

HOUSE OF COMMONS  
ORAL EVIDENCE  
TAKEN BEFORE THE  
FOREIGN AFFAIRS COMMITTEE

**THE FOREIGN POLICY IMPLICATIONS OF AND FOR  
A SEPARATE SCOTLAND**

MONDAY 28 JANUARY 2013

(*EDINBURGH*)

NICOLA STURGEON MSP

RT HON DAVID LIDINGTON MP and SIMON MANLEY

Evidence heard in Public

Questions 223 - 375

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## Oral Evidence

Taken before the Foreign Affairs Committee

on Monday 28 January 2013

Members present:

Richard Ottaway (Chair)  
Mr Bob Ainsworth  
Mr John Baron  
Sir Menzies Campbell  
Mr Frank Roy  
Sir John Stanley  
Rory Stewart

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**Examination of Witness**

*Witness:*, gave evidence.

**Q223 Chair:** I welcome members of the public to this sitting of the Foreign Affairs Committee and extend a very warm welcome to our hearings being held here in the very fine surroundings of the Royal College of Physicians in Edinburgh.

Today we will hear from two Ministers, one from the Scottish Government and one from the UK Government, on the foreign policy implications of Scottish independence. This is our fourth and final oral evidence session on this topic, and in the coming months we will scrutinise all the evidence we have received and then produce a report to inform the public and politicians on both sides of the border. Independence is rightly a subject that people of all political persuasions feel passionate about, but we are not here today to score party political points. We are here to gather facts and to listen to opinions and hopefully in the process we might contribute to the vibrant public debate in this area.

Our second witness, later this afternoon, will be David Lidington, the Minister of State in the Foreign and Commonwealth Office. Before we hear from him, we are delighted that the Deputy First Minister, Nicola Sturgeon MSP, was able to accept our invitation to give evidence and is here to join us today. Deputy First Minister, thank you very much for coming. Is there anything you would like to say by way of an opening statement?

**Nicola Sturgeon:** No, I am happy to go straight into discussions. I would echo your opening remarks that independence is something that many people feel very strongly about. I agree with you that we want an open and very informed debate and I hope our discussions this afternoon contribute to that. I am very much looking forward to our discussions.

**Q224 Chair:** Hopefully we can continue in that tone. Let me open the batting then. We have heard in evidence it is likely that Scotland would seek to pursue a very different type of foreign policy to that of the UK. Is that an accurate assessment?

**Nicola Sturgeon:** Scotland's foreign policy objectives would be to advance our economic interests, to protect our citizens and our assets and, thirdly, we would want to play a responsible role as a good global citizen, contributing to peace across the world. There are issues, I am sure, where we would take a different view to not just the Government of the rest of the UK but other Governments across the world. If you cast your mind back the last few years, while it is impossible to be certain about these things in retrospect, I think there is a fair

view—and certainly if my own party had been in government in Scotland and Scotland had been independent at that time—that we would have taken a very different view over the war in Iraq. But that is to emphasise the differences. I think that Scotland and the rest of the UK would have a very close and constructive relationship. On many issues of foreign policy we would probably have very similar views and interests and could work together to advance those.

**Q225 Chair:** Thank you. Can we explore the legal status of the rump UK and Scotland in the event of Scottish independence? As I understand it, you have asserted that Scotland would be a co-equal state to the RUK in the event of independence. Have you had legal advice on that particular point and, if so, what is the legal advice?

**Nicola Sturgeon:** Firstly, the position of the Scottish Government is that we think there is a strong argument in favour of the principle of state succession. It was a view that I know was put to the Committee by at least one of the witnesses that gave oral evidence to the Committee, Dr Blick.

**Chair:** Several of them.

**Nicola Sturgeon:** There were other witnesses in both oral and written evidence who articulated a similar view. To quote Dr Blick, “There is a legal case for saying the UK is dissolved and there are two successor states”. The Vienna Convention, although not ratified by the UK, clearly sets out some legal principles that would back up that position. Interestingly, the UK Government, at least implicitly and I would put it no more strongly than that, would seem to think there is some kind of principle of succession when they talk about the apportioning of liabilities to an independent Scotland. But in reality my very strong view is that these are not matters that will be determined by law. If you take the EU, for example, even if they were to be determined by law they would be determined by reference to European law and by reference to European treaties rather than general principles of public international law. But in reality these are matters that will be settled by politics, by negotiation, by realpolitik, by common sense, by mutual interest, and I think that is the position that would pertain.

**Q226 Chair:** What will be the status of the RUK and what would be the status of Scotland?

**Nicola Sturgeon:** I have said and I accept that there is ambiguity in terms of international law. Just as I have articulated a position in favour of the principle of state succession, I appreciate that there are witnesses who have given evidence to you and there are experts in international law who would take a different view. If you look at precedent, in the case of the dissolution of Czechoslovakia we had the Czech Republic and Slovakia as two co-equal successor states. In the case of the dissolution of the Soviet Union, we had a very different situation where the Russian Federation became the continuing state. So, precedent would lead you in different directions. I have said that there is a strong case to be made for the principle of successor state but I have also said that in reality, and precedent would bear this out, particularly when you consider that in light of the Edinburgh Agreement, what we are engaged in in Scotland is an agreed consensual—at least in terms of the process if not in terms of the outcome—and constitutional process, I think these matters would be determined by a mature and sensible discussion between Scotland, in the event of a yes vote, and the rest of the UK.

**Q227 Chair:** When you say you think you would be a successor state, what exactly do you mean by that?

**Nicola Sturgeon:** For example, just as we would inherit the liabilities, a share of the liabilities of the UK, and I have never heard—

**Chair:** In foreign policy terms?

**Nicola Sturgeon:** Well, if you let me complete my answer. I have never heard anybody in the UK Government suggest that we would not have to take a share of those liabilities, and so too would we inherit treaty obligations and so on. That is a reasonable position to articulate. What I am saying is that, as has been the case in other cases, particularly as in our case when you have a very agreed consensual, constitutional process for Scotland becoming independent laid down by way of the Edinburgh Agreement, we would have these things settled not by reference to law but by reference to political discussion and negotiation.

**Q228 Chair:** Are you aware of any other states that support you in that?

**Nicola Sturgeon:** I have cited the position of Czechoslovakia. I am not suggesting—

**Q229 Chair:** Has Czechoslovakia either rung you up or written to you and said, “We are with on you this”?

**Nicola Sturgeon:** No. You will appreciate, I am sure, that other states across the world are not particularly keen to involve themselves in the domestic debate within Scotland and the UK. I have cited a precedent that would say that where there is agreement between two particular states that is a perfectly reasonable way to proceed. I understand that on the day the Czech Republic and Slovakia became independent the UK wrote to both of them saying that treaties, for example, that had been between the UK and Czechoslovakia were now between the UK and the Czech Republic and the UK and Slovakia. What I am saying is that that is a perfectly reasonable way of proceeding. There is precedent for it. But we are engaged in a democratic process. Any discussions that follow a yes vote—and for the purposes of these discussions I suppose we are assuming the vote will be in favour of Scottish independence—would be against the backdrop of Scotland having democratically decided to vote for its independence. I think we would have a reasonable and consensual negotiation with the rest of the UK that would resolve these matters.

**Q230 Chair:** You are aware that the RUK would argue that they are the continuing state and you would be the succeeding state. What is your reaction to that?

**Nicola Sturgeon:** I am aware that is their argument.

**Q231 Chair:** Do you think they are wrong?

**Nicola Sturgeon:** I conceded, and I made the point a couple of answers ago, that international law—I would be interested to hear anybody argue that the position in international law was absolutely unambiguous and settled on this issue. That is their opinion; I take a different opinion. But the point I am making is that I do not think these matters ultimately are settled by reference to law. They would be settled by a process of discussion and negotiation. That is what has happened in other examples in not too distant history.

**Q232 Chair:** By saying that these can be settled by good men and true sitting down and having a mature conversation—

**Nicola Sturgeon:** There might be a couple of women involved as well, you never know.

**Chair:** —and women as well, of course, in a way you are not committing yourself to any particular course of action here. You are just saying, “We will sit down and talk about it.”

**Nicola Sturgeon:** I am saying very clearly that I think—you started by asking me what my view was on the legal position and I have answered that.

**Q233 Chair:** I am just clarifying that that is how it is.

**Nicola Sturgeon:** I have accepted that others will take a different view on the legal position, and I have said that in the event of Scotland voting yes there would be a process of negotiation with the rest of the UK that would not only be in the clear interests of Scotland but in the interests of the rest of the UK.

Remember we are engaged here in a democratic process. The process of the referendum has been set out in the Edinburgh Agreement, an agreement between the Scottish Government and the UK Government that, if we cast our minds back to this time last year, many people would have said could never have been achieved between two Governments that were at polar opposites in terms of their view of the independence question. We did achieve that, because we recognised that, notwithstanding our political differences, we had an obligation to settle these matters in the interests of the people we represent. If Scotland votes yes in the referendum, I am pretty sure that is the spirit and approach that would be taken to the negotiations that will allow Scotland to make the transition to being an independent country.

**Q234 Chair:** If that was to happen and you became a co-equal on this, would you be prepared to take on some of the RUK's international obligations?

**Nicola Sturgeon:** If I am arguing the position of co-equal states, either in legal terms or in practice—you would have to be specific if you wanted me to answer that question specifically—it follows from the position I am taking that we would inherit not just rights but obligations as well.

**Q235 Chair:** Are you aware how many treaties the UK has at the moment?

**Nicola Sturgeon:** Yes. There are several thousand treaties.

**Chair:** 14,000.

**Nicola Sturgeon:** I have given you a precedent of the case of Czechoslovakia, which I am not arguing is an absolute parallel or analogy but a situation where one country became two countries. I have given you the example of how the UK treated the position of treaties and I am sure other countries did similarly. I am simply saying that where there is a democratic expression of the public will, which if people vote yes in 2014 will be the case, these things can be managed in an orderly process.

**Q236 Chair:** I hear what you say about Czechoslovakia. As I said, we have not come here to argue with you, just to hear your point of view and to hear what your approach would be in the event of a yes vote. I am trying to get some clarity as to what your approach is to international organisations. Would you believe that you have the same rights under all international treaties and fulfil all international obligations?

**Nicola Sturgeon:** If you flow from the principle of state succession, the conclusion you reach is that we would inherit the treaty rights and obligations of the UK. The EU is governed by a body of law that is a body of law in its own right and the position there is different. I am sure we will come on to the EU in detail later on.

**Q237 Sir Menzies Campbell:** The Chairman began by asking you if you had taken legal advice on any of these matters. Can I ask you, in view of the controversy that has surrounded the question of legal advice in recent months, whether the Government formally took legal advice from the Law Officers or from any independent legal source?

**Nicola Sturgeon:** You know the position in terms of the Ministerial Code with not confirming the fact or content of advice from Law Officers. I understand that is the position at

Westminster as it is in the Scottish Parliament. I got the permission of the Lord Advocate in relation specifically to Scotland's continuing membership of the European Union and told the Scottish Parliament back in October last year that we had, at that point, decided to seek legal advice on that particular point. Separate to that, there is a weight of legal opinion, as I said to the Chairman earlier on, in both directions over the issue of state succession or whether you have a continuing state and a new state. That is publicly available for members of this Committee as it is for others.

**Q238 Sir Menzies Campbell:** I was not seeking to invite you to breach the Ministerial Code, otherwise you might find yourself the victim of one of these investigations that appear to take place in the Scottish Parliament from time to time. I am merely asking, as a question of fact, whether legal advice has been taken from any source other than the Scottish Law Officers?

*Nicola Sturgeon:* We ask for legal advice on these matters from our own Scottish Government Legal Directorate from time to time. We have had a discussion, in the context of European legal advice, about the process that we go through with major documents in terms of that process and, separately to that, there is a wealth of publicly available legal opinion.

**Q239 Sir Menzies Campbell:** So is the answer to my question, no, you have not taken—

*Nicola Sturgeon:* We take advice from our Scottish Government Legal Directorate on a range of issues, including the issues under discussion today.

**Q240 Sir Menzies Campbell:** Is the answer to my question as to whether you have taken independent legal advice on these matters, no?

*Nicola Sturgeon:* What is your definition of independent legal advice?

**Sir Menzies Campbell:** Other than the Scottish Law Officers.

*Nicola Sturgeon:* I have already covered the Ministerial Code point on that. I do not have—

**Q241 Sir Menzies Campbell:** It is not what the advice would be, Ms Sturgeon.

*Nicola Sturgeon:* If you put the Law Officers to one side, because I have made the point about the Ministerial Code, I do not have an independent legal opinion sought by the Scottish Government on this specific issue. I do have, as you do, as every member of the public who is interested does, access to the opinions that have been given to this Committee and more widely on these issues.

**Q242 Sir Menzies Campbell:** So the answer to my question is, “No, the Government has not commissioned independent legal advice”?

*Nicola Sturgeon:* I think I have answered your question fairly clearly.

**Q243 Sir Menzies Campbell:** I am having some difficulty following. Is the answer to my question that, apart from the legal advice obtained from the Law Officers and from a general review of what other advice is around and about, the Government has not taken any legal advice on any—

*Nicola Sturgeon:* I do not have an independent—

**Sir Menzies Campbell:** It is helpful if you let me finish the question. The Government has not taken any legal advice from any other independent source? You have not commissioned legal advice from any other source?

*Nicola Sturgeon:* I have not got an independent legal opinion.

**Sir Menzies Campbell:** Thank you.

**Nicola Sturgeon:** But I am not answering your question on Law Officers because the Ministerial Code does not permit me to do so.

**Q244 Sir Menzies Campbell:** I am not inviting you to breach the Ministerial Code.

**Nicola Sturgeon:** I think when you started you probably were, but we will agree to differ on that point.

**Sir Menzies Campbell:** Well, you must rely on my own understanding of my own intention.

**Q245 Mr Roy:** Deputy First Minister, you are on record in the Scottish Parliament as far back as December 2007 with the following quote, “It is the clear view of the Scottish National Party and the Government that Scotland would automatically be a member of the European Union upon independence. There is legal opinion to back that up and I do not think that the legal position is in any doubt.” What has changed your mind?

**Nicola Sturgeon:** There is a wealth of opinion from different experts, legal experts and experts on European Union matters, that would say that Scotland would continue to be a member of the European Union. So, in that respect, I have not changed my mind. I think Scotland would continue to be a member of the European Union.

**Q246 Mr Roy:** Would you be prepared to stand up in the Scottish Parliament tomorrow and say exactly what I have just read out, that it would be an automatic member of the European Union? Deputy First Minister, I am surprised you do not wish to accept that is absolutely not the case and, quite frankly, none of my constituents in Motherwell and Wishaw would believe a stance that thinks Scotland would automatically, without negotiation, become a member of the European Union. Surely, the First Minister has changed his mind as well.

**Nicola Sturgeon:** I set out very clearly the position of the Scottish Government in the statement I made to the Scottish Parliament on, I think, 12 December—I can’t remember the exact date—where I set out the position as being if Scotland votes yes at the end of next year in the independence referendum there will be a period between then and Scotland becoming independent in 2016, in time for the next Scottish elections, where we will be negotiating our independence with the UK Government. As I have said, in parallel to that, there will be a process of negotiation with the European Union around the terms of our continuing membership of the European Union.

**Q247 Mr Roy:** Is that not a case of political position? I am asking about legal position.

**Nicola Sturgeon:** We have covered my views in terms of the successor state. I am saying that I think that would be the position. I believe Scotland would continue to be a member of the European Union on a continuing basis. Between 2014 and 2016 we would still be within the UK, so—

**Q248 Mr Roy:** Is that a political belief or a legal belief?

**Nicola Sturgeon:** I think that is a legal and a political belief. In that period, we are still a member of the UK, so by definition, unless the UK’s exit from the European Union is coming forward into that period, which I do not believe to be the case, we would still be a member of the European Union. We would negotiate the terms of our continuing membership in that period. The point I am making is that that does not involve any break in Scotland’s membership. The treaties of the European Union provide absolutely nothing that would allow any member state or part of a member state, because it had exercised its democratic right to

self-determination, to be somehow cast outside. I think it is article 50 of the Treaty of the European Union that deals with the position where a state wants to leave. That, in itself, is a very lengthy and complicated process.

So, our position is very clear. The terms of our continuing membership would be negotiated in that intervening period. By definition, we are still a member of the European Union during that and, therefore, there would be no break in our membership.

**Q249 Mr Roy:** Has any European Minister or Prime Minister or whatever given their word on what you just said, that the relationship to Scotland would continue? Has anyone come to you, Deputy First Minister, and said, for example, “We got in a shambles in Ireland over the last couple of days. Someone was saying one thing, the Minister was saying another.” This is your chance to go on the record. From which country did a Minister come and tell you that, yes, Scotland would continue to be a member of the European Union?

**Nicola Sturgeon:** I do not have the emails you wrote me on Saturday in front of me just now but it is in the public domain so you can check it yourself. I think the phrase used by the Irish Minister for European Affairs in the email she wrote me was she thought the position that I have just outlined to you sums up the position extremely well.

**Q250 Mr Roy:** She did use the words, “the need to apply”. Would you take that as being a need to apply?

**Nicola Sturgeon:** Scotland is not a country that would be, if we became independent, in the same position as Croatia is just now, for example, a country coming from outside the European Union and applying to be within the European Union. We have been members of the European Union for 40 years. Our citizens have been citizens of the European Union for 40 years. We have accrued rights and responsibilities in terms of European Union membership. Citizens of other member states have accrued rights and responsibilities vis-à-vis Scotland. There are many thousands—I am sure some of your constituents, Mr Roy—who come from other member states. Is anybody suggesting that they would overnight, because Scotland decided to vote for independence, lose those rights?

**Q251 Mr Roy:** They suggest that Scotland would not remain a part of the European Union without negotiating.

**Nicola Sturgeon:** I am not quite sure who you are quoting there, and I have said that there would be negotiations—I said that a moment ago—but the point I am making is that Scotland would negotiate the terms of its continuing membership from within the European Union. I come back, not today because we have not discussed this, to a point I have made several times in other forums. We come back to a very real political, economic and social point. Is anybody really credibly arguing that other parts of the European Union would not welcome Scotland with all the assets and resources and perhaps relative enthusiasm?

**Q252 Mr Roy:** Have you spoken to them, because surely you cannot say that without—I am sorry but you cannot speak on behalf of 27 or 20 different nations.

**Nicola Sturgeon:** I am not speaking on behalf of other Governments.

**Mr Roy:** You have just told us you didn’t speak to them so surely you are not able to speak for them.

**Nicola Sturgeon:** I am not speaking on behalf—I did not say I was speaking on behalf of other Governments.

**Mr Roy:** You made the supposition.

**Nicola Sturgeon:** I am asking whether the person in the street or anybody in other member states is anybody really suggesting that Scotland would not want—you are

suggesting that we would have a bizarre situation where the rest of the UK, which has at least elements of its Government that seems desperate to put it on the path out of the European Union, would be fine to stay in but Scotland, where its current Government thinks that we have a big contribution to make and a lot to offer the European Union, would somehow be cast adrift. I do not think that is politically credible as an argument.

**Q253 Mr Roy:** Now we know that you have changed your mind in relation to when you said five years ago that no negotiations were necessary and you are now saying that there will be negotiations, can I take you to the legal advice and the independent advice that has been brought up? I understand that the Government has asked for legal advice because they have to make decisions, and I fully understand that. But in the case of the referendum on separation and independence for Scotland, it is the Scottish people that has to make the decision. Do you not think, therefore, that there is a case to make your legal advice or independent advice available to members of the public? Surely to ask people to make that decision by showing them the sort of advice that the Government has, so that they can make the proper decision, is the right way forward.

*Nicola Sturgeon:* Let me say three things in response to that, and I am genuinely trying to be helpful to you here. Firstly, I do not know if you are familiar with the Scottish Ministerial Code—you are undoubtedly more familiar with it—but you will know in the Scottish Ministerial Code that I could not make advice from Law Officers public without the permission of Law Officers. Secondly, though, and I think this probably is the more material and substantive—

**Q254 Mr Roy:** Would you be prepared to ask them?

*Nicola Sturgeon:* Can I just finish the points I am going to make? The second and more material point is that the First Minister has said in Parliament, and I am sure I have said on a number of occasions, that everything we say in the White Paper we publish will be consistent with the legal advice we have, not just on this issue but consistent with any legal advice that we have on any issue, because I think the central premise of your question is correct. People have a right to know that that White Paper is consistent with any legal advice.

The third point I would make goes more to your general point about the interests of an open and informed debate. I agree with you on that, which is why I have made very clear that on a range of issues that will fall to be determined should Scotland vote for independence, I would be very happy, indeed very keen, at this stage to sit down with colleagues in the UK Government, in the same spirit that we negotiated the Edinburgh Agreement, and look at what those issues are.

**Q255 Mr Roy:** That is not the question I asked you. The question I asked you, Deputy First Minister, is: would you be prepared to publish the advice given so that, in this case, it is not the Scottish Government that is making the decision, it is our constituents who will be making the decision on independence? Therefore, we should publish it.

*Nicola Sturgeon:* When I receive legal advice, these are considerations that we will make at the time, but it is a very long-established principle that legal advice from Law Officers is not published. That has been a position not just for the Scottish Government, but what I have said is that the position that we take in the White Paper on this and any other issue will be consistent with legal advice that we have. That is the position, again, that we have made clear on a number of occasions.

**Q256 Mr Roy:** In relation to when you were talking about the rest of the UK and the European Union, what happens, for example, if the rest of the United Kingdom vote to leave

the European Union and we, in Scotland, have decided that we want to use sterling as the currency? Do you think, for example, an independent Scotland, within the European Union, would be allowed to use the currency of the rest of the United Kingdom who had just voted to go out? Do you think that that would be allowed?

**Nicola Sturgeon:** I don't see why not. I can't speculate and there are a number of assumptions and ifs in the proposition you have just put to me; the assumption that the Tories win the next election, they win it with a majority, they have a referendum, people vote to come out. There is a lot of speculation—

**Mr Roy:** You are making an assumption that people will vote for independence.

**Nicola Sturgeon:** But it is a bit closer. Anyway, I take that point. There is a lot of speculation you are asking me to do there. But the rest of the UK is not in the euro, and I am sure we will come on to this point. It is not the intention of the Scottish Government that Scotland would be in the euro, so we would both be in sterling and the currency position in my view would not be affected.

**Q257 Mr Roy:** What happens if one of those countries, the rest of the UK, was not in the European Union any more? Surely that would leave an independent Scotland high and dry within the European Union because surely they would not be allowed to use a currency from outwith the Union?

**Nicola Sturgeon:** I do not know what the basis of that assumption you are making is. We would be in a sterling currency zone and, given that the UK is not in the euro just now, many things would be affected by a decision of the UK to come out of Europe. I think it would be a mistaken decision in terms of the economic and trade interests of the rest of the UK, but one thing that would not be affected was its currency because it is not in the euro.

**Q258 Sir John Stanley:** Minister, do you accept that if Scotland becomes an independent state there is no existing legal provision in the EU treaties under which Scotland would have an automatic legal right to become an EU member state?

**Nicola Sturgeon:** What I do accept is the treaties do not expressly cover the point of part of a member state becoming independent. But the other point I would make is, you can pore over the treaties of the European Union endlessly and you won't find anything that allows part of a member state to be put outside the European Union because it votes for independence. In fact, as I said earlier on, the only treaty provision that deals with a member state leaving deals with a member state that decides to leave and the provisions make it quite a difficult and lengthy process to come out of the European Union.

The treaties are silent on this matter, which leads me to the point that this would be a matter of negotiation. It would be a matter of negotiation against the backdrop of a democratic vote in Scotland. For all the faults that people may accuse the European Union of, I do not think one of them is that it has not demonstrated respect for democracy and the rights of self-determination, the point being that Scotland is a valuable and valued member of the European Union. I am absolutely confident that Scotland would continue to be a member of the European Union, albeit that there would be a negotiation in terms of the specific terms, for example our voting strength and the number of members of the European Parliament that we might have.

**Q259 Sir John Stanley:** Thank you for confirming, entirely correctly in my view, that the treaties are silent on this key legal issue for an independent Scotland.

**Nicola Sturgeon:** In both directions.

**Sir John Stanley:** In both directions, yes. Can you also confirm that the treaties are not silent on another key issue, that the treaty would put an obligation on an independent Scotland, if she became an EU member state, to join the euro?

**Nicola Sturgeon:** Scotland would not be in the position of being a new member state in the sense that we would be like Croatia coming in from outside. We are already in the European Union. The position that we would be arguing in terms of the euro, for example, would be a continuation of the status quo. Scotland is not currently in the euro and we would be arguing that that status quo should continue as we went from being a member of the European Union as part of the UK to being a member of the European Union as an independent country. We would be arguing for the continuation of the status quo and I am not sure what other countries would find to object to that.

My secondary point is to say that—notwithstanding anything in terms of treaty provisions that are real, live, living examples within the European Union right now today that make the point, and back up the point I am about to make—no country can be made to go into the euro against its will. Sweden is technically obliged but because some of the steps towards joining the euro—it is not an automatic process—such as membership of ERM II for example, are voluntary, Sweden has not, cannot and will not be forced into the euro against its will. So, there are no circumstances that I can see that would have Scotland ending up in the euro when the Scottish Government of the day did not want it to be in the euro.

**Q260 Sir John Stanley:** But you would accept that under the existing treaty, as far as new member states are concerned, which would be Scotland's position, she would have to accept a treaty obligation to join the euro at some future date?

**Nicola Sturgeon:** I do not accept that Scotland would be a new member state. We would be a continuing member state. We would go from being a member state as part of the UK to being an independent member state. I do not believe that puts us in the same position as an accession state coming in from outside. But that aside, the statement of fact I am making is that, notwithstanding the point you are putting to me about treaty obligations, Sweden is an incontrovertible example of the point I am making, that no country can be compelled to join the euro against its will. There is, at the very least, an implicit acceptance across the European Union that that is the case. David Cameron recently made the point that Europe can't compel countries to take part in particular parts or particular factors of European Union membership when they do not want to.

**Q261 Chair:** Minister, that pre-supposes that it is accepted that Scotland is a continuing state. If it is not accepted and you have to apply, then your argument on the euro falls down—a question mark.

**Nicola Sturgeon:** To be fair, I covered both scenarios. Yes, I made the point that I do not accept we would be a new state. What we would be arguing in terms of the euro was a continuation of the status quo. But I also made the point, to take Sir John's point about treaty obligations, that Sweden makes the argument that you cannot be compelled to join the euro. It is not an automatic thing that new countries, even if we were talking about a new country scenario, join the euro. There are conditions that have to be met and at least some of those conditions are voluntary on the part of member states.

**Q262 Chair:** But you do accept the point I have just made, that if it is not accepted you are a continuing member—

**Nicola Sturgeon:** No.

**Chair:** You do not accept that?

**Nicola Sturgeon:** No, because that is when the Swedish example—

**Q263 Chair:** If you have to apply, then the EU can make it a condition of membership that you have to—

**Nicola Sturgeon:** I do not accept that, but for the purposes of the argument, if you are right, that is when the Swedish example comes to the fore. Notwithstanding treaty obligations, Sweden is the example that Scotland or any other country can't be forced to join the euro.

**Chair:** Yes I get it. I hear that, yes.

**Q264 Sir Menzies Campbell:** May I go back to the negotiating period after a favourable answer, so far as you are concerned, to the referendum, and negotiation, I think you said, for up to two years. Would you anticipate that that period of negotiation would necessarily be followed by a treaty change?

**Nicola Sturgeon:** It is possible, but I think it would be technical, because our argument would be that Scotland should continue in membership on the same basis that we are members just now. We are not arguing, we would not be arguing for any change in Scotland's current relationship with Europe. We would be arguing to continue the position on the euro, on Schengen, for example, but these are not changing Scotland's current relationships with Europe, they are simply continuing the status quo. As I think I said in response, I can't remember if it was to Mr Roy or Sir John, in terms of our representation in the European Parliament, I think it is reasonable to expect that Scotland's representation would increase and, therefore, that may result in technical changes.

**Q265 Sir Menzies Campbell:** So you accept that treaty change may be necessary?

**Nicola Sturgeon:** I think that is what I just said, but on technical matters, not on substantive. Not in the same way that you would have if there was an accession situation such as we have right now with Croatia.

**Q266 Sir Menzies Campbell:** You know, of course, that the membership of the Parliament is capped. If Scotland were to be given an enhanced number of MEPs, as you suggest, then that could only be at the expense of some other country.

**Nicola Sturgeon:** I would think Scotland and the rest of the UK would have a joint interest here in resolving this matter quickly. It is reasonable that, as the representation for Scotland might increase, you would see a reduction in the rest of the UK. But I am sure that is a matter we would discuss and negotiate and be one of the issues that was resolved in that way.

**Q267 Sir Menzies Campbell:** So you would expect the rest of the UK to agree to a decrease in its representation in order that Scotland should have an increase?

**Nicola Sturgeon:** If you look at other parts of Europe, countries of similar size to Scotland—and this is the basis on which I am saying there may be an increase in Scotland's representation—it would suggest that we would have higher representation than we do just now. But these are matters that, with other matters, would be subject to discussion, and I am sure constructive and friendly discussion, between ourselves and the rest of the UK.

**Q268 Sir Menzies Campbell:** On the matter of treaty change, you accept that such treaty change has to be unanimous within the union?

**Nicola Sturgeon:** Well, where political agreement is reached, then that aspect, I think, would follow. Again, I come back to the point—

**Q269 Sir Menzies Campbell:** It is a matter of law. I am asking you if you understand the legal position to be that treaty change is required to be unanimous.

*Nicola Sturgeon:* I do absolutely understand it. I am not arguing with the position you are taking, but I come back to the point that, is anybody seriously arguing that other countries would somehow want to block the position of a newly independent Scotland that had democratically voted to be independent from being a continuing member of the European Union when we bring the assets to Europe that we do, when the citizens of their countries enjoy rights in Scotland? I find that an incredible political notion.

**Q270 Sir Menzies Campbell:** You have talked, as indeed in your last answer, about all this being resolved by political good will, but politics may operate in the other direction. For example, Spain has some reservations about the idea of independence for some of its present provinces. Is it not at least possible that the Spanish Government or the Government of some other country, concerned about the possibility of secession, might block any effort to give effect to the negotiations you have described, for purely political reasons?

*Nicola Sturgeon:* I noted some time ago a comment by I think it was the Spanish Foreign Minister that made clear that as long as what happened in Scotland was the result of a constitutional democratic process, Spain would have—I think the quote was along the lines of—nothing to say about that. You can also put into the other part of the equation of what you have just said to me, the fact that Spain and other countries benefit from the resources that Scotland brings to the European table in terms of energy and fishing, for example. The point I am making to you is that I do not accept that Scotland would not be welcomed as a continuing member of the European Union by Spain or by any other country.

**Q271 Sir Menzies Campbell:** Any question of legality really has to be subordinate to that overall belief of yours?

*Nicola Sturgeon:* If I understood you correctly, Sir Menzies, I do not think you were making a legal point. I think you were making a political point that Spain would somehow want to block Scotland for political reasons.

**Q272 Sir Menzies Campbell:** Using a legal mechanism for the purpose. The legal mechanism—

*Nicola Sturgeon:* Yes, but I am saying I do not envisage the circumstances in which they would want to do so for those reasons.

**Q273 Sir Menzies Campbell:** I see. Very well. Can I ask you one other point before moving on to the question of NATO? I understand your stance on the issue of Law Officers' advice and that, of course, applies to the Government. Once the referendum campaign begins it will no longer be the Government that is campaigning for a yes vote, it will be the Scottish National Party. In those circumstances, you would not expect the Scottish National Party to be bound by any question in relation to legal advice, would you?

*Nicola Sturgeon:* My answer on the legal advice was in relation to the White Paper when I said, and I will repeat, that everything in that White Paper will be consistent with any legal advice we have. That will be a Scottish Government document and informed by any legal advice that the Scottish Government has.

**Q274 Sir Menzies Campbell:** But I am asking you to look forward. After the publication of the White Paper and at a time no doubt yet to be fixed, the campaign for a yes vote will begin. At that point a number of issues will arise about the amount of money that can be spent, things of that kind. But it will be the Scottish National Party that will be

campaigning for a yes vote. Is there any reason why the Scottish National Party should not make available any legal advice that it may have obtained?

**Nicola Sturgeon:** If the Scottish National Party, as opposed to the Scottish Government, has legal advice that is pertinent and wants to make it available, then you are absolutely right. But we were talking, as I understood it, in the context of Scottish Government legal advice.

**Q275 Sir Menzies Campbell:** I want to ask you some questions, if I may, about NATO. I wondered if you would mind if I read something to you for a moment. “Deterrence, based on an appropriate mix of nuclear and conventional capabilities, remains a core element of our overall strategy.” Are you familiar with that statement?

**Nicola Sturgeon:** I believe it would probably come from the NATO Strategic Concept, similar to the statement that says, “NATO seeks its security at the lowest possible level of forces... We are resolved to seek a safer world for all and to create the conditions for a world without nuclear weapons”. The Scottish Government’s position on nuclear weapons is clear. The vast majority of NATO member states are not nuclear powers. The vast majority do not host nuclear weapons on their territory and Scotland would, therefore, be looking to be with the majority in that respect, not the minority.

**Q276 Sir Menzies Campbell:** But all of those who signed the Strategic Concept in Lisbon on 19 and 20 November 2010 subscribed to a Strategic Concept that said “an appropriate mix of nuclear and conventional capabilities”. Do you accept that?

**Nicola Sturgeon:** I accept you have read me out the NATO Strategic Concept. Similarly, I read you out other sections from the NATO Strategic Concept. I am making the point that it is absolutely—if what you are saying to me is you can’t be a member of NATO—

**Sir Menzies Campbell:** No, I am not saying that at all but—

**Nicola Sturgeon:** Well, you don’t know what I am about to say.

**Sir Menzies Campbell:** Please don’t anticipate my questions.

**Nicola Sturgeon:** I was saying, if what you are putting to me is that it is inconsistent with NATO membership for Scotland, certainly for the position of the Scottish Government and the party that I represent that has strong anti-nuclear credentials—I understand there are some in your own party that have strong anti-nuclear credentials as well—then I am simply making the point that countries like Norway that are just as strongly anti-nuclear do not seem to take the same view.

**Q277 Sir Menzies Campbell:** But they signed the Strategic Concept in Lisbon in 2010.

**Nicola Sturgeon:** I do not think I denied that. I am just making the point that the vast majority of NATO member states are non-nuclear countries.

**Q278 Sir Menzies Campbell:** The fact they are non-nuclear does not necessarily mean that they do not subscribe to the core strategy, does it?

**Nicola Sturgeon:** I am not disputing the fact that they signed the Strategic Concept. I am simply making the point that it is arguably more normal than the other position to be non-nuclear in NATO than to be nuclear in NATO.

**Q279 Sir Menzies Campbell:** I understand your enthusiasm to get the qualification in before giving the answer, but can I just come back to the point, if I may, that this is an alliance based, in part, on nuclear deterrence. If you are correct that you are a continuing state then you have, by virtue of that continuance, subscribed to that core purpose.

**Nicola Sturgeon:** I am talking now of my party rather than the Scottish Government, and I am sure you all followed the debate on this matter—at least some of you probably followed the debate at our conference last year. We have made very clear that we want to continue to be a member of NATO but on the condition that we do not host nuclear weapons. I think that is our clear position. Why do we think that it is right to be in NATO on that basis? It is related to the geostrategic interest we have shared with our North Sea neighbours, the majority of whom are NATO members and the majority of whom, if not all of whom, are non-nuclear NATO members.

**Q280 Sir Menzies Campbell:** Are you familiar with article 5 of the North Atlantic Treaty?

**Nicola Sturgeon:** I am familiar with it. I am also familiar that it is invoked by unanimity.

**Q281 Sir Menzies Campbell:** But are you familiar with the fact that the principle it lays down is, an attack on one is an attack on all?

**Nicola Sturgeon:** Yes. I think it has only been invoked in relation to the attack on the Twin Towers. It is invoked by unanimity. Even if it is invoked, as I understand it, it does not require any member states to take part in any particular action that flows from that, as is evidenced by some of the recent conflicts we have seen.

**Q282 Sir Menzies Campbell:** But do you accept the principle behind article 5, an attack on one is to be deemed as an attack on all?

**Nicola Sturgeon:** I accept and understand the point you are making about article 5, yes.

**Q283 Chair:** Does your opposition to nuclear weapons also extend to chemical and biological weapons?

**Nicola Sturgeon:** We are not in favour of chemical and biological weaponry generally speaking, yes.

**Q284 Chair:** But being kept in Scottish territory if you were independent?

**Nicola Sturgeon:** In terms of our NATO membership, the principle position we have taken is that we would be members of NATO on the condition that we did not host nuclear weapons but we—

**Chair:** To which my question was—

**Nicola Sturgeon:** No, I was trying to answer your question. The particular motion that I am referring to does not refer and does not have that same conditionality around chemical and biological weapons, but we would strongly want to be part of international efforts with the world of chemical and biological weapons as we would with nuclear weapons.

**Q285 Chair:** But if they were part of a military stock, would you agree to it being kept on Scottish territory?

**Nicola Sturgeon:** We would not be of the view that we would want to have that, no. But we have not made it—I am trying to answer your question.

**Q286 Chair:** So that is a, “No, you would not agree”?

**Nicola Sturgeon:** The point I am making is the conditionality we have attached to membership of NATO is to nuclear weapons and we have been very express about that.

**Q287 Mr Baron:** Deputy First Minister, the Foreign and Commonwealth Office would argue that Scotland's interests are better represented within the United Kingdom because of the UK's influence and extensive trade and diplomatic networks. We will have the opportunity for questioning the Europe Minister later on in the session to ask him to substantiate that point. But can I ask you, if I may, with regard to Scotland's influence within the EU, what is your assessment of the changes to the legislative proposals when it comes to passing measures from 2014 onwards?

*Nicola Sturgeon:* You are referring to the double majority change?

**Mr Baron:** Yes.

*Nicola Sturgeon:* 55% of the states, 65% of the population? That is a change that has been determined and I accept that is the direction of travel within the European Union. I was reading some research over the weekend that has just recently been published—I certainly can make the link available to the Committee—that suggests that historically small states in Europe have been more successful in negotiating legislation, for example, than some of the larger states, which I think would support the contention that states can be influential in Europe notwithstanding the relative smallness of their territory or population. As we alluded to earlier on, I spent Friday in Dublin, a small independent country that is currently holding the presidency of the European Union. So, small states have an influence and it is an influence Scotland would look forward to exercising as well.

I think you are probably about to say to me the move to double majority reduces the influence of small states, and I think that is arguable, but you have to put it in the context of Scotland's current position. Scotland's current position, of course, is having extremely limited influence on many matters, virtually no influence right now as part of the UK, directly, in terms of the European Union. Scottish Government Ministers are not free to represent Scotland's interests without reference to the UK and the Council of Ministers on issues like fishing that are extremely important to our national interest.

My argument is that if Scotland was independent, whether it is under the current voting arrangements or under the double majority arrangements that Europe will move to from 2014 onwards, we will have significantly more influence than we do just now.

**Q288 Mr Baron:** It is an interesting assertion. Of course nobody knows for sure how changes in 2014 are going to affect smaller countries, but there are a number of objective observations out there that suggest that because of the change, because you need now 55% of member states and two-thirds of the population, and whereas in the past the Council of the EU has tended to favour smaller countries with higher voting weight in proportion to their population, this is going to move things slightly the other way. That is subject to speculation but the evidence at the moment tends to suggest that it is going to make it more difficult for smaller countries to not just be heard but to have influence. You have speculated, quite understandably, that you think Scotland would have more say in matters that were important to Scotland as a country. What evidence do you have for that?

*Nicola Sturgeon:* Firstly, can I agree with you that the scenario you have painted here is very speculative and is open to argument and to debate, so we can accept that. These things are relative to your starting point, of course. The starting point of Scotland right now is as a country as part of the UK that has significant responsibilities in devolved areas where it is often in our interest and would be in our interest to argue a case directly before the European Union, in the Council for example, where our ability to do so is heavily restricted. Our Fisheries Minister, who probably spends more time in Europe than perhaps all of our Ministers combined, I don't know, but spends a significant amount of his time in Europe, cannot articulate and represent the Scottish interests without reference to the UK Government and does not have the ability to depart from a UK Government line even if that was in the

interests of Scotland. So, my strong argument is that regardless of which voting arrangements you are talking about, an independent Scotland will have more direct influence in the European Union than we do as part of the UK.

Of course there will be many issues. I have deliberately chosen the issue where often it can be said the interests of the UK and the interests of Scotland diverge. In those circumstances, I think it is far better for Scotland to be independently represented with the ability to articulate our own interests. There will be many other issues where the interests of Scotland and the rest of the UK do not diverge and are very closely related. In those cases we can come together as two independent countries and perhaps have a greater influence and a greater weight than the UK would have on its own. In my view, that is a win-win situation.

**Q289 Mr Baron:** I agree with you. We can all speculate with regard to how the changes will affect the influence of smaller countries. But logically, purely on the maths, because of the two-thirds population issue and the fact that the barrier or the high water mark has been changed, altered, it does move it away. Logic would suggest it moves it away from smaller countries. But can I just move us on, if I may, because logic suggests that but we shall have to see how it works out in practice?

The Scotch whisky industry is very important to Scotland, and I use this as an example because I think it is important that we all try to understand, in trying to assess the influence of small countries within the EU, how they can best defend—not just defend, but promote—industries that are disproportionately important to that one small country. Whisky would tend to be a good example of that. The Scotch Whisky Association has reported to us in glowing terms when it comes to the amount of support they have received from the Foreign and Commonwealth Office, words like, “Invaluable support”, “high quality level of support over many years”. They have listed a whole series of accomplishments, trade barriers broken down within the EU but not just within the EU, globally as well. Yet the SNP seems to take a different view on this. What evidence is there that the SNP would do a better job of representing our Scotch whisky industry within Europe or globally?

**Nicola Sturgeon:** The Scottish Government, if Scotland was independent, would represent and articulate the interests of our whisky industry and our other key industries and sectors as vigorously as and perhaps more so, who knows, than the current UK Government does. I know that SDI at the moment, if they want to promote Scotch whisky in some British embassies, have to pay the Foreign and Commonwealth Office for the privilege of doing so. I am not sure we would want to see that continue. But a key focus of our representation overseas, our trade activity would be to ensure that we were maximising the impact of our key industries and sectors in key and emerging markets. We do that already through Scottish Development International which, with Scotland as a devolved country, has 22 offices across the world. Clearly as an independent country, we would build that presence.

But you have asked me what evidence. I do not know what evidence there is to suggest that an independent Scotland would not represent the interests of our industry and economic interests as vigorously as is done by the UK Government.

**Q290 Mr Baron:** What I would point to is the Scotch Whisky Association speaking in glowing terms about the FCO’s methods on its behalf—very glowing terms. I talked about all sorts of trade agreements and trade barriers being broken down. I point to the fact that the FCO’s overseas network comprises of about 270 diplomatic posts, 170 countries, 14,000 staff. It is very much geared towards promoting British exports including Scotch whisky and you know the importance of the industry to the country. It represents something like 80% of Scotland’s food and drink exports. We are talking about a big issue here. I want to question, because I will be questioning the FCO on a similar line, the assertion the SNP seems to have

that they could do a better job. They have pooh-poohed a little bit the idea that FCO support has been invaluable, has been high quality. You have not come up with anything concrete to suggest that the SNP or a Scottish Government would do a better job. This is a vitally important industry to Scotland.

**Nicola Sturgeon:** Firstly, I do not think anything I have said today has, to use your technical term, pooh-poohed the work of the Foreign and Commonwealth Office network across the world in many different issues. I am pretty sure I did not do that. You asked me what evidence was there that we could do a better job. I am saying what evidence is there that we were not going to be in the very direct interests of a Scottish Government with full economic responsibilities to make sure that our key industries and key sectors were performing well across the world. I would include the Scottish whisky industry in that. The FCO has a very large network of embassies across the world, to some extent but not entirely a legacy of empire that is focused not just on trade but on military objectives as well. It would certainly be the objective of an independent Scottish Government to replicate the quality of the representation that is provided, not necessarily doing it in exactly the same way with exactly the same property footprint. We would focus our international representation very much on, firstly, our economic interests, where Scots live or travel to. We would have an interest in developing countries as well. These days, as you well know, there is an increasing tendency towards co-operation in terms of consular activity. I think it was relatively recently that the UK signed a memorandum of understanding with Canada that talked about shared premises, shared services, the possibility of shared consular activity.

That is the direction of travel these things are going in, but there is absolutely nothing that would suggest that the quality of representation that an independent Scottish Government would provide for key sectors like the whisky industry would be qualitatively different to that provided by the FCO. That is not a criticism of the FCO, incidentally.

**Q291 Mr Baron:** Minister, I do not doubt the quality of the effort. I am married to a Scot; I would not be allowed to doubt the quality of the effort. What I am asking you to at least toy with is the fact that an independent Scotland could not match the FCO's diplomatic and trade footprint. Having a presence on the ground is important, whatever anybody says, in promoting one's trade interests. There is evidence to suggest that an independent Scotland would find it hard to replicate the big trade effort put in by the FCO on behalf of the Scotch Whisky Association, something which, if you read the submissions from the SWA, they would tend to substantiate.

**Nicola Sturgeon:** If you look at other small countries—Finland, Denmark, Ireland—they do not replicate the footprint of the FCO but I do not think anybody suggests they do not rigorously and successfully protect and promote their trade interests and their economic interests across the globe. As a small country, clearly you would prioritise areas that were economically important, and that would be the position for Scotland. Other small countries adopt different approaches to foreign representation. Sweden, for example, has resident ambassadors in many countries. It has a situation where it has non-resident ambassadors, I think a system known as flying ambassadors where they have a network of people based in Stockholm that nevertheless have very regular interaction with other capitals. I am saying that the FCO model is one model. It has grown up and developed for particular reasons. I am not criticising it. I am saying that other countries, particularly smaller countries, choose to provide the quality of that representation and cover in different ways and those are the options that would be open to Scotland by still working closely with the FCO network that would exist.

**Q292 Mr Baron:** I am pleased to hear you say that you think the FCO has done an excellent job on behalf of the Scotch Whisky Association. That is good to hear. What I would

also come back to you on, though, is that you have mentioned Ireland, you have mentioned Norway. The whisky industry is very important to Scotland, disproportionately so. I cannot think of many other industries as proportionately important to such a small country. In our last evidence session somebody mentioned port, but port only represents 1% of exports for Portugal and something like one-fifth of 1% of their GDP. The Scotch whisky industry is far more important than that. So we have to be very careful in our deliberations on this, but can I finally ask you this? The SNP has been critical of the FCO's emphasis on trade and its diplomatic network. How would a Scottish Government put that right? How would they improve things? For example, you have said that the FCO's or Britain's overseas network is too much focused on perhaps status and power and influence and not enough on trade. What would be the sort of overseas operation that Scotland would operate?

**Nicola Sturgeon:** Firstly, I am not arguing that you are possibly quoting stuff there. I have been very deliberate today in not coming here to criticise the Foreign and Commonwealth Office. I am here to put forward the Scottish Government's view. I am sure there will be occasions where we think the FCO could do things differently or better and that is fine, but that is not the purpose of my evidence to you today.

I said earlier on that the large network, the 270 offices in 170 countries, is partly a legacy of empire. It is not entirely focused on trade, although a great deal of it is. There are some parts of that that will be more to do with Britain's previous presence in parts of the world. I think a Scottish focus would be very much on trade. Certainly, a strong priority of it would be on the key markets, the emerging markets, where it was important for us to be in order to support and protect our key economic interests. It is not necessarily a criticism of the FCO; it is just saying that, like many similar countries and how an independent Scotland would be, we would very much have that focus on trade as a key driver of our diplomatic representation abroad. Clearly, there are other purposes for diplomatic representation abroad. Many Scots seek consular assistance across the world every week and that would be a requirement as well. I am simply saying that the FCO is one model of doing this. There are other models and increasingly there are new models of doing this appearing. I am sure we would work as an independent country closely with the Foreign and Commonwealth Office network, just as it works closely and increasingly closely with Canada and other Commonwealth countries, for example, and co-operation would be very much a key part of what we wanted to achieve.

**Q293 Sir John Stanley:** Minister, can I come back to nuclear weapons in Scotland? Your party's position is, and I quote, "A long-standing national consensus has existed that Scotland should not host nuclear weapons and a sovereign SNP government will negotiate the speediest safe transition of the nuclear fleet from Faslane which will be replaced by conventional naval forces." Minister, is that position negotiable or non-negotiable?

**Nicola Sturgeon:** The position that we would want Trident to be removed from Scotland is not negotiable. That is a position of principle and I think it is a position of principle that even if people do not agree with I am sure they can respect. We have clearly said, because we would be a responsible Government and a responsible partner, that that has to be done in the speediest safe way possible. You will be familiar, I am sure, with the work done by CND, backed by some experts in this field, that Trident could be safely removed from Scotland in a period of about two years. As somebody who has a very strong opposition in principle to nuclear weapons, I would like to see Trident decommissioned. I would rather not see Trident simply relocated from the Clyde and put somewhere else, but whether it goes somewhere else would not be a decision for the Scottish Government. It would be a decision for the Government of the rest of the UK. I think there is some growing division within the

UK Government about the future of Trident, but that would be a decision for them. But we do not want to have Trident nuclear weapons here in Scotland.

**Q294 Sir John Stanley:** The relocation to which you have referred would cost the UK Government a very large amount of money indeed. Are you saying to us that, regardless of the amount of money that future UK Governments might choose to offer the Government of an independent Scotland, your position is still non-negotiable?

*Nicola Sturgeon:* Nuclear weapons come with a cost, and any Government that wants to have a nuclear deterrent has to be prepared to pay that cost. Scotland right now contributes to the cost of Trident. We pay in the region of £160 million-odd a year for the running costs of the current Trident. We would pay millions, ten of millions, more for the replacement of Trident. We think that is money that would be far better spent on tackling poverty and improving the life of people here in Scotland. These are political choices you make. I am saying, though, that whether or not Trident was relocated to somewhere else would not be a decision for the Scottish Government. It would be a decision for the Government of the rest of the UK and they would have to, I suppose, weigh up the pros and cons of that decision.

You did not put a figure on it but I am struck just now by the fact that you get some UK Ministers that say, "This would not be possible," and, "It would only be possible at a particular cost," and then other UK Ministers say, "But we have never looked at it because we are not doing any contingency planning for independence." I would be very happy to sit down with the UK Government and talk through this and other issues that we are required to prepare for should Scotland vote yes, but fundamentally and ultimately the decision about relocation of Trident to another location would be one for the UK Government to take.

**Q295 Sir John Stanley:** Are you saying to us that regardless of how much a future UK Government might offer the Government of an independent Scotland in terms of a payment to lease the Clyde submarine base, regardless of the size of that lease payment, a future Scottish Government would say no?

*Nicola Sturgeon:* I can only speak for future Scottish Governments of my own party and we would not be in the position of accepting that kind of arrangement. We have a principle opposition to Trident nuclear weapons. Scotland has more than done its fair share in terms of the hosting of Trident over the last number of years. I think there would be majority opinion in Scotland that would back that. There is a majority in the Scottish Parliament that does not want to see Trident on the Clyde.

**Q296 Sir John Stanley:** Does your party have a final date by which you would wish to see the Clyde submarine base closed to nuclear capabilities?

*Nicola Sturgeon:* As already stated, the CND work says that Trident could be safely decommissioned and removed within a two-year period. We have said the speediest safe removal. As a responsible Minister in a responsible Government, I would not want to impose a time scale that was unsafe and we would not do that. We would have sensible discussions about that timescale with the UK Government but on the basis that it is about the speediest safe removal. As I have said earlier on, I would be and the Scottish Government would be perfectly willing to start that discussion. We are hypothetical until the vote on independence is taken but there is no reason on this or a range of other issues that we could not start at this stage having sensible discussions about what the options were and the decisions that would need to be taken should Scotland vote yes. The Scottish Government would be perfectly willing to have that discussion before the referendum, as I have made clear to UK Government Ministers.

**Q297 Mr Ainsworth:** Deputy First Minister, can we move on to Schengen? The overwhelming evidence that this Committee has received so far is that Scotland does not automatically inherit the Schengen opt-out that the United Kingdom has negotiated. Why then are you confident that you would not be obliged to join Schengen?

**Nicola Sturgeon:** I am assuming you do not want me to go back into the legal issue because we have talked about that at some length, although I am happy to do that if you want. Put that to one side, therefore. Basically, in the period of negotiating the terms of our continued membership that I spoke about to Mr Roy, we would be arguing in the case of Schengen, as in the case of the euro, a continuation of the status quo. We would not be asking for any change in our relationship with Europe in this respect. We are not in Schengen at the moment. We would simply be saying that we did not want to go into Schengen. Whether you take that as a legal position or as a political position of common sense, it would seem to me to be a fairly strong argument to be making.

I would go on from that, though, and say that, again notwithstanding that, it is a bit like the euro argument. Being a member of Schengen is not automatic for any member state. There are requirements that have to be met. Many of them are voluntary and there is no question of forcing countries to be part of Schengen against their will. Sometimes in these discussions, I am sure all of us—so this is not a criticism of the other side of the argument—talk about Europe as if it is some horrendously inflexible organisation. Europe has shown itself to be flexible. The argument we would be making in relation to Schengen, because we would want to continue to be part of the common travel area with the UK and Ireland, is an inherently sensible one, continuation of the status quo, and sensible given our geography, part of an island with England and Wales and within the common travel area with Ireland. I think that is a position that would prevail.

**Q298 Mr Ainsworth:** Except that you would either have to successfully be accepted as a continuing state or you would have to be able to negotiate a separate and new opt-out, and even then you would have to have unanimity in order to get agreement that you were not part of the Schengen arrangement. Do you accept that?

**Nicola Sturgeon:** I think what I was saying is that on any of these scenarios Scotland would not be part of Schengen unless a future Scottish Government wanted it to be.

**Q299 Mr Ainsworth:** But you do accept that those are what you would have to achieve in order to stay out of the Schengen area?

**Nicola Sturgeon:** One or other of these things, but what I am saying is I think all of these things would lead you to the same point. I know that others have given evidence to your Committee that have taken the same view. I am not saying they come at it from the same perspective as I do, but Professor Bernard Ryan—sorry, this was evidence to the Scottish Affairs Committee—said, “I don’t see any real prospect of Scotland joining Schengen unless the United Kingdom does it, and I don’t see any real prospect of that. Schengen is a little bit off the table. I would foresee that Scotland would continue to be part of the common travel area”. I think that is a common sense position.

**Q300 Mr Ainsworth:** I know that you can cite an individual but you surely do not deny what I said, that the overwhelming evidence that we have received is that Scotland does not automatically inherit the opt-out.

**Nicola Sturgeon:** I do not accept that but, even if for the purposes of this argument I do accept that, what I am saying is that the position with Schengen is not that countries are automatically in Schengen. A bit like the euro, there are requirements that have to be met and those requirements in many cases are voluntary requirements. I am also making the point that

in negotiations about the terms of our continuing membership, if we were in Schengen right now and we were, as a country that had just voted to be independent, saying to the European Union, “As part of us continuing to be a member, we want to come out of Schengen,” there might be a different argument there. But we are arguing for the continuation of the status quo. It does not change Scotland’s relationship with the rest of the European Union one iota, and I am saying that there is a common sense argument there. That was the quotes I was giving you, quotes based on the common sense argument, flowing not least from Scotland’s geographic position that, as you will know, was the common sense position that was applied vis-à-vis Ireland’s non-participation in Schengen.

**Q301 Mr Ainsworth:** If the majority of the evidence that we have received is correct and you are not correct in this regard, what are the implications for the border?

*Nicola Sturgeon:* I am sorry to repeat myself but I was saying let’s put—

**Q302 Mr Ainsworth:** You do not accept you could be wrong and these people could be right?

*Nicola Sturgeon:* I started my evidence today by saying I accept international law is not unambiguous on the point of successor states. I have articulated the position I believe to be the case. Others will articulate the opposite position. Let’s just accept that you and I do not agree on that point. What I am saying is that does not then result in a situation where Scotland somehow finds itself automatically in Schengen. It is not automatic. There are conditions that would be voluntary. It is also the case that, as we have seen with Ireland, there is a common sense argument—perhaps more so than many other issues given our geography—related to Schengen that the sensible position for Scotland would be part of the common travel area with the rest of the UK and Ireland, not as part of Schengen.

**Q303 Mr Ainsworth:** But you have not so far been prepared to give any consideration to the potential that you are wrong and that you would not be able to engage in that opt-out or, equally, that you would not be able to get the same arrangements as the rest of the United Kingdom and Ireland has, and think about the implications? You have not done that?

*Nicola Sturgeon:* Scotland, as far as my party is concerned, would not go into Schengen and, a bit like the euro, the steps that are required to go into Schengen are to some extent voluntary. I think if I can try again, even if I accept you might be right and I might be wrong on the position of the successor state—

**Mr Ainsworth:** Just for a moment, yes.

*Nicola Sturgeon:* Well, I think I was prepared, for the purposes of the argument, to accept that. The point I am making is that that does not in and of itself mean that Scotland is in Schengen. I have set out a number of reasons why that would be the case.

**Q304 Mr Ainsworth:** You are absolutely 100% confident that one way or another you would not have to erect any barrier at the border?

*Nicola Sturgeon:* I am confident of that, yes.

**Mr Ainsworth:** Absolutely 100%? You are not prepared to contemplate—

*Nicola Sturgeon:* I am absolutely confident that it would not be the case that you would have that kind of situation between Scotland and the rest of the UK because we would be part of, and we would seek to be part of, the common travel area, which is the position that Ireland took, which meant that Ireland is not part of Schengen either.

**Q305 Mr Ainsworth:** May I ask you one separate question that arises from some evidence that we received, which struck me as being a pretty common sense view of the world? I am using my words, not the words of the people who gave the evidence here. That is that, in the environment of foreign affairs, powerful nations have the ability to shape the environment. Medium-sized nations have a degree of ability to shape them. Small nations, with a few very notable exceptions, have really no ability to shape the environment and effectively have to accept the foreign affairs environment as it is. Do you accept the common sense of that logic?

*Nicola Sturgeon:* I read the evidence that you are alluding to. I can't remember who it was that gave that evidence but I did read the piece that you are alluding to.

**Chair:** Lord Jay.

*Nicola Sturgeon:* I think it was Lord Jay, yes. I get the categorisation that he was making. Is that always how it is translated into the real world? I am not sure it is. I think you will find examples of large states that for reasons of policy or the demeanour they have on the international stage will actually have very limited influence. I think one of the big concerns about the UK's positioning on Europe just now is that it is almost voluntarily diminishing its own influence in the EU when, given its size, it should have a relatively big influence in the EU. Conversely, you will find many examples, I am sure, of small states that actually punch above their weight on the international stage. I referred earlier on to—again I can't immediately remember the name of this but I will provide it to you—Jonathan Golub, a reader in political science at Reading University. There was an article on the LSE website just a couple of weeks ago, I think, where he has done some work and it shows that in the European Union actually smaller states have a bigger influence on legislation than some of the larger states. I get the theoretical categorisation. I am not so sure it always translates that easily.

My final point would be similar to the point I made, I think to Mr Baron, that these things are relative to your starting position. At the moment, Scotland can't shape these things at all independently because we are part of the UK. In many cases we will support and agree with the position the UK is taking, but if we do not then we do not have any independent ability to separately shape these decisions. By definition of being independent, we would be getting more direct influence than we have at the moment.

**Q306 Mr Roy:** Deputy First Minister, you have cited the Republic of Ireland as a role model quite a few times today. When they were doing negotiations they had a referendum as to whether or not they joined the European Union. In an independent Scotland would the Scottish Government give the Scottish people the opportunity to have their say as to whether or not they want to become a member of the European Union through a referendum and, if not, would you then give a referendum after your negotiations on your negotiated stance on a yes or no?

*Nicola Sturgeon:* It would not be a question of becoming a member of the European Union. I do not want to repeat myself ad nauseam here, but we are a member of the European Union and we would continue to be a member of the European Union. To answer your question directly, we have said and—I know that you would not necessarily have seen this—the First Minister said very directly in First Minister's Questions last Thursday that the current Scottish Government and the SNP do not favour an in/out referendum. We believe that Scotland's best interests are served by being in the European Union and we would, as an independent member state of the European Union, seek to build the alliances that we want.

**Q307 Mr Roy:** After negotiations, would you then have a referendum?

*Nicola Sturgeon:* We do not propose a referendum on in or out of the European Union. The point he went on to make, which I will make again today, is of course that is all

presupposing, which I know we are for the purposes of this discussion, that there is a yes vote. It is also presupposing that the SNP win the 2016 election. Based on the opinion poll yesterday, that looks like a fairly safe bet at this stage, but who knows?

**Mr Roy:** Have the referendum first, Minister.

**Nicola Sturgeon:** We will have the referendum first, but the point about the next election is important because it will be for the first Government of an independent Scotland to make that decision. I can tell you what my position is.

**Mr Roy:** No referendums.

**Nicola Sturgeon:** We do not favour an in/out referendum on the European Union, which I understand is the same position as your party. That was the case yesterday; I am not so sure about today.

**Q308 Rory Stewart:** First Minister, thank you. We do not have much time, but could you begin, in thinking about Scotland's foreign policy, by suggesting what kind of strategic threats you think might face an independent Scotland?

**Nicola Sturgeon:** Strategic threats—I think most experts would agree with what I am about to say. I think that although you can never be complacent, the threat of a direct territorial attack on Scotland is something, as would be the case with the rest of the UK, that is seen to be a fairly low threat in terms of the medium term.

**Q309 Rory Stewart:** Sorry, because we are very short of time, not what threats you will not face, what threats you will face.

**Nicola Sturgeon:** I was coming on to what I think. In common again with many other countries, cyber threat, international terrorism, the threat that comes from global instability and the possibility of failed states, serious international organised crime. These would be the particular threats that Scotland, in common with many other countries, would see as the strategic threats they face.

**Q310 Rory Stewart:** What kind of infrastructure do you think you would need in order to deal with those kinds of threats?

**Nicola Sturgeon:** Not just in an independent Scotland but in any country, the initial response to most of those threats would be civilian, through the police force, and obviously the police is already entirely devolved in Scotland. There would be a military aspect to dealing with most of those threats as well. I know we are short of time. You may want to go into some of our thinking around the shape of independent Scottish defence forces. We have laid out some of our thinking on that and will do more in the White Paper. In terms of security and intelligence, I would envisage Scotland having independent domestic intelligence machinery in Scotland sitting alongside our police service but working very closely—given our sharing of an island with the rest of the UK—with the UK and making sure we are sharing intelligence and sharing our response to some of these threats.

**Q311 Rory Stewart:** Would you attempt to set up an external intelligence service?

**Nicola Sturgeon:** That is one option that is available to Scotland and, if you will forgive me, these are—

**Q312 Rory Stewart:** How much would it cost, Deputy First Minister?

**Nicola Sturgeon:** The cost for the UK in terms of its security and intelligence services just now is about £2 billion, so if you take a pro rata share of that in terms of running costs for that kind of service—

**Q313 Rory Stewart:** Deputy First Minister, with respect on that, the UK has inherited a great deal. It has inherited an enormous number of embassies. It has devoted billions over decades to developing a very sophisticated infrastructure for cyber security and for communications. It would not simply be a question of taking a percentage of the overall running costs. You would have to do a very considerable investment in set-up. How much do you think it would cost to set this up?

*Nicola Sturgeon:* I was about to say to you we are doing a substantial piece of work on some of this just now. I am not going to get into all of the detail of this today because this is work that we will publish in due course in the lead-up to and in the White Paper, but suffice to say it covers not just running costs but it covers the issues around set-up. It also will cover the issues around the areas where it would make sense for Scotland and the rest of the UK to co-operate and have shared arrangements on these matters.

**Q314 Rory Stewart:** Could you expand on that? What do you mean co-operate? Are you expecting to be able to read the rest of the UK's secret intelligence?

*Nicola Sturgeon:* There are arrangements with other countries and the UK just now in terms of sharing intelligence. What I am saying is we are doing substantial work on the options that would be available to Scotland.

**Q315 Rory Stewart:** Deputy First Minister, just summing up, to clarify, are you expecting to be able to read all of the rest of the UK's secret intelligence? At the moment, there is a very clear distinction between the situation that exists between the rest of the UK and the United States, a Five Eyes arrangement, and the kind of arrangement that exists, for example, between Norway or Sweden and the rest of the UK where they are not entitled to read secret intelligence acquired by the United States or the United Kingdom. Which of these two would you envisage?

*Nicola Sturgeon:* I think there would be a very close relationship between Scotland and the rest of the UK. I am not going to get into the specifics of how that would work because that is dependent both on our own work and discussions that I would want us to have with the rest of the UK. But can I make a very fundamental point here? I know it can be tempting to see this as some kind of disputatious debate. Scotland and the rest of the UK share an island. It would be not just in Scotland's interests for there to be very close intelligence sharing arrangements with the rest of the UK. It would clearly be in the interests of the rest of the UK for that to happen as well. I think that is a very clear position.

**Q316 Rory Stewart:** Deputy First Minister, are you aware that to set up the infrastructure required in order to protect the identity of agents and protect liaison reporting from the United States would require probably billions of pounds of investment in setting up the appropriate communications and security infrastructure before your allies would be happy to share information on that kind of basis? Are you aware of that?

*Nicola Sturgeon:* There is a capability Scotland would seek to have from day one of independence. There would be capability that we would develop over time. There would be continued shared arrangements with the rest of the UK regardless of our independent capability because that makes sense based on our geography. It is not for me to invite myself back to the Committee—

**Chair:** You are very welcome.

*Nicola Sturgeon:* —but when we publish some of our detailed work on this I would be more than happy to come back to the Committee and discuss it in as much detail as you wanted.

**Q317 Rory Stewart:** To reassure the Committee a little bit that you have done some of the ballpark thinking—I agree that you can’t possibly expect to have precise information on this but just so that you have a sense of the scale of what is involved in setting up an independent Scottish foreign policy—you have talked a lot about Sweden, Denmark and Norway. How many embassies do you think Norway has worldwide in ballpark terms off the top of your head?

*Nicola Sturgeon:* Ireland, for example, I think has—

**Rory Stewart:** Just ballpark off the top of your head.

*Nicola Sturgeon:* I do not have the numbers—

**Rory Stewart:** Norway, what do you think? Norway?

*Nicola Sturgeon:* I think it has about 100 embassies across the world. I think Ireland has 97 offices across 70-odd countries.

**Q318 Rory Stewart:** So you would expect Scotland, let’s say for the sake of argument, to set up and fund perhaps 100 embassies worldwide?

*Nicola Sturgeon:* Firstly, we currently contribute to the UK network. I am not suggesting that these things are as simple as simply dividing physical assets into respective shares, but clearly there would be a share of the UK’s assets that Scotland would have an entitlement to in order to contribute to the costs of running our own situation.

**Q319 Rory Stewart:** Ballpark costs of the total diplomatic estate of Sweden, Norway or Denmark? Just finally to give a sense—

*Nicola Sturgeon:* They are in about the region of £100 million to £200 million in terms of running costs of small independent states, in about that region, if that is the comparison.

**Q320 Rory Stewart:** That is the running costs, not the set-up costs or the estate costs, in other words the physical property of their embassies and consulates. Sweden and Denmark at the moment, and presumably Scotland would follow that sort of model, have embassies in Ouagadougou, Cairo, Nairobi, Bamako, Rabat, Maputo, Dar es Salaam, Kampala, Lusaka, Pretoria. In fact, those are the only places where both of them have embassies. You would add another 12 countries to the list if you went through Africa alone. Presumably, Scotland would hope to have the sort of presence that Norway or Sweden or Denmark would have worldwide, not smaller.

*Nicola Sturgeon:* Our presence would be, in terms of physical presence on the ground, comparable to other small independent countries. We already have a network of, I think, 22 SDI offices across the world, so we are not starting from scratch. As I said earlier on, we contribute to—more than contribute to, some may argue—the current FCO network and would be entitled to a share of assets. We would look to share premises with not just the rest of the UK but other countries.

**Q321 Rory Stewart:** But no financial estimates on the set-up costs or the capital costs of the diplomatic estate?

*Nicola Sturgeon:* I am telling you that we are working through these matters because there are different options that Scotland could take. I do not think any of them are beyond the ability of Scotland to implement. I will happily come back and discuss the finer detail of them with the Committee if you wish to invite me at a later stage.

**Chair:** We may well take you up on that, Deputy First Minister.

*Nicola Sturgeon:* I will look forward to it.

**Q322 Chair:** We said we would let you go at 2.30. Do you have just three or four more minutes? I have a couple of loose ends I would like to tie up.

*Nicola Sturgeon:* Of course.

**Q323 Chair:** A lot of what you have been talking about today, particularly the answers to Rory's questions just now, you said are things we can negotiate. We have had one witness say to us that the obligation to move a nuclear base south would actually put Britain out of the nuclear business. Do you think that would have any effect on the UK's negotiating position and do you think—

*Nicola Sturgeon:* In what respect?

**Chair:** Well, we may find it rather difficult and expensive and if you are in negotiations there may be tradeoffs here. More to the point, how do you think Britain's close allies would react if they saw the UK losing its nuclear deterrent?

*Nicola Sturgeon:* The SNP and the Scottish Government take a principle position on nuclear weapons. Whether a UK Government wants to keep its nuclear deterrent and what it would then have to do to do that if it was not based in Scotland is a matter for the UK Government and perhaps something that you will want to ask the Minister about. It is not the intention of the Scottish Government to diminish the status of the UK, and I think there are other factors at play than the position of the Scottish Government or the potential for Scotland being independent that cast questions over the UK's status. If you take the Security Council, for example, certainly the Scottish Government would have nothing to say about the UK keeping its seat on the Security Council. We would want it to do so. I think Brazil, India, the European Union are the factors there that probably open the question of future Security Council membership in the years to come. Similarly in Europe, I would argue it is the positioning of the UK Government on Europe that threatens its influence in Europe, nothing to do with the potential for Scotland becoming independent.

**Q324 Chair:** That spawns half a dozen more questions but I think I will pass on it for now. One other point, just going back to talking to Frank Roy about Schengen, would Scotland run the same immigration policy as England?

*Nicola Sturgeon:* Certainly at least on one occasion since Scotland has been devolved we have had a slightly different position. I am thinking of the Fresh Talent initiative where students studying in Scotland had a slightly different entitlement to stay after their study than the rest of the UK. We have always argued that we should have the ability to make sure that we have an immigration policy that suits principally our economic needs. It is possible that there would be differences around immigration between Scotland and England, but I think those differences would be very focused on people coming to do particular jobs in particular sectors of the economy.

**Q325 Chair:** Otherwise you would keep the same immigration policy?

*Nicola Sturgeon:* I am conscious here that I can't tie the hands of future Scottish Governments at all, to be fair. These are policy matters for future Scottish Governments. Speaking for my own Government and my own party, we have taken the view that we should have the ability to flex immigration policy to suit our economic needs, and clearly being independent would allow us to do that in a way that we can't do at the moment as part of the UK, with the one exception I talked about.

**Q326 Chair:** You are probably going to anticipate what I am going to say next. Unless they are identical immigration policies, someone could come into either the RUK or to Scotland and then go over a border with no frontiers.

**Nicola Sturgeon:** I did anticipate to some extent your next question because the point I was making about economic drivers for those differences is not an insignificant one. Often the differences would be because we have different demographics, we have different labour needs in different sectors. You would be talking about differences that were having people immigrate into Scotland in relation to particular jobs or particular employment opportunities, which I think would at the very least lessen the scenario you are talking about.

**Q327 Chair:** Minister, time is up. Thank you very much.

**Nicola Sturgeon:** Thank you.

**Chair:** We may well take you up on your offer to come and talk to us again. Indeed, would you mind, if we realise we have not asked you specifically, if we write to you on questions?

**Nicola Sturgeon:** Of course.

**Chair:** On behalf of the Committee, thank you for what I like to think has been a very important occasion. Thank you very much indeed.

**Nicola Sturgeon:** Thank you. Enjoy the rest of your session.

### Examination of Witnesses

**Witnesses:** **Rt Hon David Lidington MP**, Minister for Europe, and **Simon Manley**, Director, Europe, Foreign and Commonwealth Office, gave evidence.

**Q328 Chair:** The next two witnesses are the Minister of State in the Foreign Office with the responsibility for this area, David Lidington—Minister, welcome—accompanied by Simon Manley, who is the Director for Europe. Mr Lidington, is there anything you want to say by way of an opening remark or shall we just go straight into the questions?

**Mr Lidington:** No, Chairman, I am happy to go straight into questions.

**Q329 Chair:** Thank you. Minister, you have given evidence to us in writing and you asserted in that evidence that if Scotland left the UK legally the RUK would be regarded as a continuing state. What do you base that on?

**Mr Lidington:** It is based partly, Chairman, on the legal advice given to the UK Government and I think also the weight so far of the evidence I have seen submitted to this Committee, but it is also very much based on what has happened in international politics and international law. If we look at analogous examples, when Ireland established the Irish Free State in 1922 the United Kingdom continued to exist. It was accepted as such. The Free State and subsequently the Irish Republic became new countries. The same applied when India, which as a dominion had been a founder member of the United Nations, separated from Pakistan. India was accepted as a continuing state; Pakistan was the new state and had to apply to join the international organisations. The same took place when Eritrea became independent from Ethiopia, when South Sudan became independent from Sudan, when Malaysia and Singapore separated. If you look at recent European history, it is very striking that at the time of German unification the Federal Republic of Germany continued to exist and was accepted as such and what happened in international law and in terms of membership of organisations was that new Länder from the former German Democratic Republic became part of that continuing Federal Republic of Germany.

**Q330 Chair:** Have you had legal advice on this?

**Mr Lidington:** The Government has had legal advice on this. The Advocate General is continuing to examine legal advice. I think his intention is to publish later this year an account of the legal advice that the Government has received.

**Q331 Chair:** I know it is still early days, but have you had a chance to discuss this with any of our allies?

**Mr Lidington:** I think that the position of other member states of the European Union, and for that matter of third countries, is that obviously they are wary about intervening in a matter that is of domestic political controversy within the United Kingdom and will be subject to a referendum in 2014, but certainly there are a number of other countries who have nationalist or secessionist movements in parts of their own territory who would be concerned at the possibility of not being the continuing state. I would be misleading you, Chairman, if I said we have been into this in detail in those conversations.

**Q332 Chair:** I presume the legal advice you have had confirms that the UK would be the continuing state.

**Mr Lidington:** Yes.

**Chair:** But as you know the Scottish Government dispute this. If there was a yes vote, how would the RUK respond to a Scottish challenge that disputed the RUK's claim to be the continuing state?

**Mr Lidington:** We are quite clear, Chairman, that in those circumstances—clearly, I hope they do not happen, I hope there is a vote in favour of the union—if that happened, then the Government of the United Kingdom would accept the democratic verdict of the people of Scotland, but from the day after the referendum the United Kingdom would assert that it was the continuing state to continue in existence and we believe that the weight of both precedent and of international law would mean that that position would be upheld by others. From that time on, the Government of the United Kingdom, in its relationship with the First Minister of the Government of Scotland, would be acting no longer on behalf of everybody in the United Kingdom, including the people of Scotland, but be acting on behalf of those living in the remaining United Kingdom. In negotiations about the detail of independence, it would be for the Scottish Government to act as the spokesman of the Scottish people and their interests.

**Q333 Sir Menzies Campbell:** I take it from what you have said, Minister, that so far as you are aware the British Government has no inhibition either about saying it has taken legal advice or, as you have outlined, the Advocate General publishing that advice in due course?

**Mr Lidington:** I said the Advocate General will publish an account of the advice. We do intend to stand by the principle that all previous Governments have adopted that we will not publish the detailed legal advice.

**Q334 Sir Menzies Campbell:** But you will tell the world you have taken it and there will be an account of it from the Advocate General?

**Mr Lidington:** The intention is we are saying that we have taken legal advice and we intend to give an account of it.

**Q335 Chair:** Although a totally different subject area, you have the precedent of Libya on this where you published an account of the legal advice. Mr Manley is nodding. Is that right?

**Mr Lidington:** Yes. Europe covers many countries but not Libya.

**Chair:** My apologies.

**Q336 Sir John Stanley:** Minister, the Deputy First Minister for Scotland has just given oral evidence to this Committee in which she has confirmed that the policy position of an SNP Government of an independent Scotland, should that arise, that the UK nuclear deterrent could no longer remain in Scotland was non-negotiable. She went on to confirm that, regardless of how much the UK Government might be willing to offer the Government of Scotland financially to continue to lease the facilities at the Clyde submarine base, their position was still non-negotiable. Can you confirm or otherwise to the Committee that in such circumstances, if they were to arise, the position of the UK Government would be that the rest of the UK should continue to maintain an independent strategic nuclear deterrent and would, therefore, transfer the facilities at the Clyde submarine base elsewhere in the United Kingdom?

**Mr Lidington:** We have made clear as a Government that the continuous submarine base nuclear deterrent is the ultimate safeguard of the national security of the United Kingdom and we have a clear commitment to maintain that deterrent. We are not in the business, I think as the Committee knows, of pre-negotiating with the Scottish Government about how independence might work. We think it is for them to come forward and spell out the detail as they propose to put it to the people of Scotland. We are therefore not planning for Scottish independence or to move the strategic nuclear deterrent from the naval base at the Clyde. I would want to put on the record, in answer to Sir John, that that naval base in Clyde is the largest employment site anywhere in Scotland, with about 6,700 military and civilian jobs, projected to increase to about 8,200 by 2022. I frankly think it is for the Scottish Government to say how that quality and quantity of employment in the region would be matched if the enterprise did have to be relocated.

**Q337 Sir John Stanley:** Minister, that does not answer my question. As a matter of policy, I am asking you if those circumstances should arise, should the Scottish people vote for independence and an SNP Government is elected as the Government of an independent Scotland, is it the policy of the present UK Government that there should be a continuing strategic nuclear deterrent and that, therefore, the existing deterrent would have to be located elsewhere in the United Kingdom?

**Mr Lidington:** It is the policy of the UK Government that there should continue to be a strategic nuclear deterrent. We are not making plans in this respect or any other as to what should happen in the event of a vote for independence in Scotland. Clearly, if there were to be a vote in favour of independence, from that point on negotiations would have to take place.

**Q338 Sir John Stanley:** I am not referring to negotiations. Is it the policy of the present British Government that in those circumstances the strategic nuclear deterrent would be transferred elsewhere in the United Kingdom?

**Mr Lidington:** The strategic nuclear deterrent would be maintained and we would take whatever measures we felt were necessary in order to do that.

**Q339 Chair:** Minister, I acknowledge the policy position you have set out, but if it did result in us having to decommission our nuclear deterrent because we could not relocate it and there was not room here, do you think that would have any impact on our position on the Security Council in the UN?

**Mr Lidington:** Our position on the Security Council is written into the United Nations Charter, from memory chapter 23 I think, so in that sense, no. I would emphasise that we do not believe that Scottish independence would require the unilateral nuclear disarmament of the United Kingdom and that policy is certainly not any part of the intention of the current

Government of the United Kingdom. I think that were Scotland to secede from the United Kingdom I do not pretend that it would be anything other than a blow to the United Kingdom internationally and domestically. After all, that is why I argue strongly for the union to be maintained as in the interests of all people in the United Kingdom, including those in Scotland. But I do think that it would be something that would not diminish significantly the influence that the UK has. We would fall in terms of the league table on population from 21st to 23rd in global terms. We would continue to maintain both the military and intelligence capacity that we do now and the readiness and political willingness to take action, so I do not foresee that there would be a significant diminution in the United Kingdom's international weight.

**Q340 Chair:** How would we feel if we decided to put our nuclear deterrent in a foreign state?

**Mr Lidington:** I can understand why you are asking me the questions, Chairman, but as I have said, we have a clear Government position that the nuclear deterrent would be maintained. We are not going to speculate or to write plans in advance of a referendum outcome, which we hope and believe will be the reverse of independence but a confirmation of the union.

**Q341 Rory Stewart:** Welcome, Minister. Just following on from the testimony of the Deputy First Minister, is it useful to the United Kingdom to have security and intelligence services?

**Mr Lidington:** Yes, I think they are invaluable, As Mr Stewart will understand, it is one of the frustrating things as a Minister that you cannot rightly talk about this but you do become, as a serving Minister, very aware of the significant role that the men and women of those services play in protecting the security of everybody in the UK.

**Q342 Rory Stewart:** Minister, if you were the Minister of a state that did not have any security and intelligence services and no equivalent of GCHQ and an embassy presence of only 20 properties worldwide, what impact would that have?

**Mr Lidington:** I think that this is a very serious question, which the Scottish Government has yet to answer. If we look at intelligence and security matters, we have three main agencies: the security service, the secret intelligence service, GCHQ. In addition to that, there are cross-governmental networks and ways of working, for example through the Centre for Protection of National Infrastructure, through the Joint Terrorism Analysis Centre, a £650 million national cyber security programme, all of which contribute to the security of everybody in every part of the United Kingdom. If Scotland were to be an independent state, Scotland would have to consider how she was going to substitute for those United Kingdom arrangements. The costs of doing so would be enormous, I think particularly to start up such agencies and networks from scratch, and in general terms smaller European countries do not have the security and intelligence apparatus on anything like the scale or professionalism we have in the UK.

**Q343 Rory Stewart:** Minister, just to end on this group, if Scotland were to separate and to, therefore, take over a situation where it did not have a full secure communications infrastructure, would you feel comfortable sharing United States intelligence information, for example, with such a state?

**Mr Lidington:** I can't pre-empt both a hypothetical situation and the outcome of then a hypothetical negotiation. At the end of the day, that will be a judgment not for the UK, that

would be a matter for the Administration in the United States as to whether they felt that they could trust a putative Scottish independent Government with that information.

**Q344 Rory Stewart:** Russia's case for continued membership of the P5 was bolstered by having the consent of all the other states that have evolved from the former Soviet Union. In other words, they all agreed that it was going to be the successor state. Would the rest of the UK's case for continued membership of the P5 be damaged if Scotland insisted on co-equal status?

*Mr Lidington:* We believe that the international legal position, the precedent, not least the precedent set with Russia over its membership of the Security Council, means we do not foresee a difficulty there.

**Q345 Rory Stewart:** Russia's case was bolstered by its possession of nuclear weapons. Would Britain's ability to have a P5 seat be weakened if nuclear weapons were removed from Scotland before a replacement site had been found?

*Mr Lidington:* I think that, first of all, to change the status of our permanent membership of the Security Council would require a change to the United Nations Charter, so one is looking at quite a far-fetched contingency there. But, no, I think that the arguments for us to retain that seat would continue to be very strong. The debate about Security Council membership is not so much about whether one or more of the current permanent five should be moved out. It is whether the permanent membership should be enlarged to include some of the rising powers like India, like Brazil, like one of the African countries.

**Q346 Rory Stewart:** What would be the effect on Britain's position in Europe or the rest of the UK's position in Europe if Scotland were to separate in terms of the number of MEPs we might have, our population size in relation to Italy, the seriousness with which we would be treated by our European states?

*Mr Lidington:* There would be technical changes consequent upon Scotland leaving. The population of the United Kingdom would fall and that would mean that there would need to be an adjustment to the number of MEPs, but we would still be there as one of the big six within the European Union. We would still be in the position where English was de facto the lingua franca of a lot of European business. It is very striking actually the extent to which English is now used routinely at EU meetings, if only rarely by French representatives. Again, it would be a blow but I think a relatively minor blow. I think the bigger challenge would be for an independent Scotland to try to secure its membership of the EU and other international organisations to which the United Kingdom belongs, and would continue to belong in the event of Scottish independence, and to get the terms of membership of those organisations that provided equal benefits to those that Scotland get through the UK's membership.

**Q347 Rory Stewart:** Finally, Minister, just to develop that, could you give us a sense from your experience of what particular challenges Scotland might face or the kind of challenges that comparable countries have faced in the European Union? What difference would it make for Scotland no longer being part of the UK but instead being an independent member of the EU?

*Mr Lidington:* There are two challenges. First of all, let us say that Scotland has achieved what the SNP leaders say they wish to do, which is full membership of the European Union in their own right. They would be one of a significant number of small member states. My experience in the last two and three-quarter years as Europe Minister is that the small member states find it more difficult than large member states, are more dependent on alliances with others, on finding help from the big players within the EU in order to get their interests

taken into account. To give a practical example, when a UK Minister goes into a Finance Ministers' meeting at ECOFIN and argues the case on financial services he is speaking as much for financial services in Edinburgh as he is speaking for financial services in the City of London. If Scotland were independent, the UK Minister would not automatically have that same responsibility to act and speak on behalf of the particular interests of Scottish business. That is one illustration of where I think Scotland would lose compared with the present situation, but that is assuming Scotland succeeded in becoming a member. That takes you straight into all the questions about getting unanimous agreement from every other member state for that situation, tackling issues to do with euro membership, with Schengen, with justice and home affairs opt-outs, with budgetary rebates, fisheries and so on.

**Q348 Rory Stewart:** Finally to follow up, you made one reference to the fact that you think it would be a great pity for the rest of the UK as well as for Scotland.

*Mr Lidington:* Yes.

**Rory Stewart:** Could you expand on that a little bit? Obviously the rest of the UK's reputation partly depends on its soft power, on its status. If you are dealing with, let's say, Russia or China or India, can you give us some sense of how their view of the rest of the UK might be in some way affected by Scotland leaving?

*Mr Lidington:* As I say, I think that the impact would be relatively minor. I do not want to exaggerate it, but I think why the UK benefits from Scotland is that the UK is a living example of how you can construct and maintain a state entity that accommodates diversity within itself, that allows for different expressions of national identity—with the Six Nations starting next weekend we are going to see that in spades—that can accommodate different linguistic traditions, that can accommodate different legal systems within the one polity and do so against a background of mutual respect for each other's traditions and, above all, for the rule of law and for representative democracy.

**Q349 Sir Menzies Campbell:** Perhaps I should declare an interest and say I am a member of the Intelligence and Security Committee and like you, Minister, precluded from saying too much about it, but there is one recent event upon which I think there is a general understanding of the role of the security services. How would the Government characterise the performance of the security services in relation to the Olympic Games that we have just had in 2012?

*Mr Lidington:* Again, without, for obvious reasons, going into detail, I think that the role of the security and intelligence agencies was of vital significance in ensuring that competitors and spectators were protected against those who might have wished to do them harm.

**Q350 Sir Menzies Campbell:** Might one expect that at any similar international event a similar capability would be available if required?

*Mr Lidington:* Certainly at any such event in the United Kingdom, I would be very confident in the capability of those agencies and I would be very glad of their existence, competence and expertise.

**Q351 Sir Menzies Campbell:** Including, for example, the 2014 Commonwealth Games to be held in Glasgow?

*Mr Lidington:* I would certainly expect not just the intelligence and securities agency but those cross-government arrangements like JTAC that exist in the United Kingdom Government to be working at full throttle to ensure the success and the security of those games taking place in Scotland. The same applies in terms of international response but also

in terms of domestic crisis response with the COBRA system in Whitehall, which will be summoned into play in the case of a civil crisis in Scotland just as much as in a civil crisis in England, as it was in Glasgow when the terrorist outrage took place there.

**Sir Menzies Campbell:** At Glasgow airport?

**Mr Lidington:** Yes, Glasgow airport.

**Q352 Mr Roy:** Minister, to what extent has the Government, and specifically the Foreign Office, mapped out where it would be dependent on Scotland?

**Mr Lidington:** I don't think we have approached this in quite the way Mr Roy's question suggests. We have approached this issue in terms of the mutual benefits that the people of Scotland and the people in the rest in the United Kingdom derive from their common membership of the UK. I think that while there may be difficulties in certain areas, and we have talked about military facilities at the start of this meeting, the remaining United Kingdom, if forced to it, would be able to cope. I think that the burden on an independent Scotland to replace on its own everything that it gets from membership of the United Kingdom would be much greater. Where the UK does benefit is from what one might describe as the soft power of Scotland, Scottish culture. There is a tradition in Scotland of a global outlook that is respected around the world. Even someone like Andy Murray, who we have seen play this week, is very proudly Scottish but was a very proud part of Team GB when it came to the Olympics. So I think Scotland's contribution strengthens the contribution the UK as whole makes.

**Q353 Mr Roy:** Thinking in particular about the political infrastructure, how much would the rest of the UK's ties to Scotland and to Scotland's infrastructure have an effect on its bilateral foreign policy towards it?

**Mr Lidington:** I am not sure I quite follow. Is Mr Roy asking in the event of independence?

**Mr Roy:** Yes.

**Mr Lidington:** If the Scottish people were to vote for independence in 2014, the UK Government would respect the democratic outcome. It would be in the interests of the United Kingdom to have a friendly, mutually beneficial and prosperous relationship with our immediate neighbour north of the border, but what would be different immediately would be that Ministers sitting in the United Kingdom Government would from that point on have a responsibility to prioritise the interests of the people of England, Wales and Northern Ireland over the interests of the people of Scotland, both in the negotiations with the Scottish Government over the exact terms of separation but also over subsequent bilateral relations with an independent Scotland.

**Q354 Mr Roy:** But should the Scottish Government have something, for example, that the UK Government would want in relation to Scottish infrastructure and the political infrastructure we have just now, surely you would admit that is a negotiating and bargaining point for the Scottish Government?

**Mr Lidington:** That would be part of a negotiation that took place after 2014. We have consistently said we are not going to pre-empt that referendum decision because we are not neutral about the outcome that we prefer, but there would clearly have to be those discussions. I suppose what I am saying is that in those circumstances of Scottish independence, the nearest comparator would be the United Kingdom's relationship with countries like Ireland, Denmark or the Netherlands with which on the whole we have extremely cordial and close relations, but where from time to time an issue comes up where we differ and where we are on opposite sides, whether that is in the EU or whether it is in another forum.

**Q355 Mr Roy:** Just on the point of the Republic of Ireland, Minister, in relation to the type and scale of presence that the UK Government has in the Republic of Ireland, would you foresee that it would be exactly the same or very nearly the same in a separate Scotland?

**Mr Lidington:** These are questions that cannot be put even primarily to UK Ministers, because we do not yet know from those who advocate Scottish independence what kind of UK presence or sharing of facilities or agents with the UK the Government in Holyrood would wish to see established in 2014. We need to see, and the people of Scotland deserve to see, in more detail exactly what is the model of independence that is being proposed. From time to time one gets the impression that nothing is really going to change, that it will be just like devolution or enhanced devolution, with all the good bits about the union and none of the risks of leaving.

**Q356 Mr Roy:** But surely, Minister, we would not just be waiting until the Scottish Government decided something in the future. As we have heard this morning, you might wait an awful long time for a specific. Surely the Foreign Office and the UK Government has to take into cognisance what could happen and not just wait for something to come from Edinburgh?

**Mr Lidington:** The Government is carrying out an analysis across Departments of the benefits of Scotland's participation in the United Kingdom, for Scotland in particular, because the people of Scotland will be the ones taking the decision, but for the UK as a whole. We will be publishing the fruit of that during 2013, but what we are not doing is pre-empting the vote of the Scottish people. We will be working very hard indeed to persuade the people of Scotland that their interests are best served by a decisive vote in favour of the union.

**Mr Roy:** I am not disputing that last point.

**Mr Lidington:** But we are not writing contingency plans as to what might happen. At the moment, where we are today, every Minister in the United Kingdom Government has a responsibility to think, act, speak, take decisions that take account of the interests of everybody in the United Kingdom, including the people of Scotland. I hope not but if there is a vote for Scottish independence that all changes and then Ministers in Westminster are in a different position where they are putting the interests of Wales, Northern Ireland and England first.

**Q357 Mr Roy:** Can you give any examples, Minister, of where in the Foreign Office in foreign policy terms would it be in the rest of the UK's interest to assist Scotland, if it so requested? Given their shared history, would it be likely to receive preferential treatment or be treated the same as any other—

**Mr Lidington:** Again, we have had no proposal from Scottish Ministers so far about the kind of assistance that they envisage. Let me cite an example. Mr Stewart talked about the extensive diplomatic network that we have, which is available both for political representation of the UK, but also for promotion of trade and investment on a global scale and to provide consular services to citizens of the United Kingdom. In the United Kingdom, we have a diplomatic network of 270 offices in about 170 countries with more than 14,000 staff. Clearly an independent Scotland could not replicate that sort of network. We do not know exactly what scale of network the champions of Scottish independence envisage having, but they have not come to us and said, "By the way, we would like to still make use of your consular services," or, "We would still like to make use of UK Trade & Investment to promote Scottish industry." I have to say that in those circumstances British Ministers faced with that decision would say, "Where do the interests of people and companies in the remaining United Kingdom lie?" Then there might be a question that if the Scottish Government wants certain

services—we do at the moment charge people for them. The Canadians use some of our posts, co-location, and they pay us a fee.

**Q358 Mr Roy:** Would you envisage, for example, that the Scots, as the Canadians, would pay for services?

**Mr Lidington:** That is something that would have to be negotiated if there were a vote in favour of independence. It is something that the Scottish Government needs to take into account. I am very far from clear at the moment how the Scottish Government expects that an independent Scotland would provide the diplomatic network and diplomatic heft to promote the Scotch whisky industry, to promote Scottish financial services, to promote defence sales from Scotland, particularly given their stance on defence policy. It seems to me that is a gap in their own public preparations that is for them to fill.

**Q359 Mr Baron:** Can I develop that last point, if I may? We were talking about how Scottish interests would be best represented, whether inside the union or outside, and I tried to tease from the Deputy First Minister the extent to which they would take a different approach with regard to promoting their trade and economic interests. I focused on the Scottish Whisky Association's evidence to us, which claimed that they were very happy with the FCO's work. When putting to the Deputy First Minister the size of the diplomatic network that the UK has at the moment—as you have described it, 14,000 staff, 170 countries covered—I failed to tease out a comprehensive answer from her as to how they would approach things differently. Have you had any sort of communication on this with the Scottish Government as to their approach? Having failed to get an answer out of the Deputy First Minister, what would be your assessment of their chances in succeeding?

**Mr Lidington:** The second half of the question is much more difficult to answer because of the hypothetical circumstances involved.

The straight answer to Mr Baron's first question is no, and I do worry that Scottish Ministers are keen to give the impression that the current arrangements for trade promotion and investment promotion will just continue as normal when they are in no position to give such a guarantee, having failed to spell out the model that they imagine happening. Let's look at a country that is about the size of Scotland in terms of population, Finland. Finland has 93 posts overseas at the moment, compared with the United Kingdom's 270, and the Finns are going to have to cut theirs, I think, by nine because of budgetary pressures. Austria has 82, Ireland 73, so that gives one a feel. No doubt it would be for Scottish Ministers in a hypothetically independent Scotland to decide how many embassies or consular posts or trade posts they could afford.

What they would lose is the diplomatic weight of the United Kingdom, with our membership of G8, G20, our leading role in numerous other international organisations, behind us in promoting Scottish trade and in promoting inward investment into Scotland. At the moment, that all comes with the job for every British ambassador and every British high commissioner. If Scotland becomes independent, that drops away. It is then for the Scottish Government to come and either make their own arrangements or to come to us or somebody else and say, "Please can we come to an arrangement whereby you will look after us as well as your own people?" I really do think it is for the Scottish Government to come straight with people in Scotland about what that might entail.

**Mr Baron:** Preferably well in time before the referendum.

**Mr Lidington:** Well in time before. At the moment, for example, Scotch whisky is served as the digestif of choice by British heads of mission routinely; usually one or two lots are available to distinguished foreign guests to show the importance of the whisky industry

and the quality of it. Our embassies and high commissions gladly host events promoting Scotch whisky or other aspects of Scottish trade.

**Q360 Sir John Stanley:** Minister, do you agree or not that in the event of Scotland becoming independent, under the existing EU treaty Scotland would not have any automatic, preordained legal entitlement to become an EU member state?

*Mr Lidington:* I agree. Everything to do with membership must be agreed unanimously and ratified by all existing member states.

**Q361 Sir John Stanley:** That is a slightly different answer. Do you agree that under the existing EU treaty, there is no automatic legal entitlement of an independent Scotland to become an EU member state?

*Mr Lidington:* Agreed.

**Q362 Sir John Stanley:** Thank you. Secondly, do you agree or not, with all your knowledge and experience of how the EU works, that an independent Scotland would have to follow exactly the same process for achieving EU membership as any other new applicant? In other words, it would have to comply chapter by chapter with the *acquis*, a process that could take some very considerable time and the outcome of which at this particular point cannot be said is certain of acceptance.

*Mr Lidington:* The precise case of Scotland becoming independent of an existing EU member state would be an unprecedented one, so the EU would have to grasp that. It seems to me that the key principle here is the requirement for unanimity and for a change to the text of the treaties. The United Kingdom is listed in the preamble to the treaty of the European Union and in the body of the text of the treaties as one of the members of the EU. Scotland is not named, so simply to do something as straightforward as insert Scotland into that list requires a treaty change. That requires unanimity, it also requires national ratifications in each member state, and unanimity will only be agreed once every detail of the terms of the Scotland's accession is settled.

It is difficult to speculate about the timeframes involved. Croatia and Spain each took about six years. I can see that in Scotland people would argue, "As part of the UK, we already comply with the *acquis* on things like phytosanitary standards. You don't need to go through all this again." My point is that you would need unanimity to agree to such a course. There are key issues, notably the various British exemptions, derogations and opt-outs from aspects of the EU *acquis*, that would have to be negotiated to the satisfaction of every other member state and ratified by every other member state before an independent Scotland could take its place in its own right as an EU member.

**Q363 Sir John Stanley:** Thank you. The last question I want to put to you on this is, do you agree that under the existing EU treaty an independent Scotland, seeking to achieve membership, would be required as a condition of becoming an EU member state to, at some future point, join the euro?

*Mr Lidington:* It would be required to do so unless it could persuade all other EU member states that it should be given the same treaty-based right to opt out of the euro that is given to the United Kingdom and Denmark.

**Q364 Mr Baron:** Minister, we have examined the fact that the UK's diplomatic footprint worldwide would be hard to replicate, hard to build and very costly. As I said, I was not sure that we got an answer out of the Deputy First Minister as to how the Scottish Government would approach that and fund it and so forth. Can I bring that point into our

dealings with the EU? The line taken by the SNP seems to be that they would adopt a slightly different approach to the EU: it would be more based on trade; they feel that they could punch above their weight as a small country. Yet when the question was posed as to the change in the voting process and passing legislation with voting proposals from 2014, which maths would suggest, logic would suggest would make it harder, not easier, for small countries to be heard, let alone have influence, the answer I had was very much, “We would approach things differently,” but we didn’t get much detail. What is your assessment of those changes in 2014 when it comes to small countries?

**Mr Lidington:** I think all small countries argue hard for their own interests and they tend more than larger member states to look to the European Commission as their ally, so a lot depends on the extent to which they can persuade the Commission of their case, but they do find it very difficult if they are opposed by a couple of the big member states. What I find is the usual way of working is that smaller member states try to identify where they have common ground with one of the bigger players, whether it is with Germany, France or the UK, and on some issues it would be with Poland or perhaps Spain or Italy or with some of the Mediterranean small countries. They will try then to latch on to this internal coalition of view in arguing the case at the European Council or the Council of Ministers meeting. What is true is that from 2014 onwards, the voting system is recalibrated to the advantage of large and disadvantage of small member states.

**Q365 Mr Baron:** I put that directly to the Deputy First Minister and the answer was, there is no evidence to suggest that would be acting against the interests of smaller countries, when if you look at the maths it clearly stacks up against smaller countries. There is a shift away from smaller countries having a disproportionate say within the legislative process. The FCO’s assessment is that the maths stands up for itself: 55% of member countries and 65% of voting populations have to be past that watermark, higher than it has been in the past. It has to be past before legislation can be passed. Can I come back to your assessment? The FCO has made the statement that it is going to be harder for smaller countries to be heard, let alone have an influence? Apart from the maths, do you have any other evidence of that?

**Mr Lidington:** It is partly anecdotal rather than scientific. My observation in the last two and three-quarters years of life at the Council is that you do sometimes find small member states are nervous about opposing the big member states in public, even if their own views differ. I think it is fair to say that on some measures—and I am thinking of the enhanced co-operation on financial transfer tax example—there are some countries that have gritted their teeth before going along with this because they felt that their broader strategic interests were served by doing this to cement an alliance with a big member state that wanted it, rather than because the FTT was in their own interests as a country. So I see that at work. The creation of the European Council under Lisbon has injected an important new element of inter-governmentalism into the way in which the European Union operates and, although the European Council proceeds by consensus, in raw political terms it is the leaders of the big member states who tend to count for most when you get to that. Frankly, if you get something where France, Germany and the UK, or France, Germany, the UK and Poland all line up together, it is very difficult, even for a coalition of small member states, to resist that.

**Q366 Mr Baron:** You think the legislative changes next year are going to reinforce that?

**Mr Lidington:** Yes.

**Q367 Chair:** On the question of EU membership, if Scotland’s application for membership could be fast-tracked, would the RUK support it?

**Mr Lidington:** The trouble with giving the straight answer I wish to give, Chairman, is that that takes us into the content and outcome of negotiations to which the UK would be a party in its new guise of three rather than four countries. If we look at, for example, fisheries, or if we look at whether an independent Scotland should join the Schengen agreement, there are UK interests in the outcome of both those decisions, and remaining UK Ministers would be looking to the interests of England, Scotland and Wales in judging its position both about the pace as well as the desired outcome of such negotiations.

**Q368 Chair:** So the answer really is, it depends?

**Mr Lidington:** It all depends, yes. It is uncertain

**Q369 Chair:** Do you think other EU members see it the same way, as they wouldn't be involved in negotiations? You spend a lot of time talking to your counterparts and other members. Do you think they would be much clearer about this?

**Mr Lidington:** I think it will depend which member state you talk to. I think they have been at pains not to get drawn into an internal political debate within the United Kingdom. Formally, of course, there is no such thing as a fast-track process and there is nothing in the treaty that describes a fast-track process. There is a process for accession and it all depends on whether, at the end of the day, there is unanimous agreement on all the details of the terms, which depends in turn then on whether the Government in Scotland is prepared to accede quickly to what others might demand, and so the solution has to command the support of all. It is not enough to say 26. The Spanish Prime Minister has said publicly, "If Scotland separates from the UK, it has to go to the back of the queue." Every country is different—Spain has its own constitution—so I don't want to draw direct comparisons, but it indicates there are EU members who are worried about the precedent that an secession might set. That might influence their approach. If we look at Turkish accession or Macedonia's progress, one country on its own is enough to block accession even when everybody else is signed up and wants to go ahead.

**Q370 Mr Ainsworth:** Let's come on to the issue of the Schengen arrangement and free movement of people. I asked the Deputy First Minister, and she is absolutely confident that, by one means or another, whether it has been accepted as a continuing state or by negotiation, they would be able to get the opt-out and that there would be absolutely no conceivable scenario where there would be a need for border controls between the rest of the United Kingdom and Scotland. What is your view of that situation and whether or not there would be any problems with an independent Scotland?

**Mr Lidington:** Her confidence is not based upon anything written into the treaties or anything that has been said by the European Commission or any other member state. The way that this is provided for in the treaties is that there is a Schengen protocol. The UK and Ireland have an explicit opt-out from that with the right to join if we wish to do so, and there are countries outside the EU—Switzerland and Norway—that have chosen to be part of Schengen. But you go back to the point about unanimity. The way that all recent accessions, including Croatia, have been treated is that their accession treaty presumes that they will enter the Schengen zone and will not have an opt-out, but that they have to have the further agreement of Schengen members that they can come into Schengen post their EU accession once they have met the criteria to enter Schengen in terms of strong internal and third country immigration controls of their own.

So again we are back to the question of unanimity, that if Scotland votes for independence, the Scottish Government could then go to all the other member states and say, "Look, we are on this island. It makes practical common sense for us to have, as part of the

terms of the EU membership we are seeking, the same exemption from Schengen as the UK and Ireland,” but it is up to the others, all of them unanimously, to decide whether that should be granted. For the others, it would mean breaking with the precedent of other recent accessions and sort of establishing a principle that a new member state doesn’t have to be on the path to Schengen, whereas the way it is always presented to me in my conversations in Brussels is, “Look, you have an opt-out from this, but the default position is that EU members ought to be part of Schengen.”

**Q371 Mr Ainsworth:** Let’s put aside for a moment those treaty difficulties, negotiating difficulties with regard to Schengen. What is the scope for two countries to operate a different immigration policy and be able to avoid any border controls?

**Mr Lidington:** If Scotland became independent, it would seem to me that, first of all, they would have to take the decision whether to seek to join or not to join Schengen. If they sought to stay out of Schengen and were successful then presumably part of the package would be that they would remain within the common travel area shared between the United Kingdom and Ireland. In those circumstances such arrangements would continue as we have now, but any other approach—and Schengen is incompatible with the common travel area—means that they would be expected to maintain controls at the Schengen border. That would have somewhat mind-blowing implications for the Anglo-Scottish border, but also implications in Stranraer with the ferry link to Northern Ireland, and at airports.

**Q372 Mr Ainsworth:** Can I ask you one question on this intelligence issue? We are part of an international intelligence-sharing community called Five Eyes in which many of our allies are not included. How difficult or otherwise, easy, might it be for a newly created independent Scotland to get the degree of confidence that might be necessary in order to become part of that arrangement?

**Mr Lidington:** It would require all the members of that community to be satisfied that it was to their overall advantage in terms of intelligence gathering and sharing for Scotland, once independent, to be part of that arrangement and, crucially, for them to have confidence in the quality of an independent Scotland’s own systems for safeguarding such secret information.

**Q373 Mr Baron:** One final question, Minister. There has been a little bit of lack of detail from the Deputy First Minister—in fact, I would suggest more than just a little bit—with regard to how a Scottish diplomatic service would be developed and funded, how a Scottish trade policy would be developed, representation on the ground promoting trade and business interests and so forth. Is the British Government going to do all it can to make sure that the SNP fill in the details, fill in the blanks in their policy well in time for the referendum next year on behalf of the Scottish people?

**Mr Lidington:** It is not for the British Government to fill in the manifest gaps in the SNP’s policy, but I believe that as we develop our own arguments about the benefit that the people in Scotland and Scottish business derives from membership of the United Kingdom there will be greater pressure on the nationalists to reveal what their proposals are in more detail. I think that as we come to publish our analysis later this year of what membership of the United Kingdom gives to families and businesses in Scotland, more and more people in Scotland will start to demand answers to those questions. If we go back to trade, SDI has 22 overseas offices at the moment and seven of those are co-locations with United Kingdom posts. Fine, that is great, but they also have, as part of the UK, access to and representation by those 270 posts around the world that the Department where I serve operates. When Scottish Ministers are travelling to drum up investment or trade or to talk about devolved matters we

support them and help them from the UK Government, but they have the knowledge that when the UK Prime Minister goes into a G8 or G20 summit that he is representing and speaking up for the interests of people in Scotland as well as the rest of the UK. When the Secretary of State for Business or the Minister for Trade go into meetings with their counterparts around the world, they will have Scotch whisky, Scottish financial services on their agenda too.

If we look at a live dispute at the moment, when the UK Fisheries Minister, speaking on behalf of one of the big countries in Europe, goes into a meeting, either on a North Sea, North-East Atlantic basis or EU basis, to talk about mackerel and the row with Iceland and the Faroes, it is the whole of the UK's Government apparatus and weight that is being put behind and deployed in support of Scottish interests. If Scotland leaves the UK, it will be Scottish Ministers and whatever network of support they are able to afford that will have those responsibilities and not UK Ministers.

**Chair:** Minister, thank you very much indeed. Thank you on behalf of the Committee for joining us on this unique occasion. I think it is right and proper that the people of Scotland have a chance and opportunity to see how we address these matters, and it is a matter that has a profound impact upon them, so many thanks to you and to Mr Manley for joining us.