



## **SCOTLAND IN THE EUROPEAN UNION**

### **Introduction**

The White Paper states that the “Scottish Government, supported by the overwhelming majority of Members of the Scottish Parliament, believes that membership of the EU is in the best interests of Scotland.” The Scottish Government further indicates that 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.”

Initially this paper provides background information for the European and External Relations Committee on Scotland’s current status within the European Union, how Scotland operates on EU issues within the UK, and the value of EU membership to Scotland. The paper then goes on to look at the Scottish Government’s vision of Scotland as an independent member of the European Union, Scottish public attitudes to the European Union and the impact small states can make in the European Union. Finally, the paper looks at potential alternatives to EU membership such as the European Free Trade Area.

## **SCOTLAND'S CURRENT STATUS IN THE EUROPEAN UNION**

### **The European Union Context**

The European Union is a creation of its Member States. The Treaties that govern the workings of the European Union and its institutions have been agreed unanimously by its Member States and address the way in which the European Union institutions work with the Member States. As a result the policy and direction of the European Union has been an instrument of its Member States.

### **Representation in the EU Institutions**

Membership of the European Union entitles Member States to send their Head of State or Government to the regular meetings of the European Council<sup>1</sup> of which there are at least two during each six month Presidency period. In addition Government Ministers from each of the Member States attend meetings of the Council of the European Union<sup>2</sup> (also known as Council of Ministers meetings).

The Council of Ministers meets in ten configurations. These are:

- General Affairs
- Foreign Affairs Council
- Economic and Financial Affairs
- Justice and Home Affairs (JHA)
- Employment, Social Policy, Health and Consumer Affairs
- Competitiveness
- Transport, Telecommunications and Energy
- Agriculture and Fisheries
- Environment
- Education, Youth and Culture

The Council also meets regularly at the level of ambassadors and deputy permanent representatives. The Permanent Representatives Committee or Coreper is responsible for preparing the work of the Council of the Ministers. It consists of representatives from the Member States with the rank of Member States' ambassadors to the European Union and is chaired by the Member State which holds the rotating Council Presidency. Coreper works in two configurations:

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<sup>1</sup> The European Council is the meeting of Member States Heads of State or Government. The European Council generally meets twice every six months though further meetings can be convened by the President when deemed necessary.

<sup>2</sup> The Council of the European Union ministerial meetings consist of a representative of each Member State at ministerial level, who may commit the Government of the Member State in question and cast its vote (under Article 16 Treaty of the European Union (TEU)). Which ministers attend a meeting depends on which topic is on the agenda. The Council is responsible for working with the European Parliament to exercise legislative and budgetary functions.

- Coreper I, consisting of the deputy permanent representatives, deals with technical matters;
- Coreper II, consisting of the ambassadors, deals with political, commercial, economic or institutional matters<sup>3</sup>

Council Working Group meetings at which legislation is often developed are also attended by government officials from each Member State.

### Council Decision Making

The way decisions are made in both the European Council and the Council of Ministers means that all Member States, no matter what their size, need to work closely with allies to achieve their own specific objectives.

In the European Council decisions are made by consensus. This means each Member State effectively has a veto on European Council decisions such as changes to the Treaties and agreement of the Multi-annual Financial Framework. The need for consensus means each Member State has to compromise and prioritise its key interests. In recent years the European Council has taken a key role in agreeing the strategic direction of the EU, for instance in agreeing the broad objectives of the Europe 2020 agenda.

Decision making in the Council of Ministers (where legislation is agreed) is achieved by unanimity or qualified majority voting depending on the process agreed in the Treaties. For qualified majority voting, the number of votes each Member State has is determined by population size and as a result qualified majority voting is based on the principle of the weighting of votes. Under the current weighting system, the Member States with the largest populations have 27-29 votes, the medium-sized countries have 7-14 votes and the small countries 3 or 4 votes. A decision requires at least 255 out of 345 votes for it to be adopted.

With the entry into force of the Treaty of Lisbon a new system known as “double majority” was introduced. It will enter into force on 1 November 2014 (though until 31 March 2017, Member States can demand the application of the previous weighting rules). In accordance with the Treaty, the new qualified majority corresponds to at least 55% of the members of the Council, comprising at least 15 of them and representing at least 65% of the European population. A blocking minority may be formed comprising at least four members of the Council<sup>4</sup>.

According to the Scottish Government the move 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.”<sup>5</sup>

EU Membership currently allows each Member State to nominate a European Commissioner. The European Commission is responsible for representing and upholding the interests of the EU and for drafting proposals for new EU laws. In

<sup>3</sup> Europa Glossary: [http://europa.eu/legislation\\_summaries/glossary/coreper\\_en.htm](http://europa.eu/legislation_summaries/glossary/coreper_en.htm)

<sup>4</sup> [http://europa.eu/legislation\\_summaries/glossary/qualified\\_majority\\_en.htm](http://europa.eu/legislation_summaries/glossary/qualified_majority_en.htm)

<sup>5</sup> Scotland in the European Union

addition, it is responsible for managing the day to day business of implementing EU policies and spending EU funds<sup>6</sup>. Although each Member State nominates a Commissioner, each Commissioner is required to act in the best interests of the Commission and the European Union as a whole rather than represent the interests of his or her home state.

Each Member State is also entitled to elect a number of Members to the European Parliament. The European Parliament plays a major role in the agreement of nearly all legal acts of the union. Under the Ordinary Legislative Procedure the European Parliament is required to jointly agree legislation with the Council.

Seats in the European Parliament are allocated on the basis of population of each Member. Scotland as part of the UK, elects 6 Members of the European Parliament (MEPs) out of a UK total of 73. Small Member States such as Denmark, Finland and Slovakia elect 13 MEPs, and Ireland and Lithuania elects 12 MEPs each<sup>7</sup>.

### **Scotland within the United Kingdom**

The United Kingdom Government as the Member State represents Scotland in the European Council and the Council of Ministers meetings. In addition, contact with the European Commission is primarily made through the Member State Government.

This situation is reflected in the Scotland Act 1998, which states that relations with the European Union are the responsibility of the Parliament and Government of the United Kingdom. This means the United Kingdom Government is responsible for managing relations with the European Union including leading on all policy and legislative negotiations. However, the Scotland Act does give the Scottish Government and Scottish Parliament responsibility for implementing European obligations where they relate to devolved matters, for example in the area of environmental policy.

### Memorandum of Understanding and the Concordat on the Coordination of European Union Policy Issues

As many pieces of European legislation relate to devolved policy areas, the United Kingdom Government works closely with the Devolved Administrations in Scotland, Wales and Northern Ireland. This relationship is managed by the Memorandum of Understanding and the Concordat on Coordination of European Union Policy Issues between the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland.

The Memorandum of Understanding established a Joint Ministerial Committee which meets under several different formats including the Joint Ministerial Committee (Europe). According to the Scottish Government the JMC(Europe) meets to:

“discuss forthcoming meetings of the European Council and European issues affecting the UK and devolved administrations. It also acts as the forum for the

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<sup>6</sup> [www.europa.eu/about-eu/institutions-bodies/European-commission/index\\_en.htm](http://www.europa.eu/about-eu/institutions-bodies/European-commission/index_en.htm)

<sup>7</sup> <http://www.europarl.europa.eu/aboutparliament/en/0005bfbcb6b/Number-of-Members-per-Member-State.html>

exchange of information and the discussion of strategic or cross-cutting issues where there is a devolved administration interest. JMC(E) is normally chaired by the Foreign Secretary or the Minister for Europe.

The JMC also acts as a forum for settling inter-administration disputes that cannot be solved through bilateral official or ministerial channels. The dispute resolution protocols are set down in the Memorandum of Understanding.”<sup>8</sup>

The Concordat on Coordination of European Union Policy Issues between the UK Government and the Scottish Government is designed to:

“ensure that the Devolved Administrations are given a forum to raise any issue, related to exchanges within Europe, that may have an effect on devolved policy.”<sup>9</sup>

The Concordat on Coordination of European Union Policy Issues specifically manages the United Kingdom Government’s relationship with the Scottish Government in the provision of information, the formulation of UK policy, attendance and representation at Council of Ministers meetings, implementation of EU obligations and infraction proceedings. The relevant sections of the Concordat are reproduced below for information.<sup>10</sup>

**Provision of information** – to allow the Scottish Government to contribute to the development of UK’s decision making on EU matters the UK Government will provide information on relevant EU business. The provision of information includes information provided by lead Whitehall Departments and UKRep<sup>11</sup> on matters which fall within the responsibility of the devolved administrations, including non-devolved matters which might impact on areas for which Devolved Ministers have competence.

The exchange of information between the UK Government and the Scottish Government is done on a confidential basis.

**Formulation of UK policy** - Ministers and officials of the Scottish Government should be fully involved in discussions within the UK Government about the formulation of the UK’s policy position on all issues which touch on matters which fall within the responsibility of the devolved administrations.

**Attendance and representation at Council of Ministers and related meetings** – Scottish Government Ministers may request to attend Council of Ministers meetings where the meeting’s subject may touch on devolved competences. Attendance at Council of Ministers meetings is a decision to be taken “on a case-by-case basis by the lead UK Minister, recalling that the

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<sup>8</sup> <http://www.scotland.gov.uk/About/Government/Inter-Governmental/Joint-Ministerial-Committee>

<sup>9</sup> <http://www.scotland.gov.uk/About/Government/Inter-Governmental/Memo-of-Understanding>

<sup>10</sup> <http://www.scotland.gov.uk/Resource/0043/00436627.pdf>

<sup>11</sup> The United Kingdom Permanent Representation to the European Union (UKRep) represents the UK in negotiations that take place in the EU

Memorandum of Understanding recognises the importance of cooperation across a range of areas and the importance of all four administrations working together, where appropriate, on matters of mutual interest”. If a Scottish Minister attends a Council of Ministers meeting, they may also speak for the UK at such a meeting. In speaking, the Scottish Government Ministers would support the agreed UK negotiating line.

Attendance by officials of the Scottish Government at EU meetings is agreed bilaterally with the lead Whitehall Department. Such agreement also covers attendance at Presidency and Commission chaired meetings, including those discussing implementation matters. The role of officials from the Scottish Government will be to support and advance the single UK negotiating line which they will have played a part in developing.

**Implementation of EU obligations** – The Scottish Government is responsible for deciding how to implement EU obligations where they relate to a devolved competence. Whitehall Departments will also liaise closely with the Scottish Government “about the implementation by UK legislation of obligations in non-devolved areas, particularly where these could touch on areas which fall within the responsibility of the devolved administrations”.

**Infraction proceedings** – where the Scottish Government fails to properly implement or enforce an EU obligation relating to an area of devolved competence and as a result financial costs and penalties are imposed on the United Kingdom as the Member State, the Scottish Government is responsible for meeting those financial costs or penalties.

Scottish Ministerial attendance at Council

The Scottish Government has provided details of Scottish Ministers’ attendance at Council of Ministers meetings since 1999. Details are provided in the table below:

**Scottish Ministerial Attendance at Council of Ministers meetings**

<b>Year</b>	<b>Formal Councils Attended</b>
1999	5
2000	8
2001	11
2002	10
2003	12
2004	11
2005	13
2006	8
2007	9
2008	14
2009	17
2010	9
2011	15
2012	21
2013	16
<b>Total</b>	<b>179</b>

Of the 179 formal Council of Ministers meetings that Scottish Ministers have attended, 98 have been attendance at the Agriculture and Fisheries Council (or Agriculture or Fisheries), 30 have been attendance at the Justice and Home Affairs Council and 23 have been attendance at the Environment Council.

### **The Scottish Government's vision of Scotland as an independent member of the European Union**

Scotland in the European Union sets out the Scottish Government's vision for contributing to the European Union as a Member State. It states:

“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.”

The Scottish Government's starting point in terms of its membership of the European Union is that it plans to seek continuity of effect meaning the terms of membership that Scotland currently enjoys as part of the United Kingdom should continue in the event an independent Scotland joins the European Union.

The Scottish Government has also suggested it will seek reforms of the European Union by working with other Member States. The three areas it highlights as requiring reform are:

- Enhancing democracy and thereby restoring legitimacy to the European institutions
- Promoting a bigger focus on boosting growth and jobs in the European Union through European Union policies
- Closer working with other EU member states to deliver key EU objectives in areas where Scotland has expertise such as energy, climate change, and the marine environment

## THE VALUE OF EUROPEAN UNION MEMBERSHIP FOR SCOTLAND

In Scotland in the European Union, the Scottish Government states:

“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”.

The next section of this paper looks at the value of European Union membership to Scotland in terms of the benefits of the Single Market, the European funding Scotland receives and the terms of membership it holds as part of the United Kingdom.

### Access to the Single Market

In “Scotland in the European Union”, the Scottish Government sets out what it sees as “The Economics of European Union Membership”. It sets out the value of the Single Market to Scotland.

According to the Scottish Government the European Union is “the main destination for Scotland’s international exports<sup>12</sup> - accounting for around 46% of Scotland’s international exports in 2011, with an estimated value of around £11 billion.”<sup>13</sup>.

The Scottish Global Connections Survey for 2011 shows that of Scotland’s top ten international export destinations, seven are EU Member States (Netherlands, France, Germany, Belgium, Ireland, Spain and Italy) and the value of exports to those countries was worth just over £9 billion in 2011<sup>14</sup>.

Scotland has also benefited from access to the Single Market by importing goods and services from other European Union Member States. There is currently no data available to show Scottish imports from across the EU but UK Government figures show that in 2012, the EU accounted for just under half of all UK trade (both exports and imports) in goods and services.<sup>15</sup>

According to the Scottish Government, European Union membership is a contributing factor to increased Foreign Direct Investment with firms based in other EU Member States being responsible for about 40% of the total number of foreign-owned companies which operate in Scotland. In addition, European Union membership can encourage investment from companies located in countries such as the United States of America and Japan who wish to have a presence within the European Union and access to the Single Market.

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<sup>12</sup> International exports mean those to out with the United Kingdom

<sup>13</sup> Scotland in the European Union

<sup>14</sup> Scottish Global Connections Survey 2011

<http://www.scotland.gov.uk/Topics/Statistics/Browse/Economy/Exports/GCSIntroduction/GCS2011tables>

<sup>es</sup>

<sup>15</sup> 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>



Access to the Single Market also helps support a number of jobs in Scotland. The latest Scottish Government Input-Output Tables allow users to calculate the economic impact of final demand markets, including export markets. Exports from Scotland to the European Union support a total of 110,000 full-time equivalent (FTE) jobs this includes employment directly within organisations exporting from Scotland to the EU and indirect employment among suppliers within the supply chains of those exporting to Europe. The impact also includes household spending arising from income created through the jobs supported.

The principle of free movement has allowed Scots to travel to other European Union Member States to work or study. Likewise, other EU nationals are able to come and work or study in Scotland. According to the Scottish Government:

“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.”<sup>16</sup>

### External Trade

EU Membership also allows Scotland to benefit from the bilateral Free Trade Agreements that the European Union has negotiated. The EU already has in place trade agreements with some 50 partners including Chile, South Korea, Mexico, South Africa and the Central American countries. In addition, negotiations for further Free Trade Agreements are currently taking place with, amongst others, the United States of America, Canada, Japan, India and China.<sup>17</sup>

### European Funding

Scotland has benefited from both pre-allocated and competitive European funds over the last 4 decades. European funding programmes such as Structural Funds and the Common Agricultural Policy see funds pre-allocated to Member States and, as such, there is no competitive bidding process required to ensure Scotland gets “its share” of funding. The allocation of Common Agricultural Policy funds and European Structural Funds between the countries of the UK is negotiated by the UK Government with the Devolved Administrations.

The two pre-allocated funds Scotland has historically benefited from most are the Common Agricultural Policy and European Structural Funds.

Between 2007 and 2013 Scotland benefited from around €4.5 billion of Common Agricultural Policy (CAP) funding. Between 2014 and 2020 Scotland is likely to benefit from around €4 billion

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<sup>16</sup> Scotland in the European Union

<sup>17</sup> European Commission: The EU's bilateral trade and investment agreements – where are we?  
[http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc\\_150129.pdf](http://trade.ec.europa.eu/doclib/docs/2012/november/tradoc_150129.pdf)

Between 2007 and 2013 Scotland received around €800 million in European Structural Funds<sup>18</sup>. During the 2014 to 2020 Multiannual Financial Framework, Scotland is likely to receive around €795 million in funding.

In terms of other pre-allocated funds during the 2007 to 2013 programming period, Scotland received around €100 million from the European Fisheries Fund and just over €40 million from European Territorial Cooperation Programmes<sup>19</sup>.

Scotland has also been successful in accessing competitive funding. The biggest programme that Scotland has benefited from is the research and development programme. According to figures from Scotland Europa supplied to the European and External Relations Committee, for the period from 2007 up to 1 July 2013, Scotland had secured €505 million which is 1.5% of the total allocated Framework Programme 7 for Research and Development (now Horizon 2020) budget. This also represents almost 10% of the €5.2 billion of funds which have come to the UK<sup>20</sup>. Scotland has also received money from other strands of competitive funding such as the Competitiveness and Innovation Programme and the LIFE+ programme but receipts from these programmes have been comparatively small.

#### Scotland's Contribution to the European Union budget

Whilst Scotland has benefited from European funds, it has also contributed payments to the European budget as part of the UK.

As part of its National Conversation series (Europe and Foreign Affairs), in 2009 the Scottish Government calculated contributions to and receipts from the European budget in 2007, based on the 2007 to 2013 Multiannual Financial Framework. According to the Scottish Government's Europe and Foreign Affairs section of the National Conversation:

“it is estimated Scotland would have made a positive contribution to the EU of approximately €1.6 billion before the rebate, and €1.1 billion after the rebate, when North Sea GDP is excluded. When a population share of North Sea GDP is included Scotland is estimated to make a net positive contribution to the EU of approximately €1.6 billion before the rebate and €1.1 billion after the rebate. When an illustrative geographical share of North Sea GDP is included in the analysis Scotland is estimated to make a net positive contribution to the EU of approximately €1.8 billion before the rebate and €1.4 billion after the rebate.”<sup>21</sup>

Using the 2007 to 2013 Multiannual Financial Framework, the Financial Scrutiny Unit in SPICe has made an assessment of Scotland's likely receipts and payments to the EU Budget between 2007 and 2013. The data which is attached as an Annex show Scotland's illustrative contribution to the EU budget (€m) and allocated EU receipts. The illustrative budget contributions are based on an illustrative share of the UK's EU

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid

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[http://www.scottish.parliament.uk/S4\\_EuropeanandExternalRelationsCommittee/Meeting%20Papers/Papers\\_for\\_Meeting\\_on\\_5\\_December\\_\(429KB\\_pdf\).pdf](http://www.scottish.parliament.uk/S4_EuropeanandExternalRelationsCommittee/Meeting%20Papers/Papers_for_Meeting_on_5_December_(429KB_pdf).pdf)

<sup>21</sup> The National Conversation: Europe and Foreign Affairs

<http://www.scotland.gov.uk/Publications/2009/09/08143726/10>

budget (see appendix). Data for EU allocations and spending are not readily available in a consistent format from 2007 to 2013 and Figure 2 is based on allocations published in the Scottish Draft Budget. The data suggests that Scotland is a net contributor to the EU, which is consistent with previous estimates produced by the Scottish Government in September 2009.

It was not possible to undertake an assessment of likely receipts and payments during the 2014-2020 Multiannual Financial Framework as it would have required a number of assumptions about future Scottish GNI and VAT based payments to the EU budget.

Any calculations looking at an independent Scotland's likely payments and receipts for the 2014-2020 period would be difficult because the Multiannual Financial Framework may require a revision as a result of Articles 20 and 21 of the Council regulation on the Multiannual Financial Framework for 2014-2020, which state:

“Article 20

Revision of the MFF in case of a revision of the Treaties

Should a revision of the Treaties with budgetary implications occur between 2014 and 2020, the MFF shall be revised accordingly.”

Article 21

Revision of the MFF in the event of enlargement of the Union

If there is an accession or accessions to the Union between 2014 and 2020, the MFF shall be revised to take account of the expenditure requirements resulting therefrom.”<sup>22</sup>

### The UK Opt-outs

As part of the United Kingdom, Scotland currently has opt-outs from a number of European policy areas. These include the requirement to join the Eurozone and the Schengen Area along with an opt-out from aspects of Justice and Home Affairs policy. In addition, the United Kingdom currently receives a budgetary correction ensuring a proportion of its net contribution to the EU budget is returned. The Scottish Government has said it believes “continuity of effect” will apply with regards to the terms of membership an independent Scotland might be granted but this is likely to be subject to negotiation so it cannot be guaranteed.

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<sup>22</sup> COUNCIL REGULATION laying down the multiannual financial framework for the years 2014-2020: [http://ec.europa.eu/budget/mff/figures/index\\_en.cfm](http://ec.europa.eu/budget/mff/figures/index_en.cfm)

## **PUBLIC ATTITUDES TO EU MEMBERSHIP**

According to an Ipsos MORI poll published on 14 February 2013, over half of the Scottish electorate think there should be a referendum on UK membership of the EU (58%), compared with just over a third who disagree (36%). Just over half of Scots (53%) said they would vote to stay in the EU, compared with a third who said they would vote to leave (34%). This was in contrast to November 2012 data on attitudes in England, when half said they would vote to leave the EU compared with 43% who would vote to stay in.

Ipsos MORI also asked participants in the February 2013 poll “regardless of how they intend to vote in the 2014 referendum, whether an independent Scotland should or should not be a member of the EU”. According to the results six in ten Scots (61%) think that an independent Scotland should be a member of the EU compared with around three in ten who think it should not (33%).

According to Professor John Curtice writing on [whatscotlandthinks.org](http://whatscotlandthinks.org) in October 2013:

“an analysis of opinion poll data collected during the course of this year suggests that whereas across Britain as a whole only 37% would vote to stay in the European Union, in Scotland that figure is rather higher, 43% - a difference of six points. Equally, the proportion who would vote to leave is six points lower in Scotland. While that difference is potentially enough to alter the majority outcome, it is not enough to suggest that there is a far stronger groundswell in favour of the European project north of the border”.<sup>23</sup>

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<sup>23</sup> [www.blog.whatscotlandthinks.org/2013/10/two-different-countries-scottish-and-english](http://www.blog.whatscotlandthinks.org/2013/10/two-different-countries-scottish-and-english)

## POTENTIAL ALTERNATIVES TO EU MEMBERSHIP IN A GLOBALISED WORLD

### European Free Trade Association<sup>24</sup>

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

EFTA was founded in 1960 by the following seven countries: Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom. Finland joined in 1961, Iceland in 1970 and Liechtenstein in 1991. In 1973, the United Kingdom and Denmark left EFTA to join the then European Community. They were followed by Portugal in 1986 and by Austria, Finland and Sweden in 1995. Today the EFTA Member States are Iceland, Liechtenstein, Norway and Switzerland.

The immediate aim of the Association was to provide a framework for the liberalisation of trade in goods amongst its Member States. EFTA was also established as an economic counterbalance to the more politically driven European Economic Community (EEC). In the 1970s, the EFTA States concluded free trade agreements with the EC; and in 1994 the EEA Agreement entered into force.

Since the beginning of the 1990s, EFTA has actively pursued trade relations with third countries in and beyond Europe. The EFTA States currently have 26 free trade agreements (covering 36 countries). At present EFTA does not have free trade agreements with the United States of America, India (negotiations are on-going) or China (though it does have an agreement with Hong Kong, China)<sup>25</sup>.

### European Economic Area

The Agreement on the European Economic Area, which entered into force on 1 January 1994, brings together the 27 EU Member States and the three EEA EFTA States — Iceland, Liechtenstein and Norway — in a single market, referred to as the "Internal Market". The EEA Agreement also states that when a country becomes a member of the European Union, it shall also apply to become party to the EEA Agreement (Article 128), thus leading to an enlargement of the EEA.

The EEA Agreement provides for the inclusion of EU legislation covering the four freedoms — the free movement of goods, services, persons and capital — throughout the 30 EEA States. In addition, the Agreement covers cooperation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture, collectively known as "flanking and horizontal" policies. The Agreement guarantees equal rights and obligations within the Internal Market for citizens and economic operators in the EEA.

The EEA Agreement does not cover the following EU policies:

- Common Agriculture and Fisheries Policies (although the Agreement contains provisions on various aspects of trade in agricultural and fish products);
- Customs Union;

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<sup>24</sup> <http://www.efta.int/about-efta/european-free-trade-association>

<sup>25</sup> <http://www.efta.int/free-trade/free-trade-agreements>

- Common Trade Policy;
- Common Foreign and Security Policy;
- Justice and Home Affairs (even though the EFTA countries are part of the Schengen area); or
- Monetary Union (EMU).

### **EEA Decision Making<sup>26</sup>**

The EEA Agreement is based on the primary legislation of the EU (Treaty of Rome) at the time of the EEA Agreement's entry into force, and on secondary legislation (EEA-relevant regulations, directives, decisions and certain non-binding instruments). Hence, a large part of the EEA Agreement is identical to the relevant parts governing the four freedoms as laid down in the Treaty on the Functioning of the European Union. A central feature of the EEA Agreement is its dynamic aspect; the common rules of the EEA Agreement are updated continuously with new EU legislation.<sup>27</sup>

#### The decision-making phase in the EEA

Liechtenstein, Norway and Iceland have no representation in any of the EU institutions and only indirect influence – including the right to be consulted – on EU proposals affecting them.

According to the EFTA website:

“The EEA Agreement does not grant the EEA EFTA States formal access to the decision-making process within the EU institutions. However, the EEA EFTA States can participate in shaping a decision at the early stages of preparing a legislative proposal. The EEA Agreement provides for input from the EEA EFTA side at various stages of the preparation of EEA-relevant legislation:

- First, representatives of the EEA EFTA States have the right to participate in expert groups and committees of the European Commission. They participate extensively in the preparatory work of the Commission and should be consulted in the same manner as EU experts. The Commission may seek advice from the EEA EFTA experts by phone or by correspondence, or in meetings. The experts may also be associated with the preparatory work through regular committee meetings.

- Second, the EEA EFTA States have the right to submit EEA EFTA comments on upcoming legislation.

<sup>26</sup> <http://efta.int/eea/eea-institutions/eea-decision-making.aspx>

<sup>27</sup> <http://www.efta.int/eea/eea-agreement/eea-basic-features#12>

While the EEA EFTA States use these opportunities to contribute to the legislative process, they can neither sit nor vote in the European Parliament or the European Council.”<sup>28</sup>

The EEA EFTA States have access to the following types of Commission committees: expert groups (Article 99 EEA); comitology committees (Article 100 EEA); programme committees (Article 81 EEA); and other committees in specific areas (Article 101 EEA). In total, the EEA EFTA States have the right to participate in several hundred committees.

### Constitutional requirements

The contracting parties have not transferred any legislative powers to the EEA Joint Committee. It has therefore been necessary to regulate the situation in which, according to their constitutions, an EEA Joint Committee Decision (JCD) can only be binding on one or the other contracting party after it has been approved by parliament or by referendum.

Decisions that have budgetary implications for more than one year will in principle need parliamentary consent in Norway. In Liechtenstein parliamentary consent is needed if the financial contribution of participation by Liechtenstein in a Community activity amounts to more than 50 000 Swiss Francs (about £34,000) in total or to more than 20 000 Swiss Francs (about £14,000) per annum for three consecutive years. In Iceland, the administration negotiates the total EEA budget which is then presented to the Icelandic Parliament for approval as a single figure within the national budget. This process takes place on an annual (financial) basis.

### EFTA States Participation in EU Programmes

The EEA Agreement ensures participation by the three EEA EFTA States in a number of EU programmes and agencies. During the 2007-2013 programming period EFTA states participated in programmes such as the Framework Programme 7 (now Horizon 2020), the Lifelong Learning Programme and the Competitiveness and Innovation Programme.<sup>29</sup>

### The EEA Grants<sup>30</sup>

The EEA Grants are related to the EEA Agreement and provide social and economic development funding from the EEA EFTA States. This financial support aims at reducing economic and social disparities in the EEA and strengthening bilateral relations with the beneficiary states: Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain. In addition to the EEA Grants, Norway has funded a parallel scheme since 2004 – the Norway Grants.

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<sup>28</sup> <http://www.efta.int/eea/eea-agreement/eea-basic-features#12>

<sup>29</sup> <http://www.efta.int/eea/eu-programmes>

<sup>30</sup> <http://eeagrants.org/>



## Norwegian Participation in EU Programmes

The Norwegian Government participates in EU programmes such as the cohesion programmes, the Framework Programmes for Research and Development and other cross EU programmes related to education and cultural initiatives as a result of the EEA agreement.

According to the Norwegian Government:

“Norway commits to making a yearly financial contribution to the relevant EU Budget. EEA EFTA states fund their participation in programmes and agencies by an amount corresponding to the relative size of their GDP compared to the GDP of the whole EEA. The EEA EFTA participation is hence on an equal footing with EU Member States.

The total EEA EFTA commitment amounts to 2.4% of the overall EU programme budget. In 2010 Norway’s contribution was €210 million. Throughout the programme period of 2007-2013, the Norwegian contribution will increase substantially in parallel with the development of the EU programme budget, from €130 million in 2007 to €290 million in 2013.”<sup>31</sup>

## **The Swiss model – EFTA but not EEA**

Switzerland is in EFTA and Schengen but is not a member of the EU or the EEA, but it has a bilateral agreement with the EU. According to the Swiss Government:

“Switzerland pursues its interests with respect to the EU via the so-called “bilateral path”. The two partners negotiate contractual agreements in selected sectors of mutual interest. On the one hand, these improve reciprocal market access for companies or regulate related aspects of product safety, employee protection and health. On the other hand, they enable closer cooperation in areas such as research, security, asylum, the environment, education and culture. Switzerland also contributes towards the development of Europe through various commitments. Examples are the enlargement contributions to reducing social and economic disparities in Europe, Switzerland’s involvement in peace missions in south-east Europe, and its participation in the Council of Europe’s efforts to promote respect for human rights.”<sup>32</sup>

This approach means Switzerland has access to the Single Market in many areas and each time access to the Single Market it agreed it requires a new agreement with the European Union. According to the Centre for European Reform:

“Switzerland signed up to the EU’s customs union in 1972, which abolished subsidy and tariff barriers. Since then, it has also decided to sign up to the majority of the single market: it is a full member of the single market for goods, a signatory to the Schengen agreement, and it has signed up to most of the single market for capital. In many areas, therefore, Switzerland is effectively a

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<sup>31</sup> Norwegian Ministry of Foreign Affairs, Norway and the EU – partners for Europe, 2011, p11

<sup>32</sup> Swiss Government information in 2009 brochure Bilateral agreements Switzerland-EU:  
[http://www.europa.admin.ch/themen/00500/index.html?lang=en&download=NHZLpZeg7t,lnp6l0NTU042l2Z6ln1ad1lZn4Z2qZpnO2Yug2Z6gpJCDdYR6gGym162epYbg2c\\_JjKbNoKSn6A--](http://www.europa.admin.ch/themen/00500/index.html?lang=en&download=NHZLpZeg7t,lnp6l0NTU042l2Z6ln1ad1lZn4Z2qZpnO2Yug2Z6gpJCDdYR6gGym162epYbg2c_JjKbNoKSn6A--)



member of the single market. But like Norway, it does not have the ability to affect the rules that govern it.”<sup>33</sup>

### Swiss Financial Contribution to the EU

Switzerland contributes financially to both enlargement costs ‘to reduce economic and social disparities’, and the EU programmes in which it participates under its array of bilateral agreements. According to the Swiss Government:

“If one adds up the various contributions paid by Switzerland for participation in the different EU programmes, agencies and cooperation arrangements as part of the bilateral agreements, and if one also includes the enlargement contributions towards the reduction of economic and social disparities in the enlarged EU, Switzerland’s annual payments to the EU amount to just under 600 million francs (around £400 million)<sup>34</sup>.

### Swiss Enlargement Contribution

Switzerland makes an Enlargement Contribution to finance specific, high quality projects aimed at reducing the economic and social disparities in the twelve new EU-Member States. In this way, it supports the EU objective of strengthening the economic and social cohesion (to be understood as internal cohesion), and it does so in its own particular way. Indeed the projects are bilaterally agreed upon with each individual partner country, with Switzerland autonomously making the final decision on approval of the financing

Between 2007 and 2012 the Enlargement Contribution was worth around 100 million Swiss Francs (around £67 million) each year<sup>35</sup>. A new programme running to 2017 is now in operation.

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<sup>33</sup> Centre for European Reform – Britain should not go Swiss, 10 July 2012:

<http://www.cer.org.uk/insights/britain-should-not-go-swiss>

<sup>34</sup> Swiss Government information in 2009 brochure Bilateral agreements Switzerland-EU:

[http://www.europa.admin.ch/themen/00500/index.html?lang=en&download=NHZLpZeg7t,lnp6l0NTU042l2Z6ln1ad1lZn4Z2qZpnO2Yuq2Z6gpJCDdYR6gGym162epYbg2c\\_JjKbNoKSn6A--](http://www.europa.admin.ch/themen/00500/index.html?lang=en&download=NHZLpZeg7t,lnp6l0NTU042l2Z6ln1ad1lZn4Z2qZpnO2Yuq2Z6gpJCDdYR6gGym162epYbg2c_JjKbNoKSn6A--)

<sup>35</sup> [http://www.contribution-enlargement.admin.ch/en/Home/The\\_Swiss\\_contribution/Financing](http://www.contribution-enlargement.admin.ch/en/Home/The_Swiss_contribution/Financing)

## Annexe

**Figure 1 – Scotland (including geographic share of the North Sea) illustrative contribution to EU budget (€m cash terms)**

	2007	2008	2009	2010	2011	2012	2013	2007-13
GNI based contribution	1,154	1,017	993	1,143	1,174	1,365	1,302	8,148
UK abatement	-467	-552	-422	-299	-319	-341	-354	-2,754
Net expenditure transfers to the EU	687	465	572	845	855	1,024	947	5,394
Receipts to cover TOR collection costs	-37	-37	-32	-35	-34	-36	-36	-246
to give contribution to Totally Managed Expenditure	650	428	540	810	821	988	911	5,148
Total Own Resources (TOR)	147	147	128	140	136	142	144	985
VAT-based payments to the EU	315	274	139	198	228	258	243	1,655
<b>Gross contribution to the EU budget</b>	<b>1,112</b>	<b>849</b>	<b>807</b>	<b>1,148</b>	<b>1,184</b>	<b>1,388</b>	<b>1,299</b>	<b>7,787</b>

Source: Calculations based on HM Treasury (PESA), Scottish Government (GERS and SNAP) and ONS data (see appendix)

**Figure 2 – Scotland’s allocated EU receipts (€m cash terms)**

	2007	2008	2009	2010	2011	2012	2013	2007-13
Structural Funds <sup>36</sup>	130	126	122	118	113	108	104	821
Common Agricultural Policy <sup>37</sup>	696	647	572	671	637	698	664	4,584
Framework Programme 7 <sup>38</sup>	72	72	72	72	72	72	72	504
European Fisheries Fund <sup>39</sup>	14	14	14	14	14	14	14	98
<b>Total</b>	<b>912</b>	<b>859</b>	<b>780</b>	<b>875</b>	<b>836</b>	<b>892</b>	<b>854</b>	<b>6,007</b>

<sup>36</sup> Scottish Structural Funds Operational Programmes 2007-2013

<sup>37</sup> Source: Scottish Government (draft budget figures)

<sup>38</sup> total received by projects in Scotland €504 million which has been split over the 7 years of the programming period

<sup>39</sup> total received in Scotland €98.53 million split over 7 years of the programming period

## Appendix

The approach used in estimating Scotland's illustrative contribution to the UK's EU Budget closely follows the approach outlined in [Europe and Foreign Affairs: Taking forward our National Conversation](#) (Scottish Government, September 2009).

The UK's transactions with the institutions of the EU are shown in [Public Expenditure Statistical Analyses](#) (PESA) data published by HM Treasury. The illustrative contribution of Scotland was based on a share of the UK figures. The illustrative share includes contributions based on Gross National Income (GNI)<sup>40</sup>, the UK abatement, import duties (from outside of the EU) and VAT-based payments. Where data was unavailable for some estimates for 2012 and 2013, shares were based on the latest data available for 2011-12.

The GNI contribution share is based on GNI figures for the UK published as part of the Office for National Statistics (ONS) [Quarterly National Accounts](#). An [initial estimate of GNI for Scotland](#) was published by the Scottish Government (for 2010). The difference between GNI and GDP in 2010 was applied to GDP figures from 2007 to 2012 to estimate GNI for 2007 to 2012. The initial GNI estimates made by the Scottish Government (November 2013) show GNI was 98.3% of Scottish onshore GDP and 94.8% of Scottish GDP including a geographic share of the North Sea.

The original estimates of GNI based contributions made by the Scottish Government (September 2009) were based on Scotland's share of UK GDP. GNI is lower than GDP and the difference between GNI and GDP is greater when a geographic share of the North Sea is included. The original estimates are likely to have overstated Scotland's contribution (when a geographic share of the North Sea is included).

VAT-based contributions were estimated based on the Scotland's share of UK VAT receipts as shown in [Government Expenditure and Revenue Scotland](#) (GERS). This approach closely follows the original estimates made by the Scottish Government.

A contribution is recorded for Traditional Own Resources (TOR) which, for the period covered, is comprised solely of import duties levied on imports from outside of the EU. The contribution is reduced by 25% to costs in respect of collecting TOR.

The original TOR contribution estimates made by the Scottish Government (September 2009) were based on the Scotland's share of UK VAT receipts. An approach based on VAT receipts is more likely to reflect consumption rather than imports from outside of the EU.

Data from the Scottish National Accounts Project ([SNAP](#)) was used to show Scottish imports (from outside of the UK) as a share of UK imports. Scotland's share of imports from outside of the UK is around 4%, lower than Scotland's share of UK VAT

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<sup>40</sup> Gross national income, abbreviated as GNI, is the sum of incomes of residents of an economy in a given period. It is equal to GDP minus primary income payable by resident units to non-resident units, plus primary income receivable from the rest of the world.  
[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Glossary:Gross\\_national\\_income\\_\(GNI\)](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Glossary:Gross_national_income_(GNI))

receipts (around 8.7%). The latest SNAP data shows that Scottish imports from the rest of the UK are nearly three times the value of Scottish imports from outside of the UK.

The share of imports (from outside of the UK) was used to allocate a share of TOR contributions. The aforementioned share does not distinguish between imports from the rest of the EU and the rest of the World but it a more accurate measure than the previous estimate based on VAT receipts.

The GNI contribution shown in Figure 1 is based on Scottish GDP including a geographic share of the North Sea. If Scottish onshore GDP were used to estimate the GNI contribution then illustrative budget contribution 2007-13 would be €6,655m (Scotland would remain a net contributor).

All figures are shown in euros based on the following € to £ exchange rates

2007	2008	2009	2010	2011	2012	2013
0.6968	0.7903	0.9093	0.85995	0.86665	0.79805	0.83605

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