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Scotland, Independence and the European Union

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PAUL CAIRNEY, JUN 20 2012

There are some unusual factors to note when we consider the status of an independent (or further devolved) Scotland and the European Union (EU). First, it is odd that we have to make such predictions rather than simply be told what will happen by those in authority. In other words, there seems to be no formal mechanism within the EU to find out what would happen if Scotland separated from the rest of the UK and sought some form of EU membership (the closest thing is a set of informal talks between governments, which are shared with the public rarely). Consequently, the uncertainty is something that can be exploited by opponents of independence, often drawing on speculative pronouncements from expert fortune tellers in a variety of legal, economic and political fields. This problem is not specific to the EU question. Rather, we are in the odd position of having to vote 'yes' or 'no' to independence before being told what it means in practice. Second, there is no 'technical' answer to any of these questions. Any prediction about Scotland's future is a political statement, no matter the source. We know that this argument applies to all things political, but it seems particularly important in Scotland because the stakes are so high and the level of debate is often so low. Consequently, there is a tendency for commentaries such as these to be pounced on by one side of the debate; to try to portray any academic prophesies as works of genius or folly.

At least we know what some of the key questions are:

1. Will Scotland gain automatic membership of the EU because it currently forms part of a member state? The answer seems to be 'no', but the Scottish Government's position (based on informal talks with members of the European Commission) appears to be much more relaxed about the issue than the UK's – perhaps because it is largely EU compliant already, following long term membership as part of the UK (compared with, say, Turkey which would have to undergo major institutional change to join).
2. What currency will Scotland adopt? There have been some suggestions that Scotland would be obliged to adopt the Euro, but such claims have not been made for some time. The Scottish Government position is that it would keep the pound (and seek to be part of a sterling monetary union) until the Scottish population voted to enter the Euro (which now seems a distant prospect unless the EU has the inclination and ability to set a time limit for a transition).
3. Can Scotland benefit from the same 'opt outs' that the UK enjoys currently? The most economically significant opt-out is the UK 'rebate' negotiated by the Thatcher government (and used to keep Euroscepticism down to a manageable level within the Conservative Party). Potentially the most symbolically significant issue regards the need for people crossing the Scotland/ England border to show a passport at border control. This issue, often linked to the image of rebuilding Hadrian's wall, is used to great effect by opponents of independence. The solution for the SNP may simply be to negotiate the same opt-out from the Schengen agreement that the UK currently enjoys. That would mean maintaining passport controls for visitors from the EU – a practice perhaps made easier by the fact that it is already well established.
4. How will it affect current Scottish Government policies? For example, an independent Scotland would no longer be able to charge £9000 per year tuition fees to students from the rest of the UK (EU regulations promote the equal treatment of citizens in other member states but appear to allow discrimination against citizens within member states because they do not cross a member state border to assert their rights). This may be the catalyst to reform its fees regime, perhaps by charging fees to all EU members and providing equivalent grants to Scottish residents (those who have lived at least three years in Scotland before going to

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Some other important questions, that often receive less attention, relate to EU issues that arise if the referendum produces demands for further devolution rather than independence. The term 'devo max' (there is also some talk of 'devo plus') is both in vogue and rather vague. It is generally taken to mean a significantly enhanced form of devolution in which foreign affairs and defence are two of the few key areas to remain reserved. This becomes complicated in the case of economic policy (the main political battleground). We know that monetary policy will remain reserved in both a devolved and independent Scotland, because keeping sterling means accepting the Bank of England role in areas such as the setting of interest rates. However, we do not know how far Scotland can go down the 'fiscal autonomy' road without independence. The Scotland Act 2012 allows for the further devolution of income tax (the Scottish Government can vary it by ten pence in the pound). However, fiscal devolution remains rather low, with income tax, business rates and council tax adding up to 34% of Scottish revenue (note that the Scottish Government currently spends about 60% of Scottish public expenditure). National insurance (18%) remains reserved but could be devolved. The same cannot be said for VAT (17%) and corporation tax (8%) because EU regulations appear to rule out variations within member states (based, for example, on the argument that a reduction of corporation tax represents a form of state aid to regions; there is also considerable EU pressure to harmonise sales taxes). At the risk of being hijacked by the 'yes' campaign, this seems to be a more problematic issue than most others. In other words, independence may not present any more problems for Scotland's role in the EU than further devolution.

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