizens whether in Scotland or living and working in other EU Member States. Achieving a smooth and timeous transition is therefore not only in the best interests of Scotland, it is in the best interests of all Member States, and their citizens, and the EU in general.

### **The Domestic and EU Constitutional Setting**

The Scottish parliament in Edinburgh was reconvened in 1999 after an adjournment of almost 300 years. The Scottish Government delivers every day for Scotland on a range of devolved policy competences including health, education, employment, and social policies. However, decisions that have a significant impact on Scotland's economic and social well-being – on

economic (especially fiscal) policy, defence, foreign and EU affairs, and welfare – are taken by the UK Government in Westminster. This fundamentally restricts the ability of the Scottish Government to address a wide range of deep-seated economic and social problems that needlessly continue to blight the lives, and limit the life opportunities, of tens of thousands of Scotland's citizens.

Independence will transform this situation, including across the spectrum of EU policy-making that presently is reserved entirely to the UK Government. Under devolution the Scottish Government has little or no influence on the position the UK Government decides to adopt in EU-level debates about prospective EU laws and policies. Although the Scottish Government expects to be consulted by the UK Government if the proposal under consideration impacts upon devolved competences, the UK Government is under no obligation to take into account the Scottish Government's views. This is despite the fact that the Scottish Government's views will reflect the best interests of Scotland's EU policy stakeholders whose future prospects will be directly affected by EU-level decisions on these issues.

Moreover, even this modest and ineffective right of consultation with the Scottish Government is withdrawn when the policy under discussion at EU level has no direct impact on devolved competences. Therefore on issues as diverse and important as reforming the EU Treaties, the EU's foreign and security policies, the regulation of the financial services sector, rules governing state aid, and development cooperation and humanitarian aid (to name only a few) the Scottish Government is excluded from internal UK Government discussions as well as EU-level negotiations.

It is clear that devolution simply does not allow the government of Scotland to have an effective means of directly influencing EU laws and policies. Only through independence will the Scottish Government be able to ensure the views of Scots are fully represented at EU level, and that her national interests are properly represented and protected. Independence will allow Scotland's citizens to have a direct voice on EU matters.

Independence will also safeguard Scotland against the consequences of the UK Government's increasingly confrontational policy towards our EU partner countries. As a recent report of the Foreign Affairs Committee of the House of Commons made clear, there is growing concern that the UK Government's "...tone, language and overall approach..." in its dealings with its EU partners is rapidly reducing its influence in EU legislative and policy negotiations, crucially on issues relating to the operation of the single EU market. The Scottish Government does not consider this approach is in Scotland's national interest. Moreover this approach has the potential to be entirely self-defeating if it leads, as seems increasingly likely, to the UK leaving the EU – an outcome that would be disastrous for the Scottish economy.

Independence within the EU will allow the Scottish Government to adopt a constructive and positive approach to EU legislative and policy negotiations, including the shared EU reform agenda. This alone will significantly increase

Scotland's influence in EU affairs compared to the present situation, and as a result greatly improve the Scottish Government's ability to maximise the economic and social gains to Scotland from EU membership.

### **The Edinburgh Agreement**

The SNP victory in the Scottish Parliamentary elections of May 2011 returned to the Scottish Government a majority SNP administration elected on a manifesto commitment to conduct a referendum to determine whether Scotland should be an independent country. Subsequent negotiations between the Scottish and UK Governments led to the signing of the Edinburgh Agreement on 15 October 2012. That Agreement and subsequent legislation made by the Scottish and UK Parliaments and Governments provides the domestic constitutional authority for this referendum to be held, the result of which will be constitutionally binding on both parties. Moreover, paragraph 30 of that Agreement commits both Governments:

“...to work constructively together in the light of the outcome, whatever it is, in the best interests of the people of Scotland and of the rest of the United Kingdom.”

The Edinburgh Agreement establishes the consensual nature of the domestic constitutional process that is underway. The procedure by which Scotland will achieve independent statehood is therefore fully compliant with UK constitutional law and practice. Accordingly the procedure by which Scotland will become an independent country presents no challenge to the integrity of the EU as set out in its constituent Treaties and evolving legal framework. The procedure is fully in accordance with the fundamental principles of the EU as expressed in Article 2, TEU.

Therefore although the case for Scotland's independence is at present a matter for political debate within the UK, both the UK and Scottish Governments, and their respective Parliaments, are constitutionally bound by the Edinburgh Agreement to accept the result of the 2014 referendum.

Accordingly in approaching the question of Scotland's independent membership of the EU, the Scottish Government is confident that the UK Government will fully support this process, and will do its utmost to ensure the procedure is completed smoothly and timeously.

### **The Scottish Referendum Bill**

The Scottish Independence Referendum Bill introduced on 21 March 2013 provides for the referendum to be held on Thursday 18 September 2014. It is the intention of the Scottish Government that in the event of a yes vote in the forthcoming referendum, negotiations with the UK Government would commence immediately with a view to Scotland assuming independent statehood by March 2016, ahead of the elections to the Scottish Parliament in May 2016.

Concurrent with these internal negotiations the Scottish Government would open discussions with the EU institutions to discuss the terms of Scotland's

continuing EU membership as an independent Member State. As these discussions will be held in the period during which Scotland remains part of the UK, it will technically fall to the UK Government, as the Member State, to formally notify the Council of the EU of the Scottish Government's intention to remain inside the EU upon independence, and to initiate detailed discussions to achieving this end. However, the Scottish Government would expect to be fully involved in this process.

### **EU Treaty Framework**

The Scottish Government recognises that the EU Treaties make no specific provision for the consequences for EU membership where, by a consensual and lawful constitutional process, the democratically determined majority view in part of the territory of an existing Member State is that it should become an independent country. Accordingly the Scottish Government recognises that the transition to independent EU membership will require formal negotiations involving the Scottish Government, the UK Government and the governments of EU Member States to agree both the procedure by which, and the terms on which, Scotland will assume the obligations of EU membership as an independent country.

The Scottish Government acknowledges that facilitating an independent Scotland's transition to EU membership will require a revision to the EU Treaties.

On the basis of the EU's prior response to exceptional constitutional developments within its jurisdiction - most recently the re-unification of Germany -, the Scottish Government has no reason to doubt that the EU institutions, including the European Parliament, and the Member States will work constructively and expeditiously with the Scottish and UK Governments to facilitate Scotland's transition to independent membership of the EU.

### **The Transition route to Independent EU Membership**

As a jurisdiction already having full membership of the EU, and compliant with EU laws and obligations, the Scottish Government will negotiate the terms of, and transitional arrangements for, an independent Scotland's membership of the EU during the period between September 2014 and March 2016; that is from its current constitutional position within the EU. The objective of the Scottish Government and, it believes, all other parties involved in the transition process including the UK Government, would be to ensure negotiations are concluded before Scotland becomes an independent State.

The proposals may be submitted by the UK Government with assistance from the Scottish Government. The Secretary of State for Scotland has already said "I see no circumstance in which the remainder of the UK would obstruct Scottish entry to the European Union, that's not an issue at all".

The Scottish Government is aware of the views set out by the President of the European Commission in his letter to Lord Tugendhat on 10 December 2012. In that letter President Barroso expresses the view that if one part of an existing Member State becomes independent, the "...Treaties would no longer

apply to that territory”. In some quarters this has been taken as a definitive statement to the effect that at the very moment of independence Scotland would be “excluded” from EU membership. The Scottish Government does not agree with this proposition.

As this paper highlights we consider that there is a legal framework by which an amendment can be made to the EU treaties prior to Scotland being established as a state to confer on it a right to be a party to the Treaties from that point. We also consider that during each step of the process there is a legal obligation under the EU treaties for the process to be conducted pursuant to the principle of sincere co-operation.

Furthermore that there is a legal obligation under the EU Treaties for it to be conducted by all parties according to the values of the Union and common to the Member States, including respect for democracy, respect for the rule of law and respect of human rights, including the rights of persons belong to minorities.

We also note that Professor Sir David Edward, formerly the British judge at the Court of Justice of the EU and one of the EU’s leading legal authorities, has explicitly rejected this interpretation arguing instead that the principle of sincere cooperation set out in 4 (3) TEU obliges the Member States to engage in negotiations with both Scotland and the remainder of the UK ahead of independence “...to determine the future relationship within the EU of the separate parts of the UK and the other Member States”.<sup>73</sup>

The Scottish Government believes the 18 month period between the referendum and formal independence provides sufficient time for interlocking discussions settling an independent Scotland’s terms of EU membership as well as the revised terms of the remainder of the UK’s terms of membership to be satisfactorily concluded. This timetable has been endorsed by Professor James Crawford<sup>74</sup>. Moreover, in the prevailing context of devolution the Scottish Government has demonstrated its capacity to transpose and implement the provisions of EU legislation.<sup>75</sup>

“As I say, it’s not to suggest that this process is going to be – necessarily going to be difficult, because Scotland complies with the Acquis now, as part of the UK, but still the process has to be

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<sup>73</sup> David Edward, Scottish Future Forum, 17 December 2012  
<http://www.scottishconstitutionalfutures.org/OpinionandAnalysis/ViewBlogPost/tabid/1767/articleType/ArticleView/articleId/852/David-Edward-Scotland-and-the-European-Union.aspx>

<sup>74</sup> Crawford and Boyle, 2012

<sup>75</sup> The detailed negotiations for the accession of Austria, Sweden, Finland and Norway took just over 13 months to conclude (see European Commission Report on accession negotiations dated 26 April 1994). This relatively short negotiating period reflected (a) the fact that each country was by then part of the European Economic Space and, as such, was generally compliant with the EU internal market rules and (b) a determination both by the European Commission and the candidate countries to bring the negotiations to a speedy conclusion. As Scotland is already compliant with all EU rules, it would seem possible to conclude discussions around Scotland’s terms of membership even more speedily.

gone through". Professor James Crawford, Cambridge University, Good Morning Scotland, 11 February 2013

"Well, the Scottish estimate is about 18 months, and that seems realistic". Professor James Crawford, Today Programme, Radio 4, 11 February

### **EU Treaty Provisions**

Article 49 TEU provides the legal basis, and defines the procedure, for a conventional enlargement where the candidate country is seeking membership from outside the EU. By virtue of having joined the EU in 1973 this is not the starting position from which the Scottish Government will be pursuing independent EU membership. In that sense, Article 49 does not appear to be the appropriate legal base on which to facilitate Scotland's transition to full EU membership. Accordingly, and insofar as the applicability of Article 49 is restricted to countries seeking EU membership from outside the EU, the Scottish Government does not regard this to be the appropriate Treaty provision to address Scotland's prospective circumstances.

The alternative to an Article 49 procedure, and a legal basis that the Scottish Government considers is appropriate to the prospective circumstances, is that Scotland's transition to full membership is secured under the general provisions of Article 48 TEU. Article 48 provides for a Treaty amendment to be agreed by common accord on the part of the representatives of the governments of the Member States.

Article 48 is therefore a relevant legal base through which to facilitate the transition process, by allowing the EU Treaties to be amended through Ordinary revision procedure initiated by the United Kingdom Government with assistance from the Scottish Government before Scotland becomes independent to enable it to become a Member State at the point of independence.

## Article 48

1. The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures.

### Ordinary revision procedure

2. The Government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaties. These proposals may, inter alia, serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified....

As already noted, it will be for the EU Member States meeting under the auspices of the Council to take forward the most appropriate procedure to facilitate Scotland's transition to independent membership of the EU. The Scottish Government would however stress that Article 48 (TEU) presents a legal path for the necessary amendments to the EU Treaties to be made to allow Scotland to become an independent Member State within the EU at the point Scotland becomes an independent state.

The Scottish Government also notes that the sole provision in the EU Treaties for withdrawal from the European Union is Article 50 TEU which sets out the procedures to be followed should a Member State voluntarily decide to end its EU membership. In that eventuality obligations are imposed on both the withdrawing Member State and the EU institutions, the aim of which is to minimize the disruption caused by withdrawal and to elaborate agreements providing for that country's future engagement with the EU. Article 50 is therefore a process by which the United Kingdom could, in accordance with its own constitutional arrangements decide to withdraw from the EU and give notification of that intention to the European Council. It is not a process which is relevant to the circumstances of Scotland. The Scottish Government has also made clear that it has no intention of seeking to withdraw Scotland's EU membership following independence.

### **Terms of Scotland's EU Membership: Continuity of Effect**

The Scottish Government's objective in negotiating Scotland's transition to independent EU membership will be to ensure, post-independence, continuity of effect with regard to the rights and obligations that currently prevail in Scotland consequential upon the UK's membership of the EU. The Scottish Government believes this approach best secures the legitimate national interest of Scotland and its citizens, as well as the rest of the UK and indeed the EU in general. Accordingly, following independence the Scottish Government would not be seeking membership of the Eurozone nor the Schengen area and would be seeking to retain flexibility around participation in other Justice and Home Affairs measures. The detailed considerations that underpin this position are set out elsewhere in this paper.

As is made clear in those sections, the Scottish Government's position regarding both the single currency and Schengen elements of the EU Treaties is not predicated on any prior political or ideological opposition to either obligation. Instead, it follows from a detailed assessment of the adverse consequences for Scotland's economy and society that would arise from taking the steps necessary to begin the process of qualifying for membership of the Eurozone and Schengen area – i.e. exiting the sterling currency area and leaving the UK and Ireland Common Travel Area. The same reasoning applies in respect of other Justice and Home Affairs measures. Whilst we anticipate that an independent Scotland would seek to participate wherever possible in new proposals, we recognise the significant benefits such measures bring to our citizens and the whole of the EU. The Scottish Government recognises that amendment to the provisions of the existing Protocol of the EU Treaty will be required in order to recognise Scotland's specific circumstances.

Notwithstanding the particular circumstances that compels the Scottish Government to retain sterling as the currency of an independent Scotland and ensure Britain and Ireland remains a border-free travel area, the Scottish Government also holds that the terms of Scotland's independent membership of the EU should in general recognise and uphold the existing rights and obligations of EU citizens and single market participants, including citizens of an independent Scotland, resident in Scotland. This accords to the principle of continuity of effect which the Scottish Government believes is the correct basis on which detailed negotiations should be engaged, and which will inform the position taken by the Scottish Government in the negotiations leading to Scotland's independent EU membership.

#### **After Independence: Scotland's Future in the European Union**

An independent Scotland has a significant contribution to make to the future of the EU. The Scottish Government looks forward to an independent Scotland playing a full and constructive role in the future of the European Union and recognises that the principles of mutual support and solidarity are central to ensure the objectives set out in the EU Treaties are fulfilled.

The Scottish Government believes that Scotland can, and will, effect a smooth, co-operative and timely transition to independent membership of the EU. Ensuring Scotland's continuous membership of the EU following a vote for independence is in the shared interest of the Member States of the EU and, indeed, the EU as a whole. Scotland as a nation commands significant assets – R&D, oil and gas, renewables – of considerable benefit to the EU and is an integral part of the EU single market. The Scottish Government is committed to working with its partners in the UK and across the EU to successfully conclude negotiations on transferring Scotland's EU membership from membership as part of the UK to membership as an independent Member State.

Between now and the independence referendum on 18 September 2014, the Scottish Government will continue to engage in discussions with its EU

partners and EU Institutions to ensure this transition process can be smoothly and speedily achieved.

Upon achieving independent Member State status, adaptation will need to be made to the EU's institutional procedural rules to accommodate Scotland's equal representation in EU institutions (primarily the European Parliament, Council, Commission, Court of Justice). Accordingly, and consistent with the EU rules, Scotland is likely to gain a number of additional Members of the European Parliament, nominate a Commissioner to the European Commission<sup>76</sup>, and nominate judges to sit on the EU Court of Justice and General Court. Moreover, and in line with common practice, the European Commission can be expected to hire a number of new officials from Scotland to positions of various levels of seniority. Scotland will also be represented on both the Economic and Social Committee and the Committee of the Regions of the EU.

“All of this work should show that the Scottish Government does not take the process of EU membership for granted. We understand that it is essential to respect the legitimacy of existing treaties. We also understand that our continued membership will require negotiation, and the agreement of other nations. To secure that agreement, Scotland would make a notification of intent in autumn 2014, following a yes vote in the referendum. That notification would make it clear that we want to continue in the European Union as an independent nation”. Deputy First Minister, Nicola Sturgeon, European Policy Centre, Brussels, Tuesday 26 February 2013

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<sup>76</sup> In accordance with Article 17 TEU

## **Annex 6: An Independent Scotland and the Euro**

One of the most important choices for an independent nation concerns its choice of currency.

In their first report, which provided a comprehensive analysis of the options for Scotland post-independence, the Fiscal Commission Working Group (FCWG) considered the four potential currency options for an independent Scotland:

- Sterling
- The Euro
- A Scottish currency pegged to Sterling
- A flexible Scottish currency

Following a detailed analysis of the various options the Working Group:

“commends to the Scottish Government retaining Sterling as part of a formal monetary union, and believes that this provides a strong overarching framework for Scotland post-independence.”

The Scottish Government is clear that sterling will continue to be the currency of an independent Scotland. This decision is based on an analysis of the potential impact of the alternative currency options on Scottish people and businesses, including the ease with which they can conduct their business with people and companies across the rest of the UK and beyond.

The Scottish Government therefore agrees with the recommendation from the Working Group that retaining Sterling, in a currency union with the rest of the UK, would provide a workable currency from day one of independence as part of a strong overarching framework for Scotland post-independence.

While the Scottish Government understands the political and economic objectives that underpin the decision to establish the Eurozone, it is clear that an independent Scotland will not be in a position to seek, or as is demonstrated below to qualify for, membership of the Eurozone in the foreseeable future. Indeed, as the analysis indicates, under current economic conditions leaving the sterling currency area could damage both Scotland’s economic prospects and those of the remainder of the UK. Accordingly, the transition to full EU membership will include specific provisions that ensure Scotland’s participation in the sterling currency area does not conflict with its wider obligations under the EU treaties.

### **Assessing Currency Options: the economic analysis**

The First Report of the FCWG was accompanied by a technical paper which provided a detailed assessment of the currency options that would be available to an independent Scotland<sup>77</sup>. In considering potential options for a currency union the report highlights that:

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<sup>77</sup> Fiscal Commission Working Group First Report – Annex; *Assessment of key currency options*, February 2013; <http://www.scotland.gov.uk/Publications/2013/02/3017>

“...countries are believed to be better suited to currency unions when there is a high degree of trade, capital and labour mobility between them, and they share the same broad trends and structures in their macroeconomies.”

The criteria used to make such an assessment includes: trade levels (for both intermediate and final goods and services); factor mobility (for example, of labour and capital); alignment of economic structures; wage and price flexibility; productivity; correlation of economic cycles; and, prevalence and scale of asymmetric shocks. Considerable divergence in these criteria would suggest that the countries are less likely to form an optimal currency area. Applying this criteria the FCWG suggests that:

“...the assessment on whether Scotland would form an ‘optimal currency area’ with the Euro Area is less clear than is the case with Sterling. On many key macroeconomic indicators, Scotland is currently less aligned with the Euro Area than it is with the UK.”

#### **Economic Arguments in Support of Retaining Sterling**

The FCWG set out a number of economic arguments as to why “...retaining sterling would be a sensible currency choice that would be attractive both to Scotland and the UK.”

1. The UK is Scotland’s principal trading partner accounting for two thirds of onshore Scottish exports in 2011. Modelled data suggests that imports from the rest of the UK are likely to be at least as large as the figures for Scottish exports.
2. While less than 2% of registered enterprises operating in Scotland are ultimately owned by enterprises from the UK, they account for over 20% of employment and turnover; there is clear evidence of a number of significant pan-UK companies operating in Scotland (and vice versa) with complex cross-border supply chains.
3. There is considerable labour mobility between Scotland and the UK – helped by strong transport links, culture, recognised education qualifications and a common language; and historically the majority of inward migration into Scotland has been from the rest of the UK.
4. On long-term measurements of economic performance, the Scottish and UK economies are broadly aligned – in 2011 productivity (output per hour worked) levels in Scotland were the same as the UK, whilst GVA per head in Scotland was 99% of UK levels.
5. Past evidence of business cycles shows that while there have been periods of temporary divergence, overall there is a relatively high degree of synchronicity between the Scottish and UK economies compared to other closely related economies.

### **The Eurozone: entry requirements admission procedures**

Notwithstanding the clear economic case supporting the retention of sterling as Scotland's currency following independence, critics of independence have claimed that under EU rules an independent Scotland would have no choice but to become a member of the Eurozone and adopt the Euro as its currency following independence.

This assertion is incorrect on two counts.

First, the simple fact that eleven EU Member States do not use the euro as their currency<sup>78</sup> – only two of which formally have an opt-out from the relevant articles in the Treaty – itself demonstrates this is a wholly misleading claim. The Member States that do not use the euro include Sweden, a member since 1995, along with many of the countries acceding to the EU in 2004 and 2007.

Second, as explained in detail below, it ignores both the prerogatives Member States retain in determining whether, and when it is appropriate – in terms of their economic self-interest – to adopt the Euro, and the economic pre-conditions that Member States must satisfy (under EU law) before being allowed to join the Eurozone. It is simply not in the interests of individual Member States or of the Eurozone as a whole to encourage a country to adopt the Euro against its own economic self-interest or the economic interest of the Eurozone as a whole.

As already noted, the decision of the Scottish Government that an independent Scotland will retain sterling is one based on economic considerations and economic evidence. The analysis of the FCWG demonstrates that adopting the Euro immediately following independence would weaken the Scottish economy and, by extension, weaken the wider Eurozone economy.

The Euro was adopted as the EU single currency in 1999, with Euro notes and coins being introduced into circulation and replacing the national currencies of the participating countries on 1<sup>st</sup> January 2002. The legal base for the introduction of the Euro, and the rules governing Member States' eligibility to adopt the Euro as national currency, was set out in the Treaty on European Union (TEU) which entered into force in 1993. Both the UK and Denmark secured an "opt-out" from the Treaty provisions relating to the Euro, and neither are under an obligation to participate in the single currency arrangement. Both countries can, however, "opt-in" to Euro membership if they wish, assuming they meet the strict pre-requisites for membership.

Since 1993 successive UK Governments have maintained the position that while membership of the Eurozone is not entirely ruled out, this would only be contemplated if a number of economic "tests" demonstrated this was in the UK's best economic interests and providing the majority of the public

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<sup>78</sup> Although the currencies of some EU countries are currently pegged to the euro as part of the conditions for joining the Eurozone (through the Exchange Rate Mechanism II).

endorsed adopting the Euro as the UK currency in a referendum. In 2003 the Treasury published results of the five economic “tests” deemed appropriate to determining if Eurozone entry was economically desirable, and found these tests were not satisfied. Since then, and particularly against the backdrop of the financial and economic crisis, official and public opinion in the UK has significantly hardened against Eurozone membership under any circumstances.

Under Article 140 of the Treaty on the Functioning of the European Union (TFEU) makes clear, an EU Member State is only permitted to join the Eurozone and adopt the Euro as its currency when four economic tests have been met. These are generally referred to as the “convergence criteria” and are designed to ensure a new Eurozone member will avoid any significant domestic economic disturbance upon entry. The four tests are:

- Inflation rate: the applicant country inflation rate to be no more than 1.5 percentage points higher than the three lowest inflation Members States of the EU;
- Government finance: the applicant country ratio of annual deficit to GDP to be less than 3% and ratio of gross debt to GDP to be less than 60%;
- Exchange Rate: applicant countries must have been a member of the Exchange Rate Mechanism II (ERM II) for two consecutive years and should not have devalued its currency during that period; and
- Long-term interest rates: the applicant country’s nominal long-term interest rate must not be more than two percentage points higher than in the three lowest inflation Member States.

Under the TFEU a Member State that fails any of these four tests will not be permitted to join the Eurozone.

There are important points to note about these conditions of Eurozone entry. First, the decision as to when, or if, to include a currency in the ERM II – a pre-condition for Eurozone membership – rests entirely with individual EU Member States. That the exchange rate strategy adopted by a “new” Member State is the prerogative of the national government has been confirmed numerous times both by the European Commission and the European Central Bank<sup>79</sup>. And if a national government decides not to join the ERM of the EU, as it is entitled to do, then by definition it cannot become eligible for membership of the Eurozone. For instance despite being an EU member since 1995, the Swedish krona is not in the ERM II. And a number of the countries that joined the EU in 2004 and 2007 continue to keep their currencies outside the ERM II.

Secondly, it is worth stressing that neither the European Commission nor the EU Council has ever sought to remove the derogation that in strict legal terms permits the non-Eurozone countries (except the UK and Denmark) to remain

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<sup>79</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006X0325%2801%29:EN:NOT>

outside the arrangement. In effect a derogation from the relevant single currency Treaty articles must be granted to all “new” EU Member States. This is because, self-evidently, a “new” Member State cannot possibly meet the pre-requisites to join the Eurozone immediately on accession to the EU – if only because it cannot join the ERM II until it is a Member State. At the very least a derogation must be granted to cover the first two years of EU membership.

However, in the event the EU authorities have never sought to remove a derogation from Eurozone membership from any Member State. There would be little point doing so. As already argued the EU lacks any legal means of forcing Member States to comply with the pre-conditions that have to be satisfied before Eurozone membership is possible. Moreover, individual governments also lack the legal authority to ensure some of these pre-requisites are satisfied. Accordingly, it is difficult to envisage any circumstances in which the EU authorities – in particular, the European Commission – would wish to launch legal procedures against any Member State on the basis of non-compliance with the TFEU provisions on membership of the Eurozone. Not only has the European Commission never pursued such a course of action, it has never inferred it had any interest in so doing.

### **Scotland and the Euro**

It is very clear that there are simply no conceivable circumstances in which an independent Scotland would be “forced to join” the Eurozone. The Scottish Government has repeatedly stated that its primary objective in the negotiations it will have with the EU Member States and institutions following a positive vote for independence in the 2014 referendum will be to ensure “continuity of effect” in the terms and conditions of Scotland’s independent EU membership.

As the FCWG have highlighted, a newly independent Scotland would not in any event meet the criteria required for joining the Euro, even if a future Scottish Government intended to recommend such a course of action to the people of Scotland. This is not from the perspective of the relative strength of the Scottish economy but simply due to the current system being incompatible with the pre-requisites for membership of the Euro.

In addition, an initial analysis of a range of criteria that could be used as a starting point for assessing whether Scotland formed an ‘optimal currency area’ with the UK or the Euro Area suggests that Scotland is currently less aligned with the Euro Area than it is with the UK.

The Scottish Government therefore agrees with the Fiscal Commission Working Group’s recommendation that it makes sense to retain Sterling, in a currency union with the rest of the UK, and that it is essential to use the vital tax and other economic powers of independence to create jobs, grow the economy and build a fairer country.

Given the compelling economic case for an independent Scotland retaining sterling as its currency, the Scottish Government considers this would most appropriately be accommodated in Scotland's case by providing for an opt-out from the TFEU obligations that maintains the status quo ante.

## **Annex 7: Schengen and the Common Travel Area**

The Scottish Government, while endorsing the objectives underpinning the Schengen Agreement, has no plans in the foreseeable future to recommend to the people of Scotland that an independent Scotland should begin the process of joining the Schengen area.

The Scottish Government has made clear that following independence Scotland will remain an integral part of the broader “social union” that is the expression of the close economic, social and cultural ties that exist across the nations of the UK (including the Isle of Man and the Channel Islands) and Ireland. Independence does not threaten that social union: indeed it will make it stronger with Scotland taking its place within a renewed and reinvigorated partnership that will benefit citizens in each part of that social union.

An essential part of this social union, and one that will be fully maintained under independence, is the free movement of nationals between Scotland and the rest of the UK (rUK) and Ireland. There are no circumstances in which the Scottish Government would countenance any measure being taken that jeopardized the ability of citizens across the rUK and Ireland to move freely across the borders as they are presently able to do. It is for this reason that following independence Scotland will remain part of the Common Travel Area (CTA).

### **The Schengen Agreement**

The provisions governing EU common policies on border checks, asylum and immigration – commonly referred to as the Schengen area provisions – were incorporated into the EU legal framework by the Treaty of Amsterdam which entered into force on 1<sup>st</sup> May 1999. However, the underlying policy objective – namely enabling movement across internal borders without being subjected to border checks – dates from a voluntary inter-governmental agreement, outside the EU legal framework, signed in 1985 between France, Germany, Belgium, Luxembourg and the Netherlands. In this sense the Schengen element of the EU acquis originates from a voluntary decision by some EU members to remove border checks on people moving between signatory countries, rather than from a fundamental objective of the EU. Over the period between 1985 and its incorporation in to the EU treaty, almost every EU Member State voluntarily acceded to the cooperation agreement. The exceptions were the UK and Ireland. Since 1999 the Schengen area has extended to include Member States that joined in 2004 as well as non-EU countries.

The objective of the Schengen agreement was to abolish border checks on people moving between the signatory countries. One unavoidable consequence was that controls at the external borders of the participating countries were tightened and that cooperation was triggered between the judicial and security authorities in the participating countries. This latter aspect was deemed necessary insofar as border posts had, up until then, provided a degree of protection against criminals and other potential law-breakers escaping the judicial authorities in one EU Member State by fleeing to

another. It is important to note that members of the Schengen area have to meet certain tests to show that they can secure their external borders.

The Schengen agreement also had important implications for the immigration and asylum policies of the participating countries. The removal of border checks on persons travelling within the Schengen area essentially meant that once an individual had entered a Schengen country, that individual was then able to move freely between all Schengen countries; although internal border controls can be brought in by members under certain circumstances<sup>80</sup>. This prompted discussions leading to the emergence of a common approach to immigration and asylum by the Schengen area countries and the introduction of a legal base in the EU treaties to facilitate collective actions on these matters.

Accordingly, the underlying motivation for including the Schengen agreement within the EU Treaty framework was to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is ensured. This would be in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.

#### **Timeline - The Schengen Agreement**

1985: Schengen Agreement signed

1997: Amsterdam Treaty signed which absorbed Schengen Agreement and rules into EU law. UK and Ireland obtain opt-outs

1999: Amsterdam Treaty comes into force.

Today, a total of 30 countries, including all EU Member States (except the UK and Ireland) and **four non-EU members (Iceland, Norway, Switzerland and Lichtenstein)** have signed the Schengen agreement. However, not all countries cooperating in Schengen are party to the Schengen area. This is either because they do not wish to eliminate border controls or because they do not yet fulfill the required conditions for the application of the Schengen acquis<sup>81</sup>.

#### **Key rules adopted within the Schengen framework included:**

- removal of checks on persons at the internal borders;
- a common set of rules applying to people crossing the external borders of the EU Member States;
- harmonisation of the conditions of entry and of the rules on visas for short stays;
- enhanced police cooperation (including rights of cross-border surveillance and hot pursuit);

<sup>80</sup> 2006 German World Cup and other major events

<sup>81</sup> **Bulgaria, Cyprus, Croatia and Romania are not yet fully-fledged members of the Schengen area.** Border controls between them and the Schengen area are maintained until the EU Council decides that the conditions for abolishing internal border controls have been met.

- stronger judicial cooperation through a faster extradition system and transfer of enforcement of criminal judgments; and,
- establishment and development of the Schengen Information System (SIS).

The UK and Ireland decided not to participate in the Schengen agreement and as such they secured opt-outs when the Schengen acquis was incorporated into EU law. Accordingly, border checks remain on travellers arriving in either country from Schengen area countries. However, they also have the possibility, through a provision in the Treaty to “opt-in” to some parts of the Schengen accords. This provision is set out in Protocol 19 of the Treaty, under which both the UK and Ireland can, and do, take part in some the Schengen arrangements – especially in fields relating to police and judicial cooperation in criminal matters, the fight against drugs and the Schengen Information System.

### **Regional practice in Schengen**

The possibility of the UK and Ireland “opting in” to elements of the Schengen acquis is not the only flexibility provided for in this arrangement. There are a number of other flexibilities in the Schengen protocol that reflect specific regional practice. The Schengen area does not coincide solely with EU territory. Accordingly, the Schengen area is also open to EEA countries (see Annex 4). As such, from 25 March 2001, the Schengen acquis was extended and applied in its entirety to the five countries of the Nordic Passport Union (Denmark, Sweden, Norway, Finland, and Iceland – but excluding the Faroe Islands), although these countries cannot participate in the Council of Ministers meetings that approve legislation. However, there are some provisions in the Nordic Passport Union that give extra rights for Nordic citizens, not covered by Schengen, such as less paperwork if moving to a different Nordic country, and fewer requirements for naturalization of citizenship.

### **The Common Travel Area**

As already noted, the UK and Ireland do not participate in the provisions of the Schengen Agreement on the free movement of persons, external border controls and visa policy though, as set out in Protocol 19, both may choose to participate in aspects of the Schengen system.

The CTA comprises Ireland, the UK (including the Channel Islands and the Isle of Man). The CTA pre-dates the EU. It came into being in the 1920s and is based on the principle of free movement for nationals of the UK and Ireland. The UK has always operated external border controls (at point of entry) but not within the UK. This allows citizens to move freely across the UK and Ireland without passports or identity cards. Co-operation between the UK and Ireland on measures to secure the external CTA border are underpinned by a Joint Statement published in December 2011<sup>82</sup>. This commits both

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<sup>82</sup> <http://www.homeoffice.gov.uk/about-us/freedom-of-information/released-information1/foi-archive-immigration/21197-mea-sec-trav/21197-mea-sec-trav?view=Binary>

Governments in an unbinding agreement to continue the co-operation through the CTA and to align visa requirements, data sharing practice and the e-Borders/Irish Border Information System.

On December 21, 2011 the UK and Ireland Governments:

“...signed an important agreement reinforcing their commitment to preserving the Common Travel Area (CTA) while further cracking down on illegal immigration and spurious asylum claims.”  
(European Union News, December 21, 2011)

### **The Irish Position on Schengen**

Ireland joined the EU in 1973, at the same time as the UK, and has continued to remain committed to the CTA. In 1995 the Irish Government said that:

“It would not be in the interest of Ireland to have a situation where the common travel area with Britain would be ended and Ireland would impose both exit and entry controls on persons travelling between here and Britain and, in addition, on the land frontier.”<sup>83</sup>

In 1999 they said that:

“For reasons related to the United Kingdom’s position on freedom of movement of persons and to the common travel area between both countries, neither Ireland nor the United Kingdom participate in the Schengen process”.<sup>84</sup>

An independent Scotland in the EU would essentially take the same approach. As such the Scottish Government’s position to remain within the CTA is based on valid practical considerations of geography and working arrangements that predate the EU. These arrangements are not only robust and help protect the security of the CTA but also that of the Schengen area.

The Scottish Government does not consider there is any reason to believe its decision to remain part of the CTA and forego Schengen area membership would be challenged by the European Commission. After all, the EU has spent all of its 50 or so years of existence seeking to demolish borders across the EU. It is therefore unlikely that the Commission will use the moment of Scotland’s independent membership of the EU to insist that a new internal border is created between Scotland and the rest of the CTA.

### **Legal requirements**

The current CTA between the UK and Ireland is based on administrative agreements, rather than binding Treaty obligations to which an independent Scotland would succeed. These arrangements are reflected in the UK’s

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<sup>83</sup> Dail Eireann, Written Answers, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail1995031400024?opendocument>

<sup>84</sup> Dail Eireann, Written Answers, <http://historical-debates.oireachtas.ie/D/0501/D.0501.199903090246.html>

immigration laws (and those of the Republic of Ireland) and could be replicated by an independent Scotland in due course.

From a UK Border Agency Document:

“The CTA was purely an administrative arrangement until it was given statutory recognition in the UK under the Immigration Act 1971 and the Immigration (Control of Entry through the Republic of Ireland) Order 1972. The European Treaty of Amsterdam recognises the provisions of the CTA in order to distinguish it from the Schengen area.”

It is likely that in order to continue being a member of the CTA, an independent Scotland would be asked by the rUK and Irish Governments to ensure that visa and immigration controls and practice met certain shared standards. The detail of this would require negotiation, but it should be noted that the Ireland and the UK already operate different systems within the Common Travel Area and therefore it should not be assumed that full harmonisation will be required.

“...the only sensible thing would be for Scotland to have an opt-out of Schengen... It depends on the level of agreement that has been achieved between Scotland and the United Kingdom, so an agreed position can be presented to the EU. Without an opt-out from Schengen, you would have the nonsense of 20-mile tailbacks of trucks on the M74. You would have border posts and biometric checking along Hadrian’s wall. It does not make any sense, so the two parts of the island really have to have a common border system.” Professor Sir David Omand, former Home Office Permanent Secretary (evidence to Foreign Affairs Committee, 4 Dec 2012)

The Scottish Government has no plans in the foreseeable future to recommend to the people of Scotland that an independent Scotland should begin the process of joining the Schengen area. While endorsing the objectives underpinning the Schengen Agreement, protecting the integrity of the UK and Ireland social union means that an independent Scotland will join the Common Travel Area (CTA).

Following independence the Scottish Government will take the steps required to participate in the Common Travel Area. This will ensure that the citizens of Scotland, rUK and Ireland will continue to enjoy the benefits of unimpeded travel and social engagement in every aspect of their lives as they do at present.

## Glossary

**BRIC:** Acronym referring to the nations of Brazil, Russia, India and China.

**Carbon Capture & Storage:** The process of capturing waste carbon dioxide (CO<sub>2</sub>) and depositing it safely where it will not enter the atmosphere.

**Committee of Permanent Representatives in the EU (COREPER):** Responsible for preparing the agenda and decisions the Council of the European Union. It is comprised of head or deputy head of mission to the EU in Brussels from the EU Member States.

**Common Agricultural Policy (CAP):** The agricultural policy of the European Union, although responsibility for the policy is shared by the EU and Member States. Initially established to ensure reasonable prices for Europe's consumers and fair incomes for farmers, in particular through the common organisation of agricultural markets, its current remit include managing the rural environment, maintaining high levels of food safety and quality and protecting animal welfare.

**Common Commercial Policy:** The trade policy of the European Union bloc with the rest of the world, in particular by means of a common customs tariff and common import and export regimes. It is an area of competence that resides exclusively with the EU rather than Member States, and covers a range of external trade agreements negotiated between the EU and third countries.

**Common Customs Tariff:** The rates of import duties applied to goods imported from outside the European Union and levied at an identical rate regardless of the port of entry through which the traded good enters the EU.

**Common Fisheries Policy (CFP):** The fisheries policy of the European Union. It aims to increase productivity, stabilise markets and ensure security of supply and reasonable prices to the consumer. As with the Common Agricultural Policy, responsibility for the CFP is shared by the EU and Member States.

**Common Foreign & Security Policy (CFSP):** The framework for the development of a common EU foreign policy. A new CFSP 'pillar' was introduced by the Treaty on European Union (the 'Maastricht Treaty') in 1993. The EU Common Security and Defence Policy is an increasingly important part of the CSFP.

**Common Travel Area:** This is a travel zone comprising of Ireland, United Kingdom, the Isle of Man and the Channel Islands, where internal borders are subject to minimal or non-existent border controls.

**Council of the EU (also referred to as Council of Ministers):** This is one of the European Union's main decision-making bodies. It is comprised of ministers from Member States and meets in 10 different configurations depending on the topic under discussion e.g. Agriculture and Fisheries, Economic and Financial Affairs, Justice and Internal Affairs. Decisions of the Council are typically reached on the basis of qualified majority voting. The Council shares EU budgetary and legislative powers with the European Parliament (EP).

**Democratic Deficit:** The proposition that the institutions of the European Union – especially the European Commission – are insufficiently directly accountable to the citizens of the EU. Successive amendments of the EU Treaties have sought to address this deficit by transferring greater legislative powers to the directly elected European Parliament.

**Europe 2020:** The EU's 10-year growth strategy from 2010-20 aimed at creating conditions for smarter, more sustainable growth across all Member States.

**European Commission:** The European Commission is the Executive body of the European Union. It is responsible for managing the EU budget, proposing and implementing EU legislation, upholding the EU Treaties and representing the EU to the rest of the world (with some notable exceptions such as the CFSP). It is an independent institution from Member States and acts in the general interest of the European Union. It is comprised of one commissioner from each Member State.

**European Council:** This is an EU institution comprised of the Heads of Government and State from each of the Member States and the President of the European Commission. Its role is to provide political leadership and direction for the European Union.

**European Economic Area (EEA):** The EEA comprises all member states of the EU (except Croatia which is expected to join late in 2013) along with Iceland, Liechtenstein, Norway. Membership of the EEA provides for the three non-EU countries to participate fully in the EU internal market provided they adopt all relevant EU legislation governing membership of the EU internal market.

**European Free Trade Association (EFTA):** An intergovernmental organisation set up for the promotion of free trade and economic integration. It's current members are Iceland, Liechtenstein, Norway and Switzerland.

**European Parliament (EP):** The directly elected parliament of the EU comprising 766 directly elected members from the 28 EU member states. It shares budgetary and legislative powers with the Council of the EU and also has a number of powers in relation to the European Commission.

**EU Single Market:** The internal market of the European Union within which there is freedom of movement of goods, services, capital and persons.

**Eurozone:** A bloc of European Union countries which have adopted the euro as their currency. It's currently consists of 17 EU Member States.

**Foreign Direct Investment (FDI):** This is investments made by companies or entities based in one country, into a company or entity based in another country.

**Free Trade:** A policy that provides for the elimination of all tariffs and quotas, and measures having equivalent effect, on trade in goods and services between countries. The EU single market is, first and foremost, a free trade area.

**Government Economic Strategy (GES):** Launched in 2007 by the Scottish Government, the Government Economic Strategy aims to make full use of the existing levers of devolution to accelerate the recovery, create jobs and promote growth within Scotland.

**Justice & Home Affairs (JHA):** The EU policy area dealing with criminal matters. Its purpose is improve police and judicial cooperation across EU Member States to combat and prevent crime, racism and xenophobia.

**Member State:** In the context of this paper, a member state is a country which has acceded to the Treaties governing the European Union (the Treaty on European Union and the Treaty on the Functioning of the European Union) and is thereby subject to the privileges and obligation of EU membership. There are currently 28 member states.

**North Atlantic Treaty Organisation (NATO):** A political and military alliance established in 1949 by the Washington Treaty for purposes of collective security. It is composed of US, Canada, Britain and another 25 European countries.

**Preferential Trade Agreement (PTA):** An agreement that gives preferential access to certain products from the signatory countries. This will usually be done by reducing (or eliminating) tariffs between the members of the PTA that are not extended to non-members of the PTA.

**Qualified Majority Voting (QMV):** A qualified majority is the number of votes required in the Council of the EU for a decision to be adopted. From 2014 a qualified majority will be based on a new, 'double majority' procedure. Under this procedure a qualified majority will be achieved when 55% of the member states (with a minimum number of 15 member states) accounting for at least 65% of the EU population vote in support of a proposal.

**Remainder of the UK (rUK):** The term used to describe the remainder of the United Kingdom if Scotland was to vote for independence and leave the union.

**Schengen Area:** Describes the area of 26 European countries that have wholly or partially abolished passport and immigration controls between members. At present 22 EU Members States and the 4 EFTA members participate in the Schengen Area.

**Structural Funds and Cohesion Fund:** These are the financial instruments of the European Union's regional policy. Their intention is to narrow the developmental disparities between Member States regions within the European Union and increase economic and social cohesion.

**Treaty on European Union (Maastricht Treaty):** An EU treaty which came into force on 1 November 1993. It established the European Union from members of the European Community (EC) and provided the legal base for the introduction of the single European Currency.

**Treaty of Lisbon:** This is the latest EU Treaty that came into force in 1 December 2009. It amended the previous EU and EC Treaties, combining the Treaty on European Union (TEU) and the new Treaty on the Functioning of the EU (TFEU). Its aims were to make the EU more democratic, more efficient and better able to address global problems, such as climate change.

**Youth Guarantee:** This is an EU Commission proposal adopted by the Council of the EU which aims to ensure that young people receive a quality offer of employment, further education or training within four months of becoming unemployed or leaving formal education.



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