

Inquiry into EU reform and the EU referendum: implications for Scotland

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1. Introduction

It is widely expected that the referendum on UK membership of the EU will be held in the autumn of 2016 – a timetable consistent with negotiations to agree revised terms of Britain’s EU membership being concluded between the UK Government and the other 27 EU member states early in 2016. Although Prime Minister Cameron has yet to specify precisely what changes he is seeking to secure for the UK, and whether or not these will require a change to the EU treaties, a consensus is emerging that with the exception of discussions around the free movement of persons the substantive changes being sought are fairly modest, if not primarily presentational.¹ Equally, however, there is considerable resistance across the EU to any treaty revisions that would compromise, or otherwise undermine, the principle of free movement of persons – one of the foundational freedoms on which the entire EU project has been built. There are, it seems, limits to the acceptability of British exceptionalism.

As is well known the Scottish Government opposed the UK Government renegotiation on the basis that while reforms to specific elements of EU law and governance were required (with these being set out in Scottish Government publications) such reforms did not require reform of the EU treaties – a position echoed by a number of other member states. Moreover, and this may be a legacy of the breadth of the independence debate prior to the September 2014 referendum, public opinion polls imply there is no strong support in Scotland either for a renegotiation of the terms of membership, or a referendum on UK membership of the EU. Indeed one might go further and suggest that on the most controversial issue under review – the free movement of persons – the majority view in Scotland is this provision is beneficial for Scotland’s economy and society and any measure that jeopardized inward migration would be undesirable.

It would not be misleading to suggest that the position of the Scottish Government – namely that EU membership substantially benefits the economy and society – reflects the both the evidence produced by the UK Government’s extensive study into the costs and benefits of EU membership (Balance of Competences review) and the academic evidence over many years. Indeed the Balance of Competences review concluded that almost without exception EU membership has (net) benefitted the UK economy – a conclusion reinforced by the Scottish Government submissions to that

¹ The Prime Minister informed the European Council in June about the proposed referendum with the matter to be further discussed at the December 2015 European Council. The UK Government’s specific proposals are expected to become clear at that point.

exercise. Therefore whatever the case might be for renegotiation the UK terms of EU membership, it does not appear to be evidence based.

In this evidence I deal with a number – though not all – of the questions on which the Committee requested evidence.

2. EU Referendum

(i) Timing of the referendum.

In the run-up to the May 2015 general election David Cameron committed a majority Conservative government to holding a referendum on the UK's membership of the EU before the end of 2017. The referendum would follow the conclusions of negotiations between the UK and other member states seeking to "revise" the UK's terms of EU membership. With the election of a majority Conservative government this process was initiated and the outcome of negotiations will be the basis on which the electorate will be asked whether or not the UK "Should remain a member of the European Union". This will be the second UK referendum on EU membership, the first being held in June 1975 which yielded a 2:1 majority in support of EU membership amongst those voting.

The obvious problem for the Prime Minister is that *if* the agreed reforms necessitate a revision of the EU treaties (and this increasingly seems to be *unlikely*) it is virtually inconceivable the subsequent parliamentary ratification process that is required in each of the 28 member states will be completed (and favourably so) before the end-2017 referendum deadline. As a result the referendum is likely to be based on an inter-governmental agreement for treaty change that has not been ratified by all member states (as is required) and thus could – at least in principle – be rejected by one or more national parliaments. Failure to have legally binding treaty revisions implemented before the referendum date could damage the pro-EU membership case. There is however precedent for a member state holding a referendum on a proposed treaty reform before ratification of the reforms has been formally completed. Voters in both Denmark (1993) and Ireland (2009) endorsed, by national referendums, EU treaty revision proposals that included country-specific Protocols addressing issues of concern to Danish and Irish citizens respectively ahead of the ratification process being completed. The relevant Protocols were subsequently ratified. This would seem to be an option available the UK government if treaty reform is necessary and agreed. It is worth noting that in both cases neither country sought exceptional provisions that directly impacted upon other member states – this may not be the case in the current negotiations.

However this approach would be considerably more difficult in the (unlikely) event that an attempt by the UK government to secure treaty reform triggered a full (treaty revision) Convention procedure provided for in Article 48 (3) (TEU). In that case treaty negotiations (and subsequent parliamentary ratifications) would take a number of years to complete. A Convention on treaty reform would occur under one of two scenarios. First if another member

state, the European Parliament or the European Commission used the UK renegotiation as an opportunity to press for further treaty changes thereby broadening the scope of the reform exercise. Second if the European Parliament does *not* consent – as per Article 48 (3) – to a *non*-Convention procedure on the basis that the changes being proposed were *not* insufficiently important to justify a Convention.²

Of course if the UK renegotiations do not involve a treaty change this issue will not arise, albeit any change in secondary legislation required as a consequence of the negotiations could take some time to legislate.

(ii) *What does EU membership mean for Scotland's economy and its people? What are the implications for Scotland of the UK leaving the European Union?*

In the context of this inquiry a distinction should be made between the economic effects of *EU membership* on the one hand and the economic effects of *access to the EU single market* on the other hand. This is because although Brexit would end EU membership, it need not end access to the EU single market *assuming* the UK subsequently joined the European Economic Area (EEA) or concluded a comparable bilateral agreement with the EU.³ However I contend that unfettered market access (the condition for which is adherence to the rules of the single EU market, including the “four freedoms”) does not exhaust the economic benefits of EU membership and that, consequently, exiting the EU nonetheless would harm Scotland's economic prospects.

Scotland is an integral part of the EU single market and EU law and policy plays a central part in the governance of Scotland's economy and society. EU markets account for just under one-half of Scotland's exports and imports, and government figures indicate that 336,000 jobs in Scotland are directly linked to exports to the EU. Scotland's success as a location for inward investment (a driver of growth and employment) doubtless is, in part, attributable to access to EU markets. Free movement ensures migrant workers from other EU member states – estimated to be 160,000 – represent an increasingly important segment of Scotland's labour supply and, crucially, make a positive contribution to tackling Scotland's well-documented demographic challenges. Important sectors of Scotland's economy, including agriculture, fishing, energy, and financial services (to name just a few) are substantially affected by EU law and policy, as well as single market access. EU legislation plays an ever-more important role in Scotland's environmental policies, and EU labour market regulation effectively sets the floor for wages and conditions of employment in Scotland's workplaces. The EU is a major source of research and development funds accessible by Scotland's

² One would expect any move to amend the free movement of persons would constitute such a proposal. Under Article 48 (6) TEU a Convention is not required if any proposed treaty changes only impact on Part Three of the Treaty on the Functioning of the European Union (TFEU). However if proposed changes impact on the free movement of labour this simplified revision procedure would seem not to be appropriate.

³ EEA membership is not automatic, and the UK could face resistance in an effort to join. The EEA comprises three small countries (Iceland, Norway, Lichtenstein). Adding the UK to this arrangement would unbalance it considerably.

universities and research centres and for supporting innovative activities by our SME sector. And while EU structural funds no longer represent as significant a source of support as previously, they continue to play an important economic development role in parts of the country.

Even this brief (and incomplete) overview demonstrates the extent to which Scotland's economy (and society) is fully integrated within the wider EU. If the UK opted to leave the EU there is a very real risk the attendant disruption would impose potentially significant costs on the Scottish economy. The argument that such costs would be avoided provided EU membership was superseded by an EEA-type agreement is, in my view, misinformed. That argument rests on (i) the assumption that such a deal would be available (and acceptable) to the EU and UK after Brexit and (ii) the proposition that single market access *alone* is the source of Scotland's economic benefits from EU membership.

On the first point the EEA (as well as the EU's bilateral agreements with Switzerland) is an arrangement designed for a few relatively small European states outside the EU. There is no obligation on the EU to agree to the UK's membership of that arrangement. Indeed the EU may instead adopt a 'hard exit' strategy in Brexit negotiations fearful of setting what may be perceived among other member states as a precedent for an 'easy option' form of EU affiliation. Moreover even if EEA membership was secured, it carries with it the obligation to apply in full the whole *acquis communautaire* relevant to the four freedoms (free movement of goods, persons, services and capital), along with that pertinent to flanking policies (i.e. transport, competition, social policy (including health and safety policies and the working time directive), consumer protection, environment, statistics and company law). EEA membership therefore would not seem to address one of the seemingly central objectives of the current re-negotiation exercise – the free movement of persons – far less address the wider issue of British parliamentary 'sovereignty'.

On the second point it is in my view misleading to argue the economic benefits of EU membership are limited to market access, albeit this represents the major part of the membership dividend. Four examples of gains from membership that will not be available post-Brexit are:

- a) The UK would have no role in enacting EU laws and policies that impact on Scotland's economic (and, increasingly, societal) interests and would be unable to reflect these interests in any effective manner during the EU legislative and policy-making process. This is sometimes referred to as the "regulation without representation" condition. In general the process of economic integration would continue, frequently involving a further degree of Europeanisation of national public policies over which the UK (and Scottish) government(s) would have no influence but which would impact directly on their domestic policy autonomy.
- b) The UK (and Scottish) government(s) would lose influence over the balance between 'regulation' and 'liberalization' that is pursued in EU laws and policies with respect to markets. For instance the UK has

traditionally preferred 'light touch' regulation rather than more demanding regulation. The loss of the UK voice in the EU legislative process may shift the balance of influence away from the former and towards the latter.

- c) Domestic firms highly integrated in EU markets as well as inward investors are likely to re-locate their activities to other EU member states because the UK government (and MEPs) no longer has the (representative or legislative) capacity to influence key EU regulations that impact on their corporate interests. Their lobbying leverage over EU laws and policies will be greater if located within an EU member state.
- d) Brexit would almost certainly lose the UK (and Scotland) influence in crucial global trade negotiations (including trade dispute settlement). Being part of the EU gives all member states more leverage in arenas of global trade diplomacy than any could expect to command otherwise.

Nor would EEA membership (or equivalent) mean the UK could avoid making a direct financial contribution to the EU budget, as it does at present. It is common for EEA countries to contribute to a number of EU spending programmes, typically by an amount that corresponds to the relative size of their GDP compared to the GDP of the EU as a whole. Needless to say these contributions are made to finance EU spending priorities over which the EEA countries have no legislative influence.

The economic implications for Scotland of Brexit therefore depend, in the first instance, on the precise content and conditions of a market access agreement the UK would be able to secure with the EU thereafter. Any uncertainty on this matter – and some degree of uncertainty is unavoidable given that exit negotiations involving the UK and 27 other member states could take up to two years to complete⁴ – surrounding that question would be likely to have an immediate and significant adverse impact on investment and jobs in Scotland. However even if it could be established from the outset that post-Brexit EU market access would continue on identical terms as present, I contend this would nonetheless directly result in a loss of investment and employment in Scotland by firms whose main market is in continental Europe. Moreover the prospects for domestic economic activity that presently is regulated predominantly or exclusively by EU rules and regulations (e.g. agriculture and fishing) would also need careful consideration.

Ultimately if there is a case for Brexit, which I contend there is not, at the very least it must involve demonstrating that any economic costs that result will be (more than) offset by economic benefits from EU non-membership. That calculation properly should be based on the current and the expected future flow of costs and benefits. Presently there is very little evidence supporting the contention that Brexit will deliver current or future net economic gains.

⁴ Uncertainty would be likely to result in fewer contracts being negotiated between UK firms and individuals and their counterparts in other EU countries because the future terms of UK access to EU markets will be unclear and uncertain. This will affect producers and consumers alike, with potentially highly adverse implications for the economy.

Indeed the recently concluded Balance of Competences review conducted by the UK government provided unambiguous evidence that the opposite was the case – i.e. that the economic benefits from EU membership greatly outweighed the costs. This general conclusion was supported by independent work conducted by the Scottish government.

(iii) What would be the process for leaving the EU, including: the legal process with the EU and within the UK; withdrawal from the single market and EU trade agreements; the ending of free movement of persons; and transition arrangements?

The Lisbon Treaty revision incorporated a new Article 50 (TEU) providing the legal base for any member state opting to leave the EU. Under that provision the departing member state will negotiate the arrangements for its withdrawal, “...taking account of the framework for its future relationship with the Union.” The negotiation period is limited to two years, after which the EU treaties will “...cease to apply to that member state”, unless the European Council “...unanimously decides to extend this period.” It is within that two-year period that the UK and EU would negotiate an agreement setting out the terms of the post-membership relationship between the parties.

Because no member state to date has exited the EU, there is no precedent on which to surmise the complexity or otherwise of this exit procedure, in particular the negotiation and content of the post-membership relationship. Advocates of Brexit tend to imply the UK would be able to negotiate a ‘soft exit’ whereupon no material (economic) disadvantage in terms of subsequent access to the EU single market would result. Certainly this is one possible scenario. However it is equally conceivable that the UK government would be faced with very tough (or ‘hard’) exit negotiations – with potentially negative economic effects – if voters reject EU membership. This may arise for two reasons. First other member states may be reluctant to offer the UK preferential terms of association out of concern of undermining the wider EU process by encouraging Euro-skeptic movements elsewhere that EU exit (or fundamental re-negotiation) need not be costly. Member state governments understandably may be unwilling to implicitly strengthen the negotiating positions of domestic political movements in some member states that oppose particular EU policies or indeed membership. Second the terms of access to the EU single market would depend, in part, on the degree of policy autonomy the UK government was seeking to achieve with respect to EU policy – i.e. the ‘sovereignty’ question. For example if the UK government insisted on exemption from the free movement of labour obligation that attaches to EEA membership, it is hard to see why the EU would nonetheless allow UK goods and services free access to the single market.⁵

⁵ In February 2014 the Swiss public voted to limit the free movement of EEA citizens to Switzerland and introduce a quota system targeted at Croatian nationals. This decision, which violated the bilateral treaties (of 2002) between the EU and Switzerland, resulted in Switzerland being excluded from the EU Horizon 2020 programme, the ERC and the Erasmus programmes. The long term consequences remain unclear as the Swiss government has yet to act on the result of the referendum.

If the UK faced a ‘hard exit’ this could lead to significant economic disruption across the UK as a whole, including in Scotland where our relatively greater exposure to the EU economy implies the disruption would be particularly acute. The most damaging scenario is one where the terms of access to the EU single market were changed, thereby undermining the competitiveness of goods and services originating in the UK (and Scotland) in EU markets. Equally troubling from an economic perspective would be the impact on Scotland’s labour market if Brexit resulted in adverse changes in the terms and conditions of migrant workers who may opt to leave the country.

3. EU reform - the implications of the UK’s EU reform agenda on Scotland

(i) What extent and in what policy areas is there a need for EU reform?

Understandably most of the discussion around EU reform in recent years has concentrated on measures required to stabilize the EU financial and monetary systems in the aftermath of the 2008 financial crisis and subsequent sovereign debt crisis. In particular the Greek crisis (and the EU’s response) has convinced senior officials in the EU Institutions (though not necessarily in EU member states) that further steps towards creating a fully-fledged fiscal union is necessary if the European monetary union is to survive over the longer term.⁶ This would involve in a much greater centralization of fiscal policy authority at the common EU level, with national governments obliged to cede partial sovereignty over key decisions on domestic taxation and public spending policies. In return a greater stabilization role would be played by an enhanced EU budget in order to address asymmetric economic shocks, and steps probably would be taken towards the mutualisation of national debt. The financial and economic crises have also seen significant reforms to the EU financial system – a process that is not yet complete – including establishing a European banking union and creating collectively funded bail-out facilities to address the sovereign debt crisis. And while the UK has no direct stake in reforms to the operation of Eurozone monetary and fiscal policies, nor indeed the bail-out facilities, it does have a considerable stake in reforms that impact on the EU single financial area.

Thus far reforms in the areas of national fiscal and common financial policies have been accommodated within the current EU treaties. However it is clear that process is reaching its limits and that a treaty revision is almost certainly necessary (i) to provide a legal basis for further common (fiscal) policy initiatives and (ii) to regularize and legitimate certain aspects of current policies, not least the fledgling banking union and measures taken to tackle the sovereign debt crisis. At the same time there is general reluctance to launch a treaty revision process at present due to concerns that adverse public opinion would make it very difficult for the revised treaty to be ratified thereby triggering an EU-wide constitutional crisis.

⁶ See in particular the Report from the ‘five presidents’, ‘Completing Europe’s Economic and Monetary Union’ published in June 2015. This report was mandated by the Euro Summit in October 2014 under the terms “[preparing] next steps on better economic governance in the euro area”.

Perhaps the most pressing item on the EU reform agenda concerns treatment of asylum seekers. This matter has been triggered by the unparalleled movement of people from the conflict areas of North Africa and the Middle East.

Outside of these key policy areas, on-going discussions around the reform agenda mainly tend to focus on measures that may be accommodated *within* the current treaty, including measures to enhance EU competitiveness and to improve EU governance, rather than measures that involve treaty reform.

The former tends to concentrate on (i) those areas of the EU single market that remain comparatively closed to intra-EU competition, not least services; (ii) ensuring that EU firms are not burdened by excessive (red tape) regulations (Commissioner Timmermans has been charged with this task); (iii) continuing to reform existing EU legislation (Regulations and Directives) where deemed necessary – for instance to tackle ‘benefit tourism’ or revise the Working Time Directive; (iv) promoting external trade deals, not least TTIP.

Reforms that improve EU governance – an issue that gained considerably in prominence following the results of the last European Parliamentary elections – are also seen as important. For instance the Dutch government has signaled its desire to have a greater role played by national parliaments in the EU legislative process by (i) increasing the role of national parliaments in the subsidiarity procedure and (ii) giving some authority for national parliaments to trigger a proposal for EU legislation – augmenting the power of legislative initiative that presently principally rests with the European Commission.

The Scottish Government’s reform proposals are fully consistent with these priorities and have a strong echo in reforms being advocated by other member states.

Perhaps the most important omission from the governance reform agenda are reforms by *domestic* (national and sub-state) governments and parliaments to improve the efficiency and effectiveness of the substantive parliamentary scrutiny of proposed EU legislation. For a range of well known reasons, not least the volume of EU legislative proposals, domestic systems of pre-legislative parliamentary scrutiny have become largely ineffective as a device for engaging domestic parliamentarians and publics in the EU legislative process. Such measures would not involve or require treaty change, but instead an increase in resources and authority applied to this process. Arguably this is more important than ever for two reasons. First it has become clear that an increasing percentage of EU laws are now passed at first reading stage in the European Parliament. While this has the virtue of speeding up the legislative process, critics claim this is achieved at the expense of proper parliamentary scrutiny and debate at the EU level. Second the re-invigoration of inter-governmental decision-making in the aftermath of the financial crises (via the European Council) has the potential to – and some would assert has – undermine(d) parliamentary scrutiny and legitimation of legislative and policy decisions taken at EU level by heads of government and

state.

(ii) *What are the implications of EU reform for Scotland both in relation to devolved and reserved policy areas?*

The UK Government's reform proposals, if agreed, have considerable implications for Scotland nowhere more so than with regard to the free movement of persons. As already noted, the risk is that these proposals will – directly or indirectly – dissuade migrant workers from seeking employment in Scotland with potentially adverse short and long term consequences for the economy. It appears unlikely that the Prime Minister will propose revising the EU treaties in order to restrict or otherwise limit the operation of the free movement of persons. Member states have already made clear their opposition to any such proposal. Instead the Prime Minister is likely to propose changes to EU law that would have the effect of ending or restricting) the entitlement of migrant labour to certain welfare benefits available to national citizens – in particular 'in-work' benefits such as the working tax credit or child benefit in cases where the child(ren) live in another EU (or EEA) country. However even such limited reforms are likely to be resisted insofar as these would constitute discrimination against workers from other EU member states on the basis of their nationality – a measure that, *prima facie*, would seem to contravene EU law. The extent to which any such measures – if agreed – would adversely impact on the labour supply available in Scotland (and through that the wider economy) is difficult to estimate, though it would be expected to have some impact.

Strengthening the role of national parliaments – and by extension sub-state parliaments – such as they would be able to block EU legislation has a superficial appeal insofar as it is suggestive of restoring 'lost' sovereignty to member state parliaments. To a degree re-empowering national parliaments could be regarded as a device for ensuring the legitimacy of EU legislative proposals. On the other hand creating a veto power whereby a specific number of national parliaments could block legislation (the 'red card' proposal) risks undermining the EU legislative process and, more significantly, ultimately could jeopardize the integrity of the single market project. Further the scope of such a power is not clear. Would it be confined only to those legislative proposals that trigger a 'subsidiarity' concern? Or is it intended that the scope of this power should extend to all EU legislative proposals?

Moreover, at least some of the benefits associated with increasing the EU legislative role of national parliaments could be achieved by enhancing the scrutiny and accountability procedures that already exist. For instance government Ministers could be mandated by national parliaments to vote against specific proposals in Council where concerns arose. Similarly national political parties could mandate EU level parliamentarians to vote against legislative proposals that did not command public support. This scrutiny role by national parliaments becomes even more significant in the light of the increasingly powerful quasi-legislative role performed by the European Council.

The proposal that the UK should opt out of the “ever closer union” recital in the EU treaty would have little if any immediate consequences. Over the longer term however some suggest it could – and indeed should – lead to fragmentation in the EU project between those member states seeking exemption from this provision and a ‘core’ group adhering to the underlying principal and using this as a lever to achieve greater integration.

The UK Government is surely correct in seeking to protect the interests of non-Eurozone countries in the EU single market, in particular the single market for financial services. The extent to which its concerns that Eurozone countries will otherwise ‘gang up’ to implement measures against the interests of the non-Eurozone countries is unclear – especially as the European Commission is mandated to maintain the integrity of the single (financial) market. More worrying perhaps is the impact of the apparent decline in UK influence in EU pre-legislative and policy discussions. This is a trend that has been widely noted elsewhere, including reports by Westminster parliamentary committees and within the UK balance of competences review, and – if true – weakens the ability of the UK Government to protect UK (including Scottish) interests in these EU-level discussions.⁷

UK ambitions for EU regulatory reform and completing the EU single market are fairly widely shared across the EU. But both can be achieved – indeed are being achieved – without treaty reform. The European Commission has been pursuing a simplification and reform agenda with respect to EU legislation for many years, and has greatly strengthened the pre-legislative impact assessment and subsidiarity procedures that are designed to ensure EU regulations are not excessively burdensome. The current REFIT programme is the latest comprehensive initiative introduced by the Commission to reduce regulatory (compliance) costs and includes the possibility of withdrawing and repealing EU regulatory proposals this approach shows to be overly burdensome. Similarly the UK is far from alone in seeking more rapid progress in completing specific elements of the EU single market. Once again, however, this does not involve treaty reform.

(iii) What the role of national parliaments should be in relation to EU legislation and whether there should also be a role for substate legislatures?

National and sub-state parliaments have a crucial role to perform in scrutinizing prospective EU legislation from the perspective of national and sub-state interests. The Lisbon Treaty increased the role of national parliaments to ensure prospective EU legislation did not violate subsidiarity and, in the UK, this incorporates a role for sub-state legislatures where the proposal in question impacts on devolved matters. While welcoming this step, it does not obviate the broader responsibility of national and sub-state parliaments to ensure *all* EU legislation is subject to proper scrutiny (not only those measures that raise questions of subsidiarity). There is a risk that the Lisbon Treaty encouraged parliaments to consider EU legislative proposals solely in the context of subsidiarity issues rather than the wider issues raised

⁷ Anecdotal evidence suggests the decision by PM Cameron to veto the proposed treaty reform in

by the proposals. Effective parliamentary scrutiny would include ensuring the government adhered to the scrutiny reserve system. Effective national and sub-state parliamentary scrutiny is not only likely to result in better EU legislation, it has a crucial role to play in legitimizing EU governance as a whole by bringing the EU legislative and policy system closer to the member state publics.

4. Intergovernmental Relations

(i) To what extent do the current intergovernmental structures and arrangements provide for meaningful involvement of the Scottish Government on the UK's agenda for renegotiating the UK's position in the EU?

(ii) How could intergovernmental structures and arrangements be improved in the context of the Smith Commission agreement that the mechanisms for handling EU business should be improved?

As is well known the intergovernmental agreement governing consultation on EU matters between central and devolved governments is subject to two principal limitations. First it only relates to EU legislative and policy issues that impact directly on devolved competences. Accordingly it does not require consultation on the UK Government's position regarding EU treaty reform even where this reform process is triggered by proposals by the UK Government itself – proposals that have themselves not been subject to discussion nor agreement with the devolved governments or parliaments. Second even in those legislative and policy areas where intergovernmental discussion can be expected (i.e. where devolved competences are directly affected), the UK Government is under no obligation to accept the proposals of the devolved authorities or to provide a reasoned response to these proposals where they have not been accepted.

I have argued for many years that the devolved authorities should have greater formal standing in the conduct of the UK Government's EU policy. *Inter alia* this should include a formal procedure whereby the devolved governments can contribute to the UK Government's negotiating position on substantive EU issues, and having a statutory right to attend – and contribute to – meetings of the Council where issues of direct legislative relevance to the devolved authorities are under consideration.

Therefore I would suggest the current structures should be revised to ensure the devolved administrations form part of a wider reflection group convened by the UK Government to determine a common position on major EU issues that impact – directly or indirectly – on their respective jurisdictions. This would include EU treaty reform, substantive EU policy questions (including EU budgetary matters), and issues of strategic importance to the UK (e.g. EU foreign policy; justice and home affairs; asylum and immigration). Such an arrangement need not be restricted only to the UK Government and devolved administrations. It would be important to include representation from English regions insofar as this was possible. Nor should such discussions necessarily be limited to governments. Closer cooperation between the relevant

committees of the Westminster parliament the devolved parliaments and assemblies could also be considered.

Successive UK governments have long advocated Britain being “at the heart of Europe”. Arguably today the UK is farther from that position than at any point since 1973. If the UK is to have a leading role in fashioning the future of the EU it is important the UK Government of the day adopts a stance towards the EU that is more representative of public opinion and, arguably, long term national (including sub-state) interest than appears to be the case at present. Securing a stronger representation for sub-state governments in the formulation of UK policy towards the EU would be an important step in that direction.

August 2015