



**SIXTH REPORT FROM THE FOREIGN AFFAIRS COMMITTEE OF SESSION
2012-13**

**FOREIGN POLICY CONSIDERATIONS FOR THE UK AND SCOTLAND IN THE
EVENT OF SCOTLAND BECOMING AN INDEPENDENT COUNTRY**

**RESPONSE FROM THE SECRETARY OF STATE FOR FOREIGN AND
COMMONWEALTH AFFAIRS**

Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty

July 2013

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FOREIGN POLICY CONSIDERATIONS FOR THE UK AND SCOTLAND IN THE EVENT OF SCOTLAND BECOMING AN INDEPENDENT COUNTRY

RESPONSE FROM THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

1. The UK Government welcomes the Foreign Affairs Committee's inquiry into the foreign policy considerations for the UK and Scotland in the event of Scotland becoming an independent country, and the findings set out in the Committee's report published on 1 May 2013.
2. The Committee recognises that the overwhelming body of evidence endorses the UK Government's view, that in the event of Scotland becoming an independent country the rest of the UK (RUK) would be considered by the international community to be the continuing state and, as such, continue in its membership of international organisations such as the EU, NATO and the UN. Although it would depend on the relevant organisation's rules, *prima facie* Scotland, as a new state, would have to apply to join the international organisations and bodies it wished to become a member of. This was also the conclusion of the independent legal advice from leading experts¹ published by the UK Government in February 2013.
3. The President of the European Commission said in September 2012 that any country separating from an EU Member State would need to negotiate its terms of EU membership. An independent Scottish state's negotiations on EU membership could prove to be both complex and lengthy because the process would require unanimity across all Member States of the EU, and given the EU's expectation that all new Member States must join the Euro and Schengen, despite the Scottish Government's stated intention to retain both sterling and the common travel area.
4. The UK Government agrees with the Committee's findings that there are significant gaps in the Scottish Government's account of what foreign policies it would adopt after independence and, crucially, how a newly independent Scottish state would establish the structures, secure the relationships and find the resources required to pursue key foreign policy objectives. The UK Government

¹ James Crawford SC, Whewell Professor of International Law at the University of Cambridge, and Alan Boyle, Professor of Public International Law at the University of Edinburgh. *Scotland analysis: Devolution and the implications of independence*, UK Government.

endorses the Committee's view that an independent Scottish state's journey towards membership of international organisations, including the EU, would be far from straightforward, and certainly not automatic. Given the complex nature of these accession negotiations, it may well not prove possible to secure membership terms in line with the Scottish Government's domestic political assertions.

5. A senior NATO representative² confirmed in April 2013 that it would not expect a declaration of independence by Scotland to affect UK membership of NATO and an independent Scottish state would need to apply for membership which would be subject to consensus approval by NATO's 28 members. The defence policy of a state wishing to join, including its intended budget, capabilities, missions and objectives are all factors that are considered by the North Atlantic Council. An independent Scotland's relationship with NATO may also be complicated by its stated position towards the UK's nuclear deterrent and it is impossible to say with any certainty how negotiations with NATO would unfold. The Scottish Government has asserted that a separate Scottish state would have membership similar to that of Norway, but has failed to acknowledge that all member states, whether they possess nuclear weapons or not, subscribe to NATO's Strategic Concept. All Allies at the 2010 Lisbon Summit reiterated that NATO's deterrence posture will consist of both nuclear and conventional forces and that NATO will remain a nuclear alliance for as long as nuclear weapons exist. This position was reiterated again in 2012 by NATO's Deterrence and Defence Posture Review, which underlined that NATO is a nuclear alliance, and that nuclear burden sharing is an essential feature of a member's commitment to the NATO alliance. The Scottish Government has yet to provide answers to clearly explain how they can argue for membership of NATO at the same time as opposing nuclear weapons and seeking the removal of the UK deterrent, part of that NATO security umbrella.
6. The UK Government believes that any decisions on Scotland's future are for the people of Scotland to decide and it is committed to playing its part in delivering a legal, fair and decisive referendum in Scotland. This demonstrates the UK Government's commitment to the values of democracy and rule by consent, and to handling questions over governance and national identity through open debate and a free expression of popular will, even if that involves difficult choices. However, it believes that the people of Scotland have a right to make an informed decision and, as the Committee inquiry has noted, the Scottish Government has not set out the substance of what independence will actually

² Franklin Miller, formerly Special Assistant to George W Bush, Senior Director for Defence, National Security Council, and Chair of NATO Nuclear Policy Group, on Sunday Politics Scotland, 14 April 2013

mean and cost in practice. The UK Government has begun publication of a series of papers to inform and support the debate on Scotland's future within the UK in the run up to the referendum on 18 September 2014.

7. This Command Paper sets out the Government's response to the Committee's two recommendations for the Foreign & Commonwealth Office (FCO), at paragraphs 8 and 13 in the Conclusion and Recommendations section of the Committee's report. The recommendations are set out in bold followed by the Government's response in plain text. Paragraph and recommendation numbers refer to the Foreign Affairs Committee's report (HC643). The Committee should note that further responses have been provided to some of the conclusions, even where there is no specific recommendation for the FCO.

Conclusions and Recommendations

Paragraph 74. It is difficult to measure the impact on the RUK's international standing and influence in the event of Scotland becoming an independent country but we conclude that some degree of reputational damage is inevitable. We recommend that ahead of the referendum, the FCO does more, when appropriate, to engage with international partners in order to highlight the UK's commitment to a consensual and broad-based engagement on the Scottish referendum, with a view to minimising the risk of damage to the UK's reputation.

8. As the Committee notes, it is hard to judge what reputational damage might occur to the rest of the UK (RUK) should people in Scotland vote for independence. However, the UK Government agrees that it is appropriate to engage with international partners to minimise this and to explain our approach. It is consistent with UK policy elsewhere in the world that debates around secession and independence should be addressed through peaceful and democratic means. The Scottish independence referendum aligns fully with this overall approach and is an opportunity to show a peaceful democracy in action. Both the UK Government and Scottish Government are committed to working together to deliver a fair, legal and decisive referendum, and to continuing to work together in good faith in light of the outcome of the referendum, whatever it is, as illustrated by the signing of the "Edinburgh Agreement" by the Prime Minister and the First Minister of Scotland on 15 October 2012.
9. There is international interest in the UK Government's approach to the referendum. Ministers have briefed the diplomatic corps of EU Member States most recently in December 2012 and officials continue to engage with international partners in London and in Edinburgh. Through its diplomatic missions the UK has drawn the attention of foreign governments to the publication of the Scotland analysis papers.

10. The FCO also regularly updates its diplomatic staff at key milestones in the run up to the referendum, so that they have the necessary detail to be able to discuss the issue during the course of their duties. Examples include the signing of the Edinburgh Agreement; publication of the UK Government's Scotland analysis papers; publication of key parliamentary reports; as well as ensuring staff are aware of Cabinet Office guidelines for civil servants on the referendum.
11. The UK Government will continue to keep international partners and diplomatic staff informed at appropriate points in the run up to the referendum. It is open to discussing the referendum process with interested international partners although it cannot enter into any discussions on the substance of any new arrangement until, and in the event that, the people of Scotland vote for independence. However, both governments accept that negotiations to establish a new independent Scottish state can only take place after a 'yes' vote in the referendum. That is because unless people in Scotland choose otherwise, the UK Government will continue to be one of Scotland's two Governments and cannot enter into discussions that would require it to act solely in the interests of part of the UK over those of another part. Moreover, the mandate the Scottish Government has is to hold a referendum – the 2011 election provided no mandate for negotiating the terms of independence.

Paragraph 105. As far as the EU is concerned, a direct Scottish voice would not necessarily equate to more influence; influence is an upshot of many state attributes, not an automatic by-product of sovereignty. While an independent Scotland could have a more distinct voice than it does now, that does not mean that it would be able to alter unilaterally the content of policies to its own ends. It could be more effective for the Scottish Government to seek to re-visit existing arrangements on foreign policy in order to explore whether, working within the parameters of the current devolution settlement, Scottish interests could be given more direct voice on certain issues. We recommend that in its response to this report the FCO outlines its views further on this matter.

12. The UK Government agrees with the Committee's finding that an independent Scottish voice in the EU would not necessarily equate to more influence. Scotland benefits from being part of a large, established EU Member State with significant influence. The UK works to deliver for Scotland on a whole host of issues of particular interest to the people and businesses in Scotland, from budget contributions to fisheries quotas, health and safety regulation to agricultural subsidies and structural funds. The UK Government believes it is essential and beneficial to the overall UK negotiating position that early and regular consultations take place between the lead UK Department and all three Devolved Administrations when EU negotiations touch on matters that fall within their responsibility.

13. As such, the UK has some of the most inclusive arrangements in the whole of the EU. Ministers from the Devolved Administrations attend a wide variety of Councils and the UK Government welcomes their attendance at formal Councils as an important element of delivering a good outcome for the UK. Scottish Ministers routinely attend Agriculture and Fisheries Councils as well as other Councils where they have a particular interest, such as the General Affairs Council, when it considers the important issue of structural and cohesion funds. Ministers of the Devolved Administration do not have an absolute right to represent the UK in EU negotiations – these matters are reserved. But the UK Government is clear that all three Devolved Administrations have a legitimate interest in the preparation and presentation of the UK's approach to EU negotiations, where those negotiations touch on matters which fall within their responsibility. With the agreement of the lead UK Minister, Scottish Ministers have spoken on behalf of the UK at Youth and Education, and Agriculture and Fisheries Councils in the past.
14. Earlier this year the UK Government and all three Devolved Administrations agreed to reinforce their practice on attendance and representation of the UK and Devolved Administrations in the EU by agreeing changes to the Devolution Memorandum of Understanding. These positive changes reflect the advances made by this Government in ensuring the views of all parts of the UK are reflected in the development of our EU policy where we all have a mutual interest. Although these changes are still to be formally agreed at the next plenary meeting of the Joint Ministerial Committee, they will mark an important step in building on the good working practices which have been developed in recent years.

Paragraph 77. We are concerned that any budgetary cuts imposed by the Treasury on the RUK's diplomatic service as a result of independence would cut into the bone of existing FCO operations. This would be magnified by the costs involved in setting up a new representation in Scotland which would inevitably divert already scarce FCO resources away from existing commitments.

15. The UK Government is not making plans for independence and would only consider an appropriate level of representation and the associated costs for establishing a further shift in the existing FCO network if there were to be a majority vote for independence by the people of Scotland.
16. Furthermore, as submitted in our written evidence to the Committee in September 2012, we would like to reiterate our belief that there would be no reason why Scottish separation should have any effect on the FCO's ability to deliver its foreign policy objectives on its public network on behalf of the rest of

the UK, such as commercial and consular services, and that no staff from Her Majesty's Diplomatic Service could be compelled to join any new Scottish Diplomatic Service.

Paragraph 98. There is no reason in principle why Scotland could not set up a fully functioning and successful diplomatic service if it became an independent country but, in the absence of a coherent and costed diplomatic vision, Scottish voters should be under no illusion about the significant resources that would be required to fulfil the Scottish Government's aim of replicating the quality of the business and consular support currently provided by the FCO and UKTI.

17. The UK Government agrees with this conclusion. The UK stands out as having one of the most extensive and effective diplomatic networks in the world, with around 270 diplomatic posts in nearly 170 countries, employing over 14,000 staff. This network provides a platform for promoting the international, political, economic and commercial interests of the UK as a whole, in every major city of the world. From Scotland's perspective, the network draws considerable strength from combining global influence with local connections and knowledge to promote and protect Scotland's interests and also deliver a comprehensive consular service to Scottish travellers who find themselves in difficulty overseas. Because the UK and Scottish Governments have concurrent responsibility for trade and inward investment, Scotland has access to UK Trade & Investment's (UKTI) networks and services overseas. The benefits of this support and collaboration are substantial, for example in terms of promotional services in support of Scottish-based businesses, and positioning Scotland within the UK offer, access to project leads and promotional activities designed to attract foreign direct investment. It is for this reason that many of the 22 Scottish Government's offices overseas are located within the UK's Embassies and High Commissions.

18. The Scottish Government has stated (in its evidence to the Committee) that it intends to replicate the quality of the representation currently provided by the UK. The costs of developing an international Scottish network on anything like an equivalent scale – acquiring property, hiring and training staff, and procuring equipment – would be expensive and take a long time, with the burden of funding this falling to the Scottish taxpayer. The start up costs would be considerable, and combined with the necessary resources required to run this service, it means it is likely there would be a significantly diminished level of service compared to that which the people of Scotland currently enjoy as part of the UK.

19. In the event of independence, the institutions that support the UK today - which includes the Foreign & Commonwealth Office (FCO), UK diplomatic premises, equipment and staff - would continue to serve the rest of the UK, as an

independent Scottish state could not unilaterally retain functions of UK institutions in relation to Scotland.

Paragraph 134. It remains unclear how much support the RUK might be willing or indeed able to give in the field of intelligence and security and what impact this might have on its other foreign policy priorities, budgets and resources.

Paragraph 137. By the Scottish Government's own assessment, in the event of independence Scotland would need both internal and external security and intelligence capabilities to deal with the many diverse potential threats it believes it could face. Yet Scotland has no external intelligence infrastructure to build upon. With just over a year to go before the referendum takes place, it is not at all clear that the Scottish Government has a costed and coherent vision of the security and intelligence infrastructure it needs to put in place to protect Scottish citizens, businesses and economic interests.

Paragraph 137. There appears to be a working presumption on the part of the Scottish Government that the RUK would fill the intelligence shortfall that would emerge at least in the short term, but possibly over a longer time frame too. The basis for this position is not at all clear. Scotland would undoubtedly remain of strategic interest to the RUK and in the vast majority of cases it is likely that it would be in the RUK's interests to assist Scotland. However, it is crucial that Scots are aware that the RUK's intelligence and security help would be discretionary, based on self-interest and could not be taken for granted, particularly where the RUK faced competing interests or priorities.

20. The UK Government notes the Committee's remarks relating to security and intelligence. The report highlights uncertainties relating to the future intelligence and security capabilities of an independent Scotland, and the dependence that an independent Scotland would still have on RUK. Although it is likely that Scottish and RUK interests would largely coincide in this area, the report notes that Scotland would lose access to the many benefits that it currently derives from being part of the UK.

21. The UK Government also agrees with the Committee's view that future RUK help could not be taken for granted as this would be discretionary and based on self-interest. While an independent Scottish state might seek to emulate the status quo by establishing similar cooperative security and defence arrangements to those currently in place, from the UK's perspective the capability and credibility of the new state would be unproven. It may therefore prove challenging for a newly-independent Scottish state to establish new relationships and partnerships, with allies and it may require significant time, resource and investment to seek to reproduce the benefits it currently enjoys as part of the UK.

22. These and other areas will be explored further in the UK Government's Scotland analysis papers published during the course of this year and next.

23. Much of the case presented by those who favour independence is based on an assumption that independence equals freedom of choice. In today's globalized context, the reality for many small countries is that they are often more constrained in their choices on the international stage than larger states. Therefore, an independent Scotland may find itself depending on the rest of the UK on a number of foreign policy issues; but, as two separate states, the UK would not have any obligation to represent Scottish interests as it currently does.



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