

SCOTLAND AND EUROPE: LINKS BETWEEN EDINBURGH, LONDON, AND BRUSSELS

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'We foresee that the role of the new Scottish Parliament Executive will actually enhance the involvement of Scotland in European affairs without diluting, in any way, that single central [UK] voice' (Scottish Affairs Committee 1998, Vol. 2, p. 105). In his testimony to the Scottish Affairs Committee, then-Devolution Minister Henry McLeish identified the key aim as well as likely difficulty of the devolution settlement in relation to Europe: although European affairs are reserved to Westminster, the Scottish Parliament is responsible for implementing European directives in devolved areas. This raises a central question, namely, how can the Scottish Parliament seek to develop an autonomous voice in Europe that promotes distinctive Scottish policy needs and a strong 'regional' identity, while simultaneously contributing to the creation of a unified UK negotiating line?

Although analysts have considered the relationship between Westminster and the European Union (EU) (e.g., George 1994, Bulmer and Burch 1998), little attention has been paid, as William Paterson (1994) noted in **Scottish Affairs**, to 'the relationships between the multinational character of the British state and the issue of the European Union' (p. 3). Such consideration is particularly important in Scotland, he added, as its 'Political discourse ... takes place as much about the terms on which Scotland might participate in the European Union as about Scottish attitudes to the United Kingdom' (p. 4). When the prospect of a Scottish Parliament appeared more viable, political

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commentators began to propose how a devolved Scotland could participate in European policy-making (Crick and Millar 1995, Constitution Unit 1996, Bates 1997), explore the changing constitutional structure of Britain (Rifkind 1998), and examine how devolution and EU membership alter the British conception of sovereignty (Leicester 1998). However, because of the fluid and dynamic nature of the Parliament's establishment, there has been little analysis thus far of the structures governing Scotland's post-devolution role in Europe.

Using a study of documents and interviews with 65 political elites¹, this article seeks to answer the speculation about 'what is to be the extent and manner of the involvement of a Scottish Government in the Community legislative process' (Bates 1997, p. 66). The first section outlines the framework that has been established to manage European issues on multiple levels. It suggests that the Scottish Executive can seek influence in European policy-making through 1) its own parliamentary structures in Edinburgh, 2) negotiations with Whitehall, and 3) direct contacts in Brussels. The second section highlights potential benefits and tensions within these arrangements, concluding that there are currently more questions than answers to Scotland's future in Europe.

SECTION 1

SCOTTISH PARLIAMENT

Numerous policy areas devolved to Scotland are also within the competence of the European Community, including agriculture, environment, fisheries, transport, health, and education. This overlap has led David Martin MEP to predict that at least 50% of the Scottish Parliament's legislative agenda will be initiated in Brussels, as the Parliament will implement European directives into Scots law. To facilitate this handling of European legislation, the Consultative Steering Group (CSG), a cross-party committee chaired by Henry McLeish with a remit to devise draft standing orders for the new legislature, recommended the establishment of a European Committee. The

¹ *Individuals interviewed fall into four categories: civil servants (Edinburgh, London, Brussels); politicians (MPs, MSP candidates, MEP candidates); civil society (e.g., businesses, voluntary sector, church, sectoral interests); Brussels (Scotland Europa, EU officials, regional representation offices).*

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CSG report suggested that the committee sift documents and debate issues which either involve several or no specific committees (1998, p. 61).

The committee is convened by Labour's Hugh Henry, a former spokesman on European Affairs for the Convention of Scottish Local Authorities (COSLA) and member of the Committee of the Regions. The other eleven committee members represent a wide range of constituencies, and bring practical experience from areas affected by European policies such as business and farming. The committee should also benefit from the European involvement of former MEP Winnie Ewing and Irene Oldfather, another member of the Committee of Regions. Members have been drawn from a range of subject committees, per the CSG's recommendation. Because a large amount of European legislation involves agricultural issues, it is surprising that the committee does not have a member of the Rural Affairs Committee, but instead has three Health members and two each from Transport and Environment and from Enterprise.

Scrutiny

Given the quantity of legislation originating in Brussels, the committee will need to be selective about what it examines. It could draw on models from Westminster, following the Commons committee that seeks to examine everything or the Lords committee that more closely scrutinizes a smaller number of issues. The CSG suggested that the committee consider the issue's importance to Scotland, the importance of Scottish activity to either the UK or EU, the time available for debate before the UK view is decided and the Council of Ministers meeting is scheduled, and the political sensitivity of the subject (p. 61). Currently, the committee is operating according to a 'twin-track' approach. After receiving European documents from the Cabinet Office, the committee convener and clerk perform an initial sift of documents; following CSG guidelines, they seek to determine the priority and relevance of an issue. The committee then either considers the document itself or passes it to the relevant subject committee for detailed scrutiny (European Committee Briefing Paper EU/99/2/1).

According to nearly all members of the Scottish political community interviewed, the committee should prioritize issues of disproportionate interest to Scotland, particularly in social and economic terms. Most also stressed that the European Committee should focus its attention on devolved areas. Although the Parliament can debate reserved matters, and although some businesspeople envisage circumstances when the Parliament may wish to voice an opinion (e.g., Britain's entry into EMU), most felt that the

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Parliament should initially concentrate on areas where it has legislative competence. The main priorities identified by respondents, particularly by politicians and businesspeople, are agriculture, environment, and fishing; respondents identified distinct Scottish needs in these areas, which also fall within both European and Scottish competence. Other policy areas frequently mentioned include the preservation of structural funds, education and training, and economic development.

Although there are no formal arrangements between the European committee and its Westminster counterparts, it is clearly in the interests of both sides to initiate and maintain a dialogue about current and forthcoming European issues. A psychological adjustment to the reality of devolution may need to develop first, as Conservative MSP David Mundell illustrated when he reported that Westminster colleagues questioned why the Scottish Parliament was even discussing the reserved matter of Europe (European Committee Official Report, 31 August 1999). However, informal links are developing slowly, based initially upon officials' goodwill. During an interview in January 1999, a Foreign Office official indicated that the UK Executive would not delay agreement in the Council of Ministers on the basis of a Scottish scrutiny reserve, especially if the area was not relevant to Scotland. The official explained that the Scottish Executive, especially if led by a different political party than Westminster, could attempt to delay the process or bargain for concessions. At a European committee meeting six months later, the clerk announced that officials had reached a 'working agreement' with the Westminster committees regarding issues deemed a priority in Scotland: if Scotland's European Committee informs the Westminster committee about such issues, Westminster will delay its decision until the Scots present their views. Bruce Crawford, MSP from the Scottish National Party, further questioned the procedure, as he expected Scottish opinions to be heard directly at Cabinet level. The clerk explained that the committee should give its opinions to the Westminster committee and the Scottish Executive, who will pass them to the UK Executive, but could also refer them to the Secretary of State for Scotland (European Committee Official Report, 18 August 1999).

Implementation

Where European directives cover a devolved matter, Schedule 5 of the Scotland Act allows the Scottish Executive to choose its own implementation methods. It is through this provision, many interviewees believe, that Scotland may benefit from devolution as legislation can be moulded to its distinct situation. The **Concordat on Coordination of European Union**

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Policy Issues (1999, pp.15-21), discussed below, stipulates that the Scottish Executive should negotiate with the lead Whitehall department about how best to implement a measure, particularly to ensure consistency of effect and timing. The UK Executive, as specified in the Scotland Act, retains a reserve power to legislate if the Scottish Executive fails to implement. If the UK Executive is taken to the European Court of Justice for not implementing an obligation because of a failure by the Scottish administration, then the concordat explains that the Scottish administration would be responsible for meeting any financial penalties imposed on the UK.

SCOTTISH EXECUTIVE AND UK EXECUTIVE

As the previous section explained, the Scottish Parliament is responsible for implementing European directives in devolved areas. However, because the UK holds a reserve power over European affairs, is the member-state signatory to EU treaties, and has a seat at the Council of Ministers' table, the Scottish Executive is expected to work with the Executives of Westminster and the other devolved administrations to formulate a single UK negotiating line. The extent to which Scotland's opinions are incorporated into the UK position and Scottish ministers are involved in Brussels negotiations appears largely reliant upon goodwill between the Executives.

Officials

Although structures (outlined below) have been established to enable the Scottish Executive to influence the UK position, civil servants based in Edinburgh, London and Brussels expect most negotiations to continue at official level. Pre-devolution, Scottish Office officials provided a Scottish perspective on policies to their counterparts in Whitehall departments.¹ Despite the advent of the Scottish Parliament, the civil service remains unified and officials expect that most arbitration will be handled in a similar manner. While the negotiation process and Scotland's position within it are likely to be more transparent, the only substantial procedural difference is

¹ *Academic research suggests that the Scottish Office helped preserve the autonomy of pre-devolved Scotland within the centralized British state (L. Paterson 1994) by protecting Scottish interests (Parry 1993) and exercising technical control of some policy areas (W. Paterson 1994). However, it lacked direct legitimacy as a territorial department and faced difficulties 'running government at arm's length in a small polity' (Parry 1993, p.44).*

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that officials will take their instructions from the Scottish Executive rather than from the Secretary of State and his Ministers.

Interactions between the officials servicing the Scottish and UK Executives will be governed by concordats, non-legally binding 'gentleman's agreements'. After nearly a year of consternation about their 'secret' drafting and delayed publication, they were finally presented by the First Minister and Secretary of State for Scotland in a press conference on 1 October 1999. An over-arching Memorandum of Understanding - a 'statement of intent' that binds the four administrations to good communication, co-operation and open information exchange - is supplemented by agreements covering the establishment of the Joint Ministerial Committee, the co-ordination of EU policy, financial assistance to industry, international relations, and statistics. There were few surprises in the European concordat, as it corresponded closely to the guidelines outlined in the White Paper.

Joint Ministerial Committee

The concordats detail the operation of the Joint Ministerial Committee (JMC), which was first announced by Baroness Ramsay in the House of Lords on 28 July 1998. The JMC will consult on UK positions about EU issues affecting devolved subjects.¹ While most European business is expected to be handled by correspondence, necessary meetings will be chaired by the Foreign Secretary and involve ministers or senior officials from the relevant departments. The anomaly of how an English minister can wear two hats in the JMC by representing both English and UK interests was raised by SNP MSP Alex Neil during a parliamentary debate about the concordats (Official Report, 7 October 1999). It is also curious that although Scotland and Wales have different legislative competences, particularly in regard to the handling of European legislation, they are governed by identical concordats. These questions, which have thus far gone unanswered, exemplify potential problems of this asymmetrical devolution settlement.

The JMC, whose Secretariat is provided by the UK Cabinet Office, will also be convened to resolve disputes between executives if officials and ministers

¹ *The JMC will also 1) meet in 'functional formats' to discuss departmental subjects, 2) resolve disputes between one administration and the UK government in areas that do not affect other administrations, and 3) take stock of relations generally through annual plenary meetings involving the Prime Minister (as chair), First Minister (or its equivalent) of the devolved administrations, and the Secretaries of State (1999, pp.7-8).*

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fail to find a solution. Officials hope that few disputes will require a formal meeting, especially as the dispute will become more publicized, and suggest that the fear of convening a JMC may be enough to force an early resolution. Some observers have expressed scepticism at the confidential nature of these meetings. Alex Neil, speaking in the same debate, criticised the closed nature of JMC meetings which fail to allow even Parliament access to its minutes; even the Bank of England's monetary committee, he argued, publishes its minutes. Indeed, the JMC's lack of transparency may create a situation similar to the position of the Scottish Secretary in the UK Cabinet: although the Secretary may argue on Scotland's behalf, collective cabinet responsibility prevents public knowledge of this internal struggle. Similarly, the Scottish Affairs Committee report on devolution cited the lack of 'an open forum at parliamentary level for the public discussion of matters of common concern' (1998, Vol. 1, p. xvi).

Devolved Administrations Department

Another mechanism devised to manage the complications of devolution is the Foreign and Commonwealth Office's (FCO) Devolved Administrations Department. The unit, whose paternalistic acronym DAD may unwittingly fuel fears about London control, will co-ordinate policy among devolved administrations. An official responsible for its development explained that during its first year it will be a co-ordinating body in FCO to manage devolution, including concordats, representation overseas, and inward investment. It will eventually become a point of contact with devolved administrations on anything involving overseas matters, such as lobbying, information gathering, and arranging visits.

This little-publicized body was announced in a press release issued by Joyce Quin, UK Minister for Europe, on 13 January 1999; while **The Daily Telegraph** reported it the following day, **The Herald** inexplicably portrayed it as a recent development nearly three months later on April 24. While a FCO official quoted in **The Herald** article explained that this 'new unit will work largely through the concordat that is being drawn up between ourselves and the new administrations on such things as international relations and the EU', there is no mention of DAD in the concordats and it remains unclear how this Foreign Office unit will relate to the Cabinet Office's management of the JMC. Continued oversight of European affairs by these offices raises another potential tension in the devolution arrangement. For example, Crick and Millar's draft standing orders warned that 'large areas of EC policy should no longer be handled as if they were "foreign affairs" by the Foreign

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and Commonwealth Office or "coordinated" as such by the Cabinet Office, but treated as domestic policy matters' (1995, p. 48).

Council of Ministers

After the UK negotiating position has been agreed domestically, the legislative process moves across the Channel to Brussels. The UK government is represented there by its permanent representation (UKRep), who negotiates on its behalf in the Committee of Permanent Representatives (COREPER). Four 'Scottish Office' officials are currently on secondment to UKRep, a process that the concordat pledges to continue post-devolution. The final decision on European legislation is usually taken by the Council of Ministers (subject to the European Parliament's co-decision role); while Scottish ministers are legally able to participate in negotiations, the extent of involvement is a matter of discretion while its political significance is a matter of debate.

The Maastricht treaty (Article 146) enables sub-national ministers to speak on behalf of their central governments. However, only 'regions' within federal domestic systems (such as Belgium and Germany) have been granted the opportunity. The UK Government will, per Schedule 5 of the Scotland Act, allow Scottish Ministers to 'assist' UK Ministers on European matters affecting devolved issues. The European concordat, repeating the White Paper almost verbatim, acknowledges that ministers from devolved administrations have a 'role to play in relevant Council meetings', but explains that decisions on attendance 'will be taken on a case-by-case basis by the lead UK minister' (p. 17). Officials also stress that if a Scottish Minister speaks, s/he must promote the previously agreed line, as European law requires any speaker in the Council to have the authority to bind the government.

There is a distinction between 'leading' and 'speaking' in the Council. Although the Scottish Office served as the lead department for forestries, it appears unlikely that Scottish Ministers will lead a UK delegation; the Scottish Executive is not, like the Scottish Office was, a UK department. However, Scottish ministers will attend and speak in Council meetings. This first occurred when Deputy Fisheries Minister John Home Robertson participated in the 26 October Fisheries Council. The frequency of this practice remains unclear, as SNP leader Alex Salmond cited Scottish attendance at only one of 30 Council meetings held during the past six months (Official Report, 10 November 1999). This privilege is also likely to depend upon the political relationship between the Executives. In a speech

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delivered in Brussels in February 1999, Salmond questioned whether his party could participate if in government; he suggested that 'the desire of New Labour in government to exclude the Scottish democratic voice from this circle is clear'.

The key question then becomes whether, if Scottish ministers successfully incorporate Scottish interests into the UK negotiating line, it is significant who delivers that line in Brussels. Some interviewees have contrasted the policy impact of a Minister's presence with its symbolism. For example, a senior official in the Council of Ministers explained that other member-states are more interested in the argument being delivered while 'the political significance is back home for domestic consumption'. A further complication is the closed nature of Council meetings; a Bavarian official based in Brussels explained that the lack of transparency means that a Minister can agree with the position argued in the meeting but later tell the press he struggled with the issue.

SCOTTISH EXECUTIVE AND EUROPEAN UNION

In addition to utilizing parliamentary structures and domestic negotiations, the Scottish Executive can seek direct influence in Brussels. Depending on the nature of its use, this strategy can be controversial. Government officials in Edinburgh and London warn that using the 'Westminster Bypass' to promote a policy line contrary to the UK position may be politically unwise, affect future domestic relations, weaken the UK position by splitting the delegation, and have questionable utility in the Council's final decision. However, some regions already lobby autonomously in Brussels. Scottish officials based in Brussels cited examples where organisations and regional networks successfully lobbied the Commission or central governments, while regional representatives claimed success in achieving initiatives initially opposed by central governments (e.g., Danish regions lobbied in Brussels when central government opposed the abolition of tax resale).¹ Furthermore,

¹ *The literature (Marks 1993; Pollack 1995; Bache 1998) frequently cites RECHAR as an example of how the Commission and Scottish local authorities successfully challenged the UK government. RECHAR was a Community Initiative introduced after the 1988 reform of structural funds to assist areas with declining coalfields. When the British government refused to provide 'additional' funding to the EC money designated to help the Scottish mining community, Bruce Millan - the (British) Commissioner of Regional Policy - withheld funds until the government amended its expenditure plans.*

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Scottish contacts with European institutions need not exclude Whitehall, such as promoting a case that the UK Government endorses but may not prioritize (e.g., support for Gaelic language) or highlighting distinct Scottish needs (e.g., the Highlands economy).

Scotland Europa

Scotland is officially represented in Brussels by Scotland House, the collocation of Scotland Europa¹ and the Scottish Executive's EU Office. Since May 1992, Scotland Europa, a subsidiary of Scottish Enterprise and membership organisations, has waved the Scottish flag in Brussels and provided a presence in the absence of a parliamentary representative. Scotland Europa promotes Scottish interests, provides intelligence to its members about European legislative activities and funding opportunities, advocates policy initiatives to the Commission through its Occasional Papers, and assists Scottish visitors to Brussels. It also benefits from the in-house network created by outside organisations, including other European regions, who are resident at its headquarters. Chief Executive Donald MacInnes sees its role as continuing to service its members while concentrating more heavily on economic development, leaving the Scottish Executive to promote Scotland's political objectives.

Scottish Executive EU Office

While Scotland House was formally opened by the First Minister and Foreign Secretary during Scotland Week (11-15 October 1999), the Scottish Executive EU Office has been operating since the Queen opened the Parliament in Edinburgh on 1 July 1999. It is staffed by a Director, three desk officers, and two local administrators who will manage the office and handle publicity. The desk officers have divided European policy into portfolios, and will maintain links with the convener of the European Committee. They will also:

- Gather intelligence in Brussels to inform committees' deliberations and provide an early warning about forthcoming legislation;
- Service the Parliament's Executive, including ministerial visits to Brussels;

¹ For a discussion of Scotland Europa, see J. Mitchell (1995) and M. McAteer and D. Mitchell (1996).

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- Represent Scotland in Brussels by liaising with other 'regions' and networks;
- Raise the profile of Scotland, stimulate contacts between Scotland and the EU, and act as a catalyst to forming new relationships;
- Promote relationships between MSPs, MEPs, and European officials;
- Participate in Commission working groups.

(European Committee Briefing Paper, EU/99/2/3)

The Executive's relationship with UKRep is a potential source of tension. An FCO official interviewed in January 1999 expressed a preference for the Scottish Executive Office to be located in UKRep to ensure it promoted complementary views. The official explained that because UKRep's role is promoting the UK line in Brussels, it would be problematic if the Scottish Executive advocated a different view: 'if a separate Scottish Office in Brussels were to disagree with the UK and go to other states to try and get them on their side, that causes a huge problem for the UK. There is a UK problem if Scotland is seen as a separate entity.'

Although opting against co-location with UKRep, the Scottish Executive Office is based across the street and will maintain a 'hot-desk' there. Two of its officials, speaking during interviews in early June 1999, desire a two-way flow of information: they hope UKRep will share its latest intelligence, as they plan to pass along information gleaned from working groups, parliamentary committees, and regional networks to which UKRep may not belong. Although unable to influence UKRep officials who are busy negotiating in Council and Commission working groups, they believe that having a Scottish official or minister present in these groups can be beneficial as s/he may highlight the implications of legislation for Scotland. Aware of their constitutional position, the officials want to maintain 'extremely strong' links with UKRep and hope to benefit from its information and influence. But they also want to promote a separate Scottish identity and make Scotland a regional player: 'following the spirit of the White Paper and the devolution settlement, we will be close to the UK government but not part of it'.

When asked about potential strains between the offices, the FCO official suggested that conflict could stem from political differences between administrations or procedural issues (e.g., Council attendance, representation, and the challenge of balancing Scotland's freedom to promote itself with its need to work with UKRep). Policy conflicts will be less likely: 'the system works well now and we're just extending the structures'. However, the

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Scottish Executive officials highlighted fisheries as a potentially problematic issue as Scotland has a different fleet from England and 60% of the fish. Because Scotland is part of a strong state, they suggest that the UK's negotiating strength would be lost if the delegation was not united. They maintain that 'there won't be rivalry as we have two distinct roles,' but admit that 'If relationships between Edinburgh and London are hard, the person in the working group here is in a hard place'.

Commission

One way these officials can seek influence in Brussels is by lobbying Commission officials. Because the Commission has the right to initiate legislation, a senior official in the Council of Ministers explained that it is often the first point of contact for governments. It is easier to shape a Commission proposal, he added, than to convince the Council to change a line by unanimity. Many regional representatives have found the Commission to be an accessible institution that listens to concerns with a sympathetic ear. For example, the Brussels-based representative of the Highlands and Islands European Partnership mentioned 'friends' at the Commission who recognize the area's 'distinct and famous' identity and help when they can. If lobbying the UK proves unsuccessful, she found that information obtained from the Commission may make the case more persuasive. A senior Commission official emphasised his support for regional interjections, suggesting that persuasive arguments identify a specific policy problem and preferably a proposed solution.

Lobbying the Commission, according to officials based in the Scottish Executive EU Office, can be successful when a bloc of 'regions' present a shared problem or when a single 'region' has specific concerns about a policy. This was confirmed by Scotland Europa staff, who reported that the Commission appreciated their role in collating views of the Scottish policy community and providing a single point of contact for input and feedback. Networking is an important strategy for many regional offices that face financial and staff limitations. In addition to providing partners with whom to lobby on specific policy initiatives or compile applications for funding programmes, networking also maximizes scarce resources and prevents a duplication of effort in gathering information. Staff in the Executive Office will have a plethora of established networks to choose from, including the Assembly of European Regions (AER) and the Conference of Legislative Regional Assemblies (CLARE).

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European Parliament

Scotland can also feed ideas into the European Parliament, as its eight members (MEPs) promote a Scottish position in parliamentary committees and plenaries. For example, former MEP Ken Collins actively worked on environmental issues, Winnie Ewing gained a reputation as 'Madame Ecosse', and David Martin currently wields influence as the Parliament's Vice-President. The Parliament is increasingly important to regional manoeuvring as it becomes a co-legislator with the Council of Ministers. The Amsterdam Treaty, which took effect on 1 May 1999, more than doubled the areas covered by the co-decision procedure, which enables the Parliament to veto proposals approved by the Council. Areas within the European Parliament's competence overlap numerous issues devolved to the Scottish Parliament, including transport, environment, public health, and regional policy. This slight weakening of state power may give sub-national parliaments greater legislative hope if they have difficulty persuading national governments of their case.

The CSG recommended the establishment of a wider European Forum to liaise with other Scottish members of the European policy community (i.e., MEPs, members of the Committee of the Regions and the Economic and Social Committee). While the European Committee has yet to arrange this, it has already heard presentations from the Commission and Parliament's representatives in Edinburgh. Because of the changed electoral system from first-past-the-post to closed list,¹ the four main parties are represented in Strasbourg as well as Edinburgh. All MEPs interviewed favour involvement with the Parliament's European Committee, and desire a two-way exchange of information about forthcoming legislation, Scotland's needs, the views of other member-states and regions, and nuances of a particular debate.

¹ *The three Scottish Labour MEPS have divided the country and policy areas amongst themselves. The two SNP members have adopted a similar division of labour, while the two Conservatives are focusing on policies relevant to Scotland. The sole Liberal Democrat must manage these tasks alone. For a more thorough analysis of the changed MEP electoral system, see Salmon and Stevenson (1999).*

SECTION 2

THE FUTURE FOR SCOTLAND AND EUROPE

The structures outlined in the first section have been developed to enable Scotland to seek influence in European policy-making. But until they are fully tested in the parliament, there will remain more questions than answers about the future relationship between Scotland, Britain and Europe. This second section will raise some potential possibilities and problems ahead.

Scottish Difference

Devolution sceptics may question whether Scotland's interests are likely to diverge from England's in the construction of a UK negotiating line. Some interviewees, especially civil servants, declined to give examples, suggesting that such situations may be politically driven. However, a few mentioned potential differences in the approach to 'grey' areas - policies reserved to Westminster that still affect Scotland - such as food standards, employment, and Britain's adoption of the euro. Others, particularly businesspeople and politicians, cited possible conflicts in sectors where Scotland has a disproportionate or different interest from England: 1) Over 60% of the fishing industry is in Scotland; 2) Scottish agriculture is based on sheep and hill-farming on less-favoured land, while England has more prairie farms suited to beef and dairy; 3) Scotland has more peripheral areas than England, creating a greater need for structural funds.

In these cases, there is (and has been?) a danger that the UK argues in the interest of the majority (England) to the detriment of minority (Scottish) interests. For example, a few interviewees suggested the BSE crisis should have been handled as an 'English' crisis because Scotland and Northern Ireland had different regulatory practices. Because one could argue that these cases differ in emphasis rather than substance, the Parliament's ability to implement directives in a manner acceptable to its distinct needs is important. For example, while the Urban Waste Water Treatment Directive requires a certain degree of sewage treatment, a Commission official expected the English and Welsh Authorities to follow the strictest standards and the Scottish Office to seek derogations.

Transparency

Although established structures provide channels of influence, the promotion of Scottish political opinion may benefit most from the very existence of the

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Parliament. Decision-making in Edinburgh and London should become more transparent through the articulation of the Scottish position by the Parliament and media, enabling the Scottish policy community to judge whether the UK Executive acknowledges their policy objectives. While some political observers believe that the UK government has defended Scottish interests in EC policy-making in the past, the closed system and lack of transparency leave others in doubt about the extent of such representation. A senior member of the Scottish Liberal Democrats explained that the Parliament means

we will know what is being said on behalf of Scotland, how loud it's being said, and we'll be able to gauge what effect it's having. And if it isn't having that much effect, we will be able to do something about it because we will have an autonomous political entity to actually do it.

Furthermore, he added, there will be 129 people asking questions in Scotland about the activities of the UK government.

The Parliament can also provide a lobby for Scottish interests by channeling political energy, giving a focus to interests, moving decision-making closer to the people, and serving as another political tool for Scotland to use in lobbying London and Brussels. For example, the Scotch whisky industry believes the UK has set high and indiscriminate taxes. Grant Baird, former Chief Executive of Scotland Europa, recalled that arguing on the industry's behalf in Brussels 'was depressing because on that case the Commission more or less accepted our case but required UK support. ... The Treasury may have accepted our case on Scotch whisky, but it had bigger fish to fry.' Hugh Morison, Director General of the Scotch Whisky Association, hopes the Scottish Parliament will help persuade the UK, explaining: 'we will still approach the UK directly as we have been doing, but we also want the Scottish Parliament to lobby the UK on our behalf'.

Representation

William Paterson noted that the UK's participation in the European Community 'has increased, rather than weakened, a pre-existing Scottish sense of distinctiveness within the United Kingdom' (1994, p. 10). This distinctiveness is likely to be accentuated as the Scottish Executive (perhaps in an attempt to justify its existence) seeks to develop an autonomous voice on European policies, identify issues with a distinctively Scottish component, and implement directives in a different manner from its Whitehall counterparts. The extent to which the UK Executive is seen to incorporate

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Scottish interests in European policy-making may be one of the key factors that determines the success of the new parliament.

Political elites have expressed opposing concerns about the future relationships between the two executives. In the first scenario, some fear that the Scottish Executive will ignore Westminster, instead using the 'Westminster Bypass' to argue every case directly in Brussels. As discussed above, there are various objectives for approaching EC institutions, ranging from providing information to arguing against the UK. Some SNP politicians suggest their desire to pursue a separate case in Brussels if the UK Executive fails to represent their interests, while officials question the success of the practice and warn that it may damage working relations with the UK. The Executive's decision will be a political one, as potential benefits to Scotland must be weighed against potential fall-out. A related concern is that Scotland will become insular in its attempt to solve problems itself, causing several interviewees to hope that the Parliament remains outward-looking and operates on various policy-making levels.

The alternative fear is that Westminster will forget about Scotland, assuming that the Parliament is self-sufficient in devolved areas and failing to include it in discussions about reserved matters. Additionally, Scotland may be less well represented at UK level: the number of MPs is expected to be reduced after the next Boundary Commission review in 2004-5, while the future of its direct link to the UK Cabinet through the Secretary of State remains uncertain. A senior businessman questions whether the UK will be sympathetic to Scottish concerns, fearing that 'devolution will lead to the temptation for Westminster to write Scotland off as a done deal'. This would be a particular problem for businesses, who are still affected more heavily by UK legislation on financial and economic matters than by devolved areas.

Despite the Scottish Parliament's legitimate desire to achieve policy objectives in Brussels, Scotland is only one sector of the UK with England remaining the dominant member in size and population. As a senior official in the Council of Ministers stressed, not only can Scotland not win all its battles in Brussels but neither can the UK. The increased use of qualified majority voting in the Council means that even member states are required to implement legislation that they may have voted against. The key, he stressed, is having one's voice heard during the shaping of legislation. Even if other member states ultimately support the legislation, opponents at least had the possibility of pushing otherwise unfavourable legislation in a more acceptable direction.

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Constitutional Foundation

'Any devolution scheme,' Bates noted, 'must find a balance between the Community legal obligations of the United Kingdom and the freedom of Scottish institutions to exercise their devolved powers' (1997, p. 63). While other member states developed working practices with their 'regions' either before or during the early phases of European integration, this balance may be tenuous in the UK as established procedures for forming policy on EC legislation must now be adjusted to the realities of devolution. Unlike the arrangements in other states, the previous discussion outlined how much of the UK model is reliant upon good will. Although outwardly confident about a willingness to co-operate, many officials privately suggest that Europe may be a problematic aspect of the devolution settlement. Even the Scottish Affairs Committee concluded its review of the devolution settlement by stating that 'no-where is the reliance of the whole devolution package on compromise, goodwill and reasonableness so apparent as in respect of relations with the European Union' (1998, Vol. 1, p. xv).

While piecemeal change fits Britain's tradition of an unwritten constitution, it may prove less effective in devolution. A Glasgow law professor questioned the institutional strength of the settlement, seeing it as 'ad hoc without a constitutional base' and describing it as 'bricks without the cement'. The true test of the structures will be their ability to withstand pressure from different parties in government, enabling analysts to consider whether the system's success necessitates strong structures or simply good-will from those involved. Because officials who drafted the concordats are working under the same Labour-led governments in Edinburgh and London, informal procedures seem likely to guide operations adequately in the first instance. However, it seems inevitable that tensions will increase when parties of differing political complexions are elected. Although the more obvious challenge is a SNP-led government in Edinburgh opposing Labour in Westminster, some have pointed to the potential problems of a Euro-sceptic Conservative UK government.

There are additional questions about the impact of future constitutional reforms. First, a reduction in the number of Scottish MPs in the House of Commons fails to resolve the 'West Lothian Question'. And despite the introduction of (weak and under-funded) Regional Development Agencies in England, the 'English Anomaly' remains. The absence of an equivalent English chamber not only complicates Commons voting procedures on English matters, but also creates the unhealthy situation of English UK ministers wearing two hats in the operation of the JMC and construction of

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EU negotiating lines. Second, the future role of the Secretary of State for Scotland is uncertain; although continuing to represent Scotland in the Cabinet and vice versa, s/he will not have a direct link to the Scottish Parliament. The media reports of 'turf wars' between First Minister Dewar and current Secretary John Reid do not bode well for successful relations when different parties are in office. Third, while the Wakeham Commission report on House of Lords reform did not include a role for the devolved assemblies, it did propose the election of regional members.

In conclusion, the Scottish Parliament has taken its first shaky steps toward establishing and testing institutional practices. However, as it enters a new millennium there remain more questions than answers about its future. Constitutional reform in the UK is occurring amidst wide-ranging changes in Europe, including the introduction of a single currency, impending enlargement, and institutional reform. These events will have political ramifications for Scotland, particularly as some question whether the EU is evolving toward a 'Europe of the Regions', a shift that could influence the political debate about Scotland's future in Europe as either a 'region' within a large member-state or a small independent state. Others, including a senior Irish official, wonder 'whether institutional change in Edinburgh with a focus on European issues [will give] rise to a demand for constitutional change of a kind that would enable Scotland to be more effectively represented in Brussels'. Although the Parliament needs time for its institutions to bed down before considering additional reforms, it seems clear that the Parliament's future will be affected not only by the success of its own structures and the responsiveness of Whitehall, but also by the direction of European policy-making.

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