This briefing has been written to support the European and External Relations Committee’s inquiry into “EU reform and the EU referendum: implications for Scotland”. The briefing sets out what EU membership means for Scotland. The briefing includes an analysis of the data relating to Scotland’s economic and social links with the EU and covers topics such as trade, inward investment, migration, public finance, higher education, transport, energy, agriculture and fisheries and the environment.

Source: European Parliament
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EXECUTIVE SUMMARY

Since the founding of the then European Economic Community in 1957 by six states, the European Union has grown both in size and in power. Today the European Union is an organisation of 28 member states with competence across a range of policy fields including the single market, agriculture and fisheries, the environment, transport and energy.

Following the election of a Conservative Government with a majority in the 2015 General Election, the announcement was made in the Queen’s Speech that a referendum would be held on membership of the EU in line with the Conservative Party’s manifesto commitment.

Both the UK and the Scottish Government agree that the EU needs to reform, though they differ on the type of reforms that they perceive as being necessary. Whilst the Prime Minister has stressed the need for a more flexible and accountable EU with some powers being returned to member states, the Scottish Government has suggested that the powers that the EU currently has need to be made to work better for EU citizens and that treaty or other structural reforms are unnecessary.

The impact of EU membership on Scotland can be felt across a number of policy areas and, in particular, on its economy. Aided by access to the single market, 46% of Scotland’s international trade was with its EU partners (the figure was 45% for the UK) in 2013. At the same time, international exports to countries outside the EU also continue to rise and are forming an increasing share of all Scotland’s international exports – in 2013 they made up 54% of Scotland’s international exports. One reason for the declining reliance on the EU market may be the increase in bilateral free trade agreements being negotiated by the European Union which has exclusive competence to negotiate international trade agreements. The EU already has in place trade agreements with some 50 partners and is currently negotiating for a trade agreement with the United States of America.

The Single Market also allows businesses from across the EU to invest across member state borders. In Scotland in 2013, nearly 4,600 business sites owned by non-UK European companies had a combined turnover of £42.1 billion and added £15.8 billion in Gross Value Added (GVA) to the Scottish economy. This made up 15.6% of all Scotland’s GVA making it the most reliant region of the UK on European owned companies. In terms of jobs, the Financial Scrutiny Unit in SPICe has calculated that around 150,000 jobs were sustained directly in Scotland from exports to the EU in 2013.

Tourism from the EU is also important to Scotland. Visitors from other EU countries spent around £800 million in 2014 which made up 42% of overall international visitor spend (compared to 44% for the UK as a whole). Scotland’s slightly lower share of overseas spending from EU countries partly reflects a higher share of spending from North American visitors.

EU membership has also led to changes in Scotland’s population due to freedom of movement. In the period from when the UK joined the EU in 1973 until 2003, the Scottish population either saw minimal growth or decreased. The average change over the period was a population reduction of 0.1% per year. From 2004 when the European Union expanded with the accession of eight central and eastern European countries and Malta and Cyprus, the Scottish population has increased by at least 0.3% a year. The latest estimates suggest that in 2014 there were around 173,000 people in Scotland who had the nationality of another EU member state,
equating to 3.3% of the overall population. When compared to the UK, Scotland’s population includes proportionally fewer EU nationals than the UK as a whole, where the figure is 4.6%.

EU membership has also influenced Scotland’s higher education sector both in terms of student mobility and access to funding. Non-UK EU nationals are entitled to study at Scottish universities for free. In 2013-14, 13,550 EU students studied at Scottish universities at a cost to the Scottish Government of £25.6 million. Although few Scottish students choose to undertake their full degree in another member state, the main study abroad option for UK nationals wishing to spend part of their time studying at an institution in another EU member state is ERASMUS+. The total number of UK students taking part in these schemes rose from 11,723 in 2009-10 to 15,566 in 2013-14. The proportion of students from Scottish HEIs taking part in these programmes remains at around 13 per cent during this period. Scottish participation in the programme is slightly higher than in other parts of the UK (relative to Scotland’s overall population in UK).

Scottish Universities also benefit from access to the Horizon 2020 funding programme for research and development. In the first 18 months of the programme (which began in January 2014), Scottish organisations were awarded over €111 million in funding which is 1.5 per cent of the total awarded Horizon 2020 budget to date. This figure also equates to 10.5 per cent of the funding awarded to the UK (over €1 billion).

Scottish HEIs and research institutes have been the main beneficiaries of Horizon 2020 awards to date, securing almost 80 per cent (€89million) of the funding to Scottish organisations. The remaining awards have been to businesses, the public sector and other types of organisations, including charities.

In both agriculture and fisheries, the European Union’s common policies provide both European funds to Scotland’s farmers and fishermen whilst also providing frameworks within which the sectors have to operate. Both the Common Agricultural Policy and Common Fisheries Policy have come in for criticism but EU membership requires participation in both policies.

In other policy areas such as energy and the environment, the EU provides the legislative framework which Scotland must follow. For example, EU action on energy has tended to focus on attempts to establish a single competitive energy market alongside developing an energy policy which can help to reduce emissions and guarantee security of supply. In the environmental and climate change field, Scotland’s policies are heavily influenced by European Union legislation with Scotland Europa suggesting that more than 80% of all environmental legislation passed by the Scottish Parliament originates at EU level.

Whilst EU membership has had an effect across a range of areas in Scotland, it cannot be said that a decision to leave the EU would necessarily reverse all these effects – both positive and negative. In part that would depend on the chosen alternative to EU membership. Possibilities include membership of the European Free Trade Association (EFTA) or of the European Economic Area (EEA). Terms of membership for both of these organisations would need to be negotiated as would the terms for leaving the European Union. Therefore, it is not possible to say what the impact of such a decision would be, though EEA membership would likely still require legislation relating to the four freedoms to be implemented into national law and continuing contributions to the EU budget.
 CONTEXT

Ahead of the 2015 UK General Election the Conservative Party made a commitment that if it was returned to government it would legislate to hold an in-out referendum on the United Kingdom’s membership of the European Union.

The Conservative Party victory at the election led to the introduction of the European Union Referendum Bill on 28 May 2015. The Bill, if passed, will require the holding of a referendum on the UK’s continued membership of the European Union (EU) before the end of 2017.

Although the Bill is currently subject to Parliamentary procedure at Westminster, given the Conservative Party majority in the House of Commons, it is likely that there will be a referendum on the United Kingdom’s future membership of the EU.

This briefing begins by providing a brief history of the development of the EU and follows by setting out the background to the UK Government’s proposal for a referendum. It then explains the Scottish Government’s current policy on the EU along with details of Scotland’s current status within the EU. The main section of the briefing examines what EU membership means in practice for Scotland across a number of different sectors including the economy, higher education, the environment and agriculture and fisheries. The briefing does not examine the possible impact on these sectors of a UK decision to leave the EU because it is very difficult to quantify what might happen in the event of withdrawal given a lack of clarity over any chosen alternative to EU membership.
THE DEVELOPMENT OF THE EUROPEAN UNION

The idea of European integration was conceived in the aftermath of the Second World War. A pooling of coal and steel production, then the main sources of military power, was proposed as "the first concrete foundation of a European federation" by the French Foreign Minister Robert Schuman in a speech on 9 May 1950.

Schuman’s idea was taken forward and, in 1951, the European Coal and Steel Community was formed. The six founding member countries of the European Coal and Steel Community were: Belgium, France, West Germany, Italy, Luxembourg and the Netherlands. These six member states then signed the Treaty of Rome in 1957 forming the European Economic Community. This created a common market between the countries, allowing goods and services to move freely between them.

The United Kingdom, along with Ireland and Denmark, acceded to membership of the European Economic Community in 1973. There were further enlargements in 1981, 1986, 1995, 2004 and 2007. Most recently Croatia joined the European Union in July 2013. Membership now stands at 28 states with a total population of around 500 million.
Since its founding in 1957 the European Union has expanded from 6 countries to 28.

THE TREATIES

The operation and competencies of the European Union are underpinned by the Treaties which constitute its legal basis and which are agreed by all Member States. A brief description of each of the Treaties is provided in Figure 2 below.
Figure 2 – The Development of the European Union through the Treaties

EU Treaties

The Treaty of Paris
established the European Coal and Steel Community.

April 1951

The Treaty of Rome
established the European Atomic Energy Community and the European Economic Community.

March 1957

The Single European Act (SEA)
provided fresh impetus for an internal European market which had been difficult to achieve in part because of the decision making procedures in place at the time.

February 1986

The Treaty of Amsterdam
was a rationalising treaty that amended pre-existing constitutive European Treaties.

February 1992

The Treaty of Maastricht
on European Union took the European Union beyond its original economic objectives, towards a greater level of political union.

June 1997

The Treaty of Nice
was used by member states to prepare the European Union for future enlargements.

December 2000

The Treaty of Lisbon
amended the Treaty on European Union and the Treaty Establishing the European Community.

December 2009
THE TREATY OF LISBON

Signed in December 2009, the Treaty of Lisbon saw the most recent amendments to the EU Treaties. The Treaty of Lisbon amended both the Treaty on European Union and the Treaty Establishing the European Community. The Treaty Establishing the European Community was re-named the Treaty on the Functioning of the European Union (TFEU). According to the European Commission, (2009) the Treaty of Lisbon had four key effects

- **A more democratic and transparent Europe**, with a strengthened role for the European Parliament and national parliaments, more opportunities for citizens to have their voices heard and a clearer sense of who does what at European and national level.

- **A more efficient Europe**, with simplified working methods and voting rules, streamlined and modern institutions for a EU of 27 members and an improved ability to act in areas of major priority for today’s Union.

- **A Europe of rights and values, freedom, solidarity and security**, promoting the Union’s values, introducing the Charter of Fundamental Rights into European primary law, providing for new solidarity mechanisms and ensuring better protection of European citizens.

- **Europe as an actor on the global stage** will be achieved by bringing together Europe’s external policy tools, both when developing and deciding new policies. The Treaty of Lisbon gives Europe a clear voice in relations with its partners worldwide. It harnesses Europe's economic, humanitarian, political and diplomatic strengths to promote European interests and values worldwide, while respecting the particular interests of the Member States in Foreign Affairs.

Following the entry into force of the Treaty of Lisbon, the TFEU includes the areas of competence for action at either member state or EU level. In relation to member state competence, the Treaty does not define whether competence is at national, regional or local level.

At the time, the House of Commons Library (2007) produced a research paper which included a definition of competence:

“Competence’ is the term used to define whether the Union or the member states has the responsibility under the EC Treaties to make decisions on a particular policy. Competence at regional or local level is not specified in the Lisbon Treaty. In defining whether the EC or the member states have competence in any particular area or for a specific task, the terms “spheres of competence”, “shared competence”, “Community competence” and “exclusive competence” are terms used in the present Treaties, but these do not list areas of exclusive or shared competence.”

Articles 3 to 6 of the TFEU set out at which level competences sit. These articles have been reproduced in Box 1 below for information.
Box 1 – Areas of European Union Competence

Areas of Exclusive Competence

Article 3 of the Treaty on the Functioning of the European Union details the areas of Union exclusive competence as:

- Customs union
- Competition rules for the functioning of the internal market
- Monetary policy, for the member states which have adopted the euro
- Conservation of marine biological resources under the common fisheries policy
- Common commercial policy

Areas of Shared Competence

Article 4(2) is on ‘shared competence’, where the Union and the member states are both able to act.

The main areas of shared competence are as follows:

(a) internal market;
(b) social policy, for the aspects defined in this Treaty;
(c) economic, social and territorial cohesion;
(d) agriculture and fisheries, excluding the conservation of marine biological resources;
(e) environment;
(f) consumer protection;
(g) transport;
(h) trans-European networks;
(i) energy;
(j) area of freedom, security and justice;
(k) common safety concerns in public health matters, for the aspects defined in this Treaty.

Article 4(3) also states that “in the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however; the exercise of that competence shall not result in member states being prevented from exercising theirs”.

Article 4(4) adds that “in the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however; the exercise of that competence shall not result in member states being prevented from exercising theirs”.

Areas of Supporting Competence

Article 6 sets out a category of areas of supporting, coordinating or complementary action:

(a) protection and improvement of human health;
(b) industry;
(c) culture;
(d) tourism;
(e) education, youth, sport and vocational training;
(f) civil protection;
(g) administrative cooperation.

Action in these areas must not supersede the competence of member states to act and must not entail the harmonisation of national laws.
THE PATH TO A REFERENDUM

The Coalition Government formed following the 2010 UK General Election included in its Programme for Government a commitment to:

“ensure that there is no further transfer of sovereignty or powers over the course of the next Parliament. We will examine the balance of the EU’s existing competences and will, in particular, work to limit the application of the Working Time Directive in the United Kingdom.” (UK Government 2010)

This provision in the Coalition Government’s programme arguably represented the first step on the road to the UK’s in/out referendum.

THE UK GOVERNMENT’S BALANCE OF COMPETENCES REVIEW

In line with the commitment in the Coalition Agreement, the UK Government carried out a review of the EU’s competences, which the Foreign Secretary launched in July 2012. This was an audit of what the EU does and how it affects the UK.

The review was broken down into a number of individual reports covering specific areas of EU competence. UK Government Departments prepared reports drawing on evidence submitted to them.

In total there were 32 different workstreams that the Cabinet Office requested evidence on during the four semesters. All the details are available on the Cabinet Office website at: https://www.gov.uk/review-of-the-balance-of-competences

The Scottish Government submitted responses to the UK Government’s consultation across a number of the different workstreams. These responses are available on the Scottish Government website at:


THE PRIME MINISTER’S REFORM AGENDA

Although the Balance of Competences Review did not conclude until December 2014, on 23 January 2013, the Prime Minister made a speech at Bloomberg in which he pledged to negotiate reforms to the European Union. Specifically the Prime Minister set out how he believed the European Union must change to deliver economic prosperity and maintain support amongst the EU’s citizens. He highlighted three challenges:

“First, the problems in the Eurozone are driving fundamental change in Europe.

Second, there is a crisis of European competitiveness, as other nations across the world soar ahead. And third, there is a gap between the EU and its citizens which has grown dramatically in recent years. And which represents a lack of democratic accountability and consent that is - yes - felt particularly acutely in Britain.

If we don’t address these challenges, the danger is that Europe will fail and the British people will drift towards the exit.” (UK Government 2013)

The Prime Minister went on to set out 5 principles for change to establish a European Union fit for the 21st Century. These principles were: competitiveness, flexibility, repatriating powers to Member States, democratic accountability and fairness. The Prime Minister specifically referred
to the need to complete the Single Market in the areas of services, energy and digital alongside adopting a flexible approach to membership of the Union instead of being,

“weighed down by an insistence on a one size fits all approach which implies that all countries want the same level of integration. The fact is that they don’t and we shouldn’t assert that they do”.

Building on his Bloomberg speech a year later in an article for the Telegraph (2014), the Prime Minister presented a more developed view of EU reform. He set out seven major changes he wanted to make to the European Union.

- New controls to stop “vast migrations” across the continent when new countries join the EU;
- Tighter immigration rules to ensure that migrants come to Britain to work, not as tourists planning to cash in on “free benefits”;
- A new power for groups of national parliaments to work together to block unwanted European legislation;
- Businesses to be freed from red tape and “excessive interference” from Brussels, and given access to new markets through “turbo charging” free trade deals with America and Asia;
- British police and courts liberated from “unnecessary interference” from the European Court of Human Rights;
- More power “flowing away” from Brussels to Britain and other member states, rather than increasingly centralising laws in the EU;
- Abolishing the principle of “ever closer union” among EU member states, which Mr Cameron says is “not right for Britain”.

PROGRESS IN NEGOTIATING REFORM

Since his election victory in May 2015, the Prime Minister has been discussing his plans for EU reform with his counterparts across the EU. At the June European Council, according to the Conclusions, the Prime Minister “set out his plans for an (in/out) referendum in the UK. The European Council (2015) agreed to revert to the matter in December.” Ahead of the December Council, the Prime Minister will write to Donald Tusk, the President of the European Council, setting out the UK Government’s priorities for EU reform.

SCOTTISH GOVERNMENT POLICY ON EU REFORM

The Scottish Government’s view on EU reform was summarised by the First Minister in an article in The Scotsman newspaper on 26 May 2015. The First Minister was quoted as saying:

“We don’t think it’s perfect, we think reform is both desirable and necessary, but we believe very strongly that Scotland’s interests are best served by being members of the European Union and we will argue that case strongly and positively.” (The Scotsman 2015)

The following week, in a speech at the European Policy Centre, the First Minister set out how the Scottish Government believed change should be achieved.
“We believe that reforms can be implemented within the existing Treaty framework, rather than requiring Treaty change.” (Scottish Government 2015)

In August 2014, the Scottish Government published Scotland’s Agenda for EU Reform which set out two possible ways to reform the EU without the need for renegotiation of the Treaties.

The first priority for EU Reform identified by the Scottish Government is to encourage the EU’s prioritisation of key economic and social policies such as delivering the growth and competitiveness agenda, tackling youth unemployment, developing workers’ rights and supporting freedom of movement.

The First Minister suggested in her address to the European Policy Centre in June 2015 that the EU should focus on areas where international cooperation can make the biggest difference and in particular suggested more could be done to complete the single market in services along with delivering the digital single market and working towards an integrated EU energy market.

The Scottish Government’s Agenda for EU Reform (2014) also set out regulatory reform as another priority stating that:

“The Scottish Government considers that it is vital that the prioritisation of economic and social policies goes hand-in-hand with regulatory reform. This will ensure that the EU regulates in a more democratic, effective and efficient manner, facilitating economic growth.”

The First Minister built on this priority in her speech to the European Policy Centre saying:

“Regulations should be based on the principles of proportionality and subsidiarity. Better regulation will contribute to economic growth. And by doing so, it will help to restore public trust in the decisions made by European institutions.”

In essence, the Scottish Government’s proposals set out in Scotland’s Agenda for EU Reform and also by the First Minister outline the ways in which the Scottish Government believe the powers the EU already has can be made to work better for EU citizens without the need for treaty or other structural reforms.

**Negotiating the reforms at EU level**

In its response to the Smith Commission which considered further powers for the Scottish Parliament following the “no” vote at the Scottish independence referendum, the Scottish Government proposed that, Scotland should have a formal role in determining the UK’s priorities and policies on international agreements relating to reserved matters that affect Scottish interests. If this power had been granted, it’s possible the Scottish Government might have had a bigger role in contributing to the development of the UK Government’s position ahead of the negotiations which will take place at EU level.

However, the United Kingdom Government might argue that a mechanism is already in place for enabling Scotland to jointly influence and represent UK policy positions on broader European matters. The Joint Ministerial Committee (Europe) which meets regularly to discuss and agree a UK position on EU matters has served that function.

**The Double Lock**

The Scottish National Party manifesto for the 2015 General Election included a proposal that any referendum on leaving the EU should include a “double majority” rule whereby all four nations of the UK must back withdrawal before exit is possible.
This proposal has been developed by the First Minister in recent interviews and speeches. In particular, speaking to the European Policy Centre in Brussels, Nicola Sturgeon linked the upcoming referendum to the previous independence referendum saying:

“One of the things that Scotland was consistently told, in the two years leading up to the independence referendum, is that we are a valued and equal partner in a UK family of nations. And, remember, the UK is just that - a multinational state. Surely, therefore, none of the nations that make up the UK should be at risk of being forced out of the EU against their will.

That is why we are arguing for a “double majority” provision – where the UK can only leave the EU, if each nation of the UK votes to leave. That sort of territorial requirement is used in some federal states such as Canada or Australia. It’s time to apply it to the UK as well. The equal status of England, Northern Ireland, Scotland and Wales should be reflected in the reality of legislation, as well as the rhetoric of campaigning.”

THE EU REFERENDUM BILL

Following the Conservative victory at the UK General Election in May 2015, and in line with the Party’s manifesto commitment, the European Union Referendum Bill was introduced in the House of Commons on 28 May 2015. The Bill, if passed, will require that a referendum should be held on the UK’s continuing membership of the EU before the end of 2017.

The timing of the referendum is likely to be in part contingent on the negotiations for EU reform which, as discussed earlier in the briefing, the Prime Minister is conducting with his European Council counterparts.
SCOTLAND’S CURRENT STATUS IN THE EUROPEAN UNION

THE EUROPEAN UNION CONTEXT

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

SCOTLAND WITHIN THE UNITED KINGDOM

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

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

This means, as with the other Devolved legislatures, the Scottish Parliament is responsible for transposing and implementing a wide spectrum of EU legislation including in areas such as agriculture, fisheries and the environment and the Scottish Government is responsible for administering the spending of European funds such as structural funds and the Common Agricultural Policy in Scotland. In other areas where the UK Government has competence, such as EU economic policies and areas of Single Market legislation, the Scottish Government and Scottish Parliament have an interest in monitoring how EU laws will impact on Scotland including in devolved areas.

Section 29(2)(d) of the Scotland Act 1998 also requires that all legislation of the Scottish Parliament is compatible with EU law. This means that any decision for the United Kingdom to leave the European Union may also lead to the amendment of the Scotland Act to remove the requirement to comply with EU law. Professor Sionaidh Douglas-Scott (2014) from Oxford University has suggested that, although the Westminster Parliament may repeal the European Communities Act 1972, this would not bring an end to the domestic incorporation of EU law in the devolved nations. She suggested:

“It would still be necessary to amend the relevant parts of devolution legislation. But this would be no simple matter and could lead to a constitutional crisis. Although the UK Parliament may amend the devolution Acts, the UK government has stated that it will not normally legislate on a devolved matter without the consent of the devolved legislature. This requires a Legislative Consent Motion under the Sewel Convention. However, the devolved legislatures might be reluctant to grant assent, especially as one feature of the ‘Vow’ made to the Scottish electorate was a commitment to entrench the Scottish Parliament’s powers, thus giving legal force to the Sewell Convention. So the need to amend devolution legislation renders a UK EU exit constitutionally highly problematic”.

16
WHAT EU MEMBERSHIP CURRENTLY MEANS FOR SCOTLAND

The next section of the briefing outlines what Scotland’s membership of the European Union means in practice across a number of different sectors and also what membership means for people living in Scotland.

The economy section of the briefing provides an analysis of the data relating to Scotland’s economic links with the EU and compares the value of EU membership for Scotland to the value of EU membership for the UK. The briefing also examines the financial and policy impacts of EU membership in other areas such as the environment, agriculture and fisheries and higher education.

In terms of the impact of EU membership for Scotland’s population, the briefing sets out the rights and protections conferred on EU citizens such as freedom of movement and anti-discrimination rules.

The aim of this section of the briefing is to set out a snapshot of what EU membership means for Scotland, it does not examine the impact (positive or negative) of a UK decision to leave the EU. This is because it would be very difficult to quantify what might happen in the event of a withdrawal given the current lack of clarity about any alternative to EU membership.

The House of Commons Library Briefing (2015), “Exiting the EU: impact in key UK policy areas” summarised the difficulty in assessing the benefits of the UK choosing to leave the EU:

“As to whether UK citizens would benefit from leaving the EU, this would depend on how the UK Government filled any policy gaps left by withdrawal from the EU. In some areas, the environment, for example, where the UK is bound by other international agreements, much of the content of EU law would probably remain. In others, it might be expedient for the UK to retain the substance of EU law, or for the Government to remove EU obligations from UK statutes.

Much would also depend on whether the UK sought to remain in the European Economic Area (EEA) and therefore continue to have access to the single market, or preferred to go it alone and negotiate bilateral agreements with the EU along the lines of the Swiss model.”

An analysis of some of the potential alternatives to EU membership is provided later in the briefing.
THE ECONOMIC VALUE OF EU MEMBERSHIP

THE SINGLE MARKET AND FREEDOM OF MOVEMENT

A cornerstone of the EU economy is the Single Market. The European Single Market came into effect at the beginning of 1993. According to the European Commission’s website, the Single Market

“is all about bringing down barriers and simplifying existing rules to enable everyone in the EU – individuals, consumers and businesses – to make the most of the opportunities offered to them by having direct access to 28 countries and 503 million people.”

The single market provides for the free movement of goods, and services within the EU. The Single Market is generally regarded as having provided increased competition, benefiting consumers with a wider choice of products and lower prices. It also makes it easier, and more economical, for businesses to conduct work and trade across borders.

Within the Single Market, goods are traded tariff free which means Scottish businesses can effectively sell their goods to a ‘home market’ of over 500 million consumers. Trade policy between the European Union and external countries is a responsibility of the European Union; as such, Member States cannot operate independent trade policies with non-EU countries.

SCOTTISH AND UK TRADE WITH THE EUROPEAN UNION

In cash terms, Scottish exports to the EU were worth £11.2 billion in 2002. By 2006 the value of exports to the EU had fallen to £8.3 billion. However, since 2006, the cash value of exports to the EU has risen year on year (except for a slight decline in 2009) and were worth £12.9 billion in 2013\(^1\) (Scottish Government, 2015a).

Since 2002, exports to EU countries as a share of all international exports have followed a downward trend for both Scotland and the UK (ONS, 2015a). In 2002 the EU accounted for 55.7% of international exports from Scotland and 54.8% for the UK. By 2013, exports to the EU accounted for 46.3% of Scotland’s international exports. The EU accounted for a similar share of the UK’s exports (44.8%) during 2013.

This downward trend is in part because between 2002 and 2013, Scottish exports to North America grew nearly five times as quickly as exports to the EU.

Although there appears to be a declining reliance on the EU market for Scottish and UK exports, it is still by far Scotland and the UK’s biggest market and since 2007, the proportion of exports to the EU as a percentage of overall international exports has stabilised at around 45%.

The export figures shown in Figure 3 below are based on separate sources of data for Scotland and the UK but are comparable.

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\(^1\) This is the latest Global Connections Survey (GCS) data produced by the Scottish Government. The GCS covers exports from Scotland’s onshore economy, excluding North Sea oil and gas. The GCS data also shows £74.1 billion of exports from Scotland to the rest of the UK.
Alongside the increase in trade with North America, another reason for the declining reliance on the EU market may be the increase in bilateral free trade agreements being negotiated by the European Union. As a member of the EU, Scotland is a party to all bilateral Free Trade Agreements that the European Union has negotiated. The EU already has in place trade agreements with some 50 partners including Chile, South Korea, Mexico, South Africa and the Central American countries. The European Commission’s website shows in addition,
negotiations for further Free Trade Agreements are currently taking place with, amongst others, the United States of America, Japan, India and China.

INWARD INVESTMENT

Another aspect of the Single Market are the opportunities for EU businesses to invest across borders in other Member States.

There are nearly 4,600 business sites owned by non-UK European-owned companies. These companies had turnover (sales) of £42.1 billion adding £15.8 billion in Gross Value Added (GVA) to the Scottish economy in 2013. The figures exclude some financial service activities and public sector activities (ONS, 2015b).

This is just slightly ahead of American companies (North and South America) operating in Scotland which added £14.8 billion (GVA) to Scotland’s economy in 2013.

Figure 5 below shows the GVA generated by European owned companies in the countries and regions of the UK. The GVA generated by European owned companies is also shown as a share of total GVA from the business economy in each UK region and country.

The share of GVA accounted for by European owned companies can be influenced by the performance of a small number of large companies. Therefore the average share is shown covering five years (2009-2013).

Figure 5: GVA from European Owned Companies as % of Total GVA

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2 These figures refer to the European continent. The main European countries contributing the most additional business activities countries outside of the EU are Norway and Switzerland.

3 The GVA figures exclude public sector activities and are usually referred to as the business economy. However, these figures also exclude some financial services activities.

4 Note that this is all activity that can be allocated to a country or region of the UK.
Scotland has the highest share of its business economy accounted for by European companies of any UK country or region. Nearly one in every six pounds in the Scottish business economy is generated by companies based in the rest of Europe.

The top five countries operating in Scotland are shown in Figure 6 below.

**Figure 6 – Inward Investment in Scotland by Country**

<table>
<thead>
<tr>
<th>Country</th>
<th>Investment (£bn)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States of America</td>
<td>£11.4bn</td>
</tr>
<tr>
<td>France</td>
<td>£5.0bn</td>
</tr>
<tr>
<td>Canada</td>
<td>£2.0bn</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>£1.9bn</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>£1.7bn</td>
</tr>
</tbody>
</table>

SOURCE: Annual Business Survey (ABS) published by ONS

The US is by some margin the largest single inward investor in Scotland with US companies accounting for £11.4 billion of GVA. This is more than double the next largest country, France, at £5 billion of GVA.

French companies are disproportionately invested in Scotland. Scotland has more French investment than any other part of the UK and accounts for more than one in four pounds (27%) of French companies GVA in the UK.

The latest (2015) Scottish Business Insider Top 500 companies show the largest foreign owned companies in Scotland include Total and Chivas Brothers, with both operations owned by French companies. The Scottish Business Insider data shows ownership of Subsea 7 (based in Aberdeen) rests in Luxembourg. Subsea 7 has a turnover of £1.4 billion which may explain why Luxembourg is among the top five countries directly invested in Scotland.

Most direct investment in Scotland from EU countries has focused on oil and gas and food & drink. Whilst investment from EU based companies is an important contributor to the Scottish economy, given the sectors in which much of that investment has been made, it is difficult to envisage that this investment would be lost if Scotland were no longer a member of the EU.

**JOBS CREATED**

In March 2015, the Scottish Government published a report outlining the benefits of Scotland’s EU membership (Scottish Government, 2015b). The report states that 336,000 Scottish jobs are estimated to be directly associated with exports to the EU (excluding the UK). This estimate appears to be based on a report by the Centre for Economics and Business Research (CEBR, 2014).

The latest Scottish Input-Output tables published earlier this year (Scottish Government, 2015c) show how many employee jobs (Full-Time Equivalent) are created directly to meet the demand.
for a range of exported Scottish goods and services. The Financial Scrutiny Unit in SPICe has calculated the number of jobs sustained directly by Scottish exports to the EU. Taking exports to the EU for 2013 from the Scottish Government’s Global Connections Survey and applying them to the Input-Output data to estimate the number of jobs sustained directly by exports to the EU, suggests that around 81,000 jobs were sustained directly in Scotland from exports to the EU in 2013.

Multiplier effects take into account additional jobs beyond those created directly by exporters. Multiplier effects include jobs supported by the supply chain of exporters and additional spending by employees. As a result of including these multiplier effects, the number of direct and indirect jobs sustained by EU exports in Scotland is around 150,000 FTE jobs (based on Scottish Input-Output data).

**SCOTLAND- EU BALANCE SHEET**

Scotland contributes to the EU budget as part of the UK whilst also receiving some European funding back. A SPICe briefing (SPICe, 2014) provided an estimate of Scotland’s illustrative contribution to the EU budget and EU receipts. For the 2007-2013 programming period, Scotland’s gross illustrative contribution to the EU budget was €7,787 million compared to EU receipts of €6,007 million. The data suggests that during the 2007 to 2013 financial framework Scotland was a net contributor to the EU.

**SCOTLAND’S RECEIPT OF EU FUNDS**

Scotland has benefited from both pre-allocated and competitive European funds over the last 4 decades. European funding programmes, such as Structural Funds and the Common Agricultural Policy, see funds pre-allocated to Member States and, as such, there is no competitive bidding process required to ensure Scotland gets “its share” of funding. Challenge funds, where Scottish projects are required to submit bids to win funding, include the Horizon 2020 programme which funds research and development across the European Union. Scotland’s receipts of CAP and Horizon 2020 funds are discussed later in the briefing.

Between 2007 and 2013 Scotland received around €800 million in European Structural Funds. During the 2014 to 2020 Multiannual Financial Framework, Scotland is likely to receive around €985 million in funding.

**TOURISM**

Overseas visitors spent £1.8 billion in Scotland in 2014 (Source: International Passenger Survey). Of this, half or around £900 million was spending from visitors from Europe of which around £800 million (42%) was from EU countries. Across the UK, 44% of spending by overseas visitors was from EU countries.

Scotland’s slightly lower share of overseas spending from EU countries partly reflects a higher share of spending from North American visitors, 28% in Scotland compared to 16% for the whole of the UK.
A key aspect of membership of the Single Market is the requirement to follow EU public procurement rules. EU public procurement rules for certain goods and services above certain monetary thresholds were introduced to open up public purchasing, making member states remove restrictive practices. The EU rules aim to open up public procurement to companies outside the awarding member states and ensure the free movement of supplies, services and works within the EU and the non-discriminatory treatment of suppliers.

The EU’s procurement rules prevent Scottish public authorities from placing contracts with Scottish or UK firms without undertaking a rigorous and fair procurement process where providers from other member states cannot be discriminated against. The rules do, however, provide opportunities for Scottish businesses to bid for public contracts in other member states.

The European Union has recently agreed new EU Procurement Directives which must be transposed into Scots law and come into force by 18 April 2016 at the latest. The aim of the Directives is to ensure that public purchases are made in the most rational, transparent and fair manner in order to increase the efficiency of public spending and enable small and medium-sized enterprises to participate in public procurement. The Scottish Government is expected to lay Regulations transposing the new Directives in the Scottish Parliament by the end of 2015. SPICe will publish a detailed briefing on the new Scottish Regulations in due course.

STATE AID

Membership of the Single Market also requires compliance with European State Aid rules. State Aid is support provided by public bodies which the European Commission could consider to have the potential to distort competition and trade between member states and is therefore incompatible with the European Treaties.

The European Commission is in charge of controlling State Aid in the Single Market in all economic sectors. The purpose of State Aid control is to avoid member states granting selective advantages to companies to the detriment of others. This allows companies from all member states to compete evenly and without unnecessary barriers.

The provision of State Aid is not illegal, but member state authorities are required to seek the authorisation of the European Commission before granting State Aid. This is known as submitting a notification to the Commission for its approval. The process for this is covered by Article 108 of the Treaty on the Functioning of the European Union.
EU REGULATION

EU regulations covering companies operating in the UK are a frequently cited issue in the EU membership debate. The debate has focused on the additional costs placed upon businesses in meeting EU regulations. However, it is difficult to measure the additional costs placed on businesses by EU regulations. It is also difficult to show how the additional costs of EU regulations compare with the costs placed on businesses in meeting regulations from the UK or Scottish Governments.

The regulations’ wider benefits to society may outweigh the costs borne by individual businesses, for example some regulations relating to health and safety or food and drink production (however, measuring benefits is also challenging). Furthermore, business regulation in the UK is likely to change in the absence of EU regulation and the UK may retain at least some current EU business regulations.

ECONOMIC IMPORTANCE OF THE EU TO SCOTLAND COMPARED TO THE UK AS A WHOLE

Scotland benefits from inward investment from the EU more than any other part of the UK. EU companies add nearly £16 billion to Scotland’s economy and exports to the EU sustain around 150,000 jobs across Scotland.

Inward investment into Scotland from the EU leans towards energy and food and drink. It is not clear whether any of this investment would be lost if Scotland were to leave the EU. Whilst assets may change hands, it is not clear that output, wages and business would necessarily be lost.

Whilst tourism from the EU is important to Scotland, tourism from North America accounts for a higher share of spend in Scotland compared to the rest of the UK. Additionally, Scottish exports to EU countries have been falling relative to other countries. Scotland is only marginally ahead of the rest of the UK as a share of international exports.
MIGRATION

Under the principle of freedom of movement, the European Union provides all EU citizens with the opportunity to live, work and study in any EU member state. This means that people resident in Scotland can choose to go and work in another member state whilst an EU citizen living elsewhere in the EU can choose to come and live, work or study in Scotland.

The UK’s membership of the European Union has led to increased levels of inward migration from other EU member states. Freedom of movement has, as a consequence led to changes to the demographics of the Scottish population. The impact of EU migration is explored in the next section of the briefing.

EU MIGRATION TO THE UK

The latest statistics from the Office for National Statistics (ONS) show overall net migration to the UK for the year ending March 2015 is at an all-time high. Net migration from the rest of the EU is at its highest recorded level increasing by 41% on the previous year to 183,000. As the immigration statistics for Scotland are considered not accurate enough for practical purposes the following section focuses on the composition of the Scottish population using statistics from the Census and the Labour Force Survey/Annual Population Survey.

How has freedom of movement affected the composition of the Scottish population?

In the context of this section there are two ways of defining a migrant; by country of birth or by nationality.

As a person’s country of birth will not change, it provides an objective and consistent definition for looking at the migrant population of Scotland. However, it is important to remember that some people might be born abroad who have British Citizenship from birth, such as the children of military personnel based abroad

The other way to measure the migrant population is to look at nationality. The way the data on nationality is gathered allows people to define their own nationality. This can change over time with people applying to become British nationals or they may express a cultural affiliation instead of their legally defined nationality.

Overview of Scotland's EU Population

Regardless of whether you classify a migrant by their country of birth or nationality:-

- There are enough non-UK EU citizens (by birth or nationality) in Scotland to be equivalent to the 4th largest city in Scotland.
- EU citizens (by birth or nationality) make up a higher proportion of non-UK residents in Scotland than the UK as a whole.
- There is a higher proportion (as a share of total migrants) of people from the EU Accession 8 countries in Scotland than the UK equivalent
- Proportionally, Scotland has seen a larger increase in the number of non-UK EU born inhabitants than the UK.

5 The ONS is working on improving the statistics.
Population by country of birth

The latest estimates show that in 2014 there were 181,000 people in Scotland who were born in the EU 28 countries, excluding the UK. This equals 3.4% of the Scottish population. This is lower than the UK as a whole where 4.7% of the population was born in another EU country.

Although the non-UK EU born population in Scotland has continued to rise, it still forms less than half of all foreign born people living in Scotland. Of those living in Scotland who were born outside the UK, 48% were born in another EU member state. This compares to the UK as a whole where 37% of non-UK born residents were born in another EU member state.

Whilst the Scottish population makes up 8.3% of the UK’s population, it provides a home to 6% of those born in other EU countries, meaning Scotland has proportionally fewer people born in other EU member states than the UK as a whole. Although Scotland has a lower proportional share of EU born nationals, in 2013 she had more than her population share of people born in the Accession 8 countries but this has fallen in 2014.

Given country of birth doesn’t change, it is possible to look at changes over time. This data shows that the number of EU born citizens in Scotland has increased by just over 110,000 between 2004 and 2014. The majority of this increase has come from the A8 accession countries with the largest increase coming between 2007 and 2008. The EU15 born population has remained relatively stable at around 67,000. Since 2009, the number of people living in Scotland who were born in the accession countries has outnumbered those born in the EU15.

Proportionally, Scotland has seen a larger increase in the number of non-UK EU born inhabitants than the UK. Between 2004 and 2014 there was a 166% increase in the number of people born elsewhere in the EU living in Scotland while the UK saw a 103% increase. 2007 saw the single biggest increase in the number of non-UK EU born citizens living in Scotland (see Figure 8).

Figure 8: EU population by birth in Scotland (‘000)

Source: National Records of Scotland

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6 The Accession 8 are the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.
7 Average of the EU 15 excluding the UK population between 2004 and 2014
Population by nationality

The latest estimates show that, in 2014 there were around 173,000 people in Scotland who had the nationality of another EU member state. This is equal to 3.3% of the Scottish population. This is lower than the UK as a whole where 4.6% of the population were nationals from other EU Member States. These figures are similar to the country of birth data.

Of all non-UK nationals living in Scotland, 61% are nationals from other EU Member States. This is higher than the UK as a whole where 55% are nationals of other Member States.

As with assessing population by birth, when assessing population by nationality, Scotland has 8.3% of the UK's population but only 5.9% of non-UK EU nationals living in the UK are in Scotland.

How has freedom of movement changed the Scottish population?

In the period from joining the EU in 1973 until 2003, the Scottish population either saw minimal growth or decreased. The average change over the period was a decrease of 0.1% per year. From 2004 onwards the Scottish population has increased by at least 0.3% a year. Most inward migration to Scotland comes from the rest of the UK. However, a recent publication from the National Records of Scotland (NRS) highlighted that since 2004 “migration from overseas has contributed the most to population growth.” This additional contribution to population growth coincides with the largest single expansion of the EU with the accession of the A8 countries along with Cyprus and Malta.

Figure 9: Annual change in Scottish population since 1973 (%)

Like most of the developed world, Scotland has an ageing population. The NRS estimates the number of dependents (Under 16 and pensioners) to be supported by the working age population will have increased from 31 per hundred in 2012 to 38 per hundred by 2037. The OECD highlights that, since migrants tend to be younger, they contribute to reducing dependency ratios. The Minister for Europe and International Development, Humza Yousaf, has stated that:-

"Migrants are an important part of Scotland’s future, both in terms of contributing to sustainable economic growth and mitigating the effects of demographic change."

The NRS 2014 mid-year population estimates highlight that Scotland's working age population has been supplemented by migration as:-
“Migrants to Scotland tended to be younger than the general population. Of in-migrants to Scotland, 48 per cent from the rest of the UK and 68 per cent from overseas were aged 16-34 years, compared to 25 per cent in the resident population.”

The 2011 Census provides the most detailed information on the composition of the Scottish population. The Census data shows that the non-UK EU born population in Scotland is younger than the total Scottish population. 84% of the non-UK EU born population in Scotland are between the ages of 16 and 64 compared to 66% of the total population. The majority of the EU born population) (54%) falls into the 16-34 age group compared to a quarter of the total population.

Figure 10: Age profile of overall Scottish population and EU born nationals

![Age profile chart]

Source: Census 2011

Despite this boost to Scotland’s working age population, if the non-UK EU born population was to be removed from the Scottish population it would have a minimal effect on the overall age composition. The working age population would reduce by 0.5 percentage points, with the 65 and over population increasing by 0.3 percentage points of the total population.

The EU born population in Scotland has mostly settled in Scotland’s biggest cities. Edinburgh has the highest proportion of the non-UK EU born population of anywhere in the country. The combined non-UK EU born population living in Scotland’s seven cities accounts for 51% of the entire EU born population living in Scotland.
The Economic Impact of Migration

One of the most cited objections to immigration is the perceived added pressure on public services. The financial impact of immigration can be measured by looking at contributions to public finance versus the costs to public services and the welfare bill. Immigrant’s consumption of public services are difficult to measure. It has been suggested that as immigrants tend to be younger and more likely to be in employment than the population average, they contribute “more in taxes than they received in benefits.” [CEPR] However economic contribution varies across different immigrant groups. The Scottish Census 2011 data shows that the Non-UK EU born population in Scotland have the second highest employment rates of Scotland’s immigrant populations.

The OECD has suggested that migrants contributed around 0.46% to GDP in the UK between 2007 and 2009. The UK benefited relatively more from immigration than other OECD countries with the average being a contribution of 0.35%. Looking over the long term, the Office for
Budget Responsibility (OBR) point out that if net migration remains at similar levels to that which has been seen over the past decade, it could help to reduce pressures on public finances.8

EU born individuals in Scotland are more likely to be in employment than the rest of the population. Based on data from the 2011 Census the EU born population have a higher employment rate than the overall figure for Scotland. However this can be partly explained by the age profile of the demographic. There are fewer people aged 65 and over who were born elsewhere in the EU who live in Scotland.

Looking at the figures in more detail shows that Scottish residents who were born in the countries which joined the EU between 2001 and 2011 have a higher employment rate than the overall non-UK EU figure. This can be partly explained by the age profile with over 60% of people from these countries aged between 16 and 34.

**Figure 12: Employment rate of EU born citizens compared to the Scottish average (16+)**

![Employment rate comparison](image)

*Note: Employment rates based on all people aged 16+
Source: Census 2011*

**Access to Welfare**

Freedom of Movement for workers has come increasingly into the spotlight since the enlargement of the European Union in 2004 and the subsequent economic downturn which hit Southern European economies particularly hard. These events have led to an increasing number of EU migrants moving to the wealthier member states. As this has happened, terms such as “welfare tourism” have entered the lexicon. A blog by Martin Seeleib-Kaiser (2015) from the Oxford Institute of Social Policy at University of Oxford, outlined the limitations of freedom of movement for EU migrant workers in terms of welfare:

“The concept of EU citizenship was formally institutionalised through the Maastricht Treaty in 1992 and builds on the freedom of movement of workers, which has been one of the four core freedoms of European integration since its very beginning.

Under specific conditions EU migrant citizens have social rights; only those with the legal status of ‘worker’ have the same social rights as national citizens from the very first day of their residence in another member state based on the Treaty on the Functioning of the European Union.

According to the Freedom of Movement Directive jobseekers can theoretically export their unemployment benefits for the duration of three months from the country of origin to the member state of destination.

The idea behind this policy was to enhance labour mobility and make the internal market more dynamic, whilst at the same time to avoid jobseekers from becoming a ‘burden’ to the country of destination.

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8 Office for Budget Responsibility, Fiscal sustainability report June 2015
Accordingly, jobseekers are not entitled to social assistance in the destination country within the first three months of residence.”

The UK Government’s Balance of Competences Review (2014) set out how EU rules on access to welfare payments have evolved over recent years.

“As the EU enlarged and Member States’ welfare systems evolved and rights were extended to non-working migrants, it became increasingly difficult to apply rules designed for social insurance principles to residence based benefits and social assistance…

…while Member States retain sole competency over the design and funding of their social security systems, in practice rules designed to support the free movement of workers who are contributing to host Member States’ social insurance systems now operate in a way beyond that which was envisaged, and cover how Member States might want to manage access to their systems.”

The House of Commons Library (2014) briefing “People from abroad: what benefits can they claim?” set out which benefits EEA nationals can claim in the United Kingdom:

“People coming to the United Kingdom from EEA countries do not have unrestricted access to UK social security benefits and tax credits. In May 2004, the legislation governing entitlement to certain benefits and housing assistance was amended so that a person cannot be “habitually resident” unless they have the “right to reside” in the Common Travel Area (the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland).

The “right to reside” test applies to claims for a range of benefits including:

- Income Support
- Income-based JSA
- Income-related ESA
- Pension Credit
- Housing Benefit
- Council Tax reduction
- Child Benefit
- Child Tax Credit
- Universal Credit
- Housing assistance from local authorities

Broadly speaking, a person who moves from one EEA country to another has a right to reside in that country if they are economically active, or is able to support themselves. This applies to people from the “old” EU countries as well as those from the newer accession states.

On 30 April 2006, the Rights of Residence Directive 2004/38/EC came into force, giving everyone, including economically inactive people, a right to reside for the first three months; but the UK Government amended the rules on access to benefits to ensure that people who had a right to reside solely on the basis of the new three-month right of residence would not be able to claim benefits for that reason.

Article 7 of the Directive sets out who has “the right of residence” after the initial three month period. This includes:

- workers or self-employed persons in the host member state, and their families, and
• students attending institutions in the host member state and their families, provided they can support themselves

A “worker” has the right of residence – and with it access to benefits and tax credits – for as long as they are in “genuine and effective work”. A worker can however retain worker status when they stop working in certain circumstances, e.g. if they are temporarily unable to work because of illness, or have been made unemployed and are looking for work.

EEA nationals may also have a right to reside as a jobseeker, if they can show that they are looking for work and have a “genuine chance of being engaged”, and are habitually resident.”

The European Commission has begun infringement proceedings against the United Kingdom on the grounds that the right to reside requirement discriminates against non-UK EEA nationals, contrary to EU law.
The next section of the briefing looks at how EU membership influences higher education in Scotland. Specifically, the briefing examines two main areas where EU membership has an impact on higher education, the movement of students between EU member states and access to EU research funding.

INWARD STUDENT MOBILITY

EU nationals who wish to study at a higher education institution (HEI) in an EU member state other than their home domicile are entitled to free movement protection rights under the terms of the TFEU. Article 21 of TFEU gives EU citizens a right of free movement across EU member states, while Article 18 offers a complementary right not to be discriminated against on the grounds of nationality when exercising this free movement right.

These Treaty articles are concerned with protecting the rights of EU citizens wishing to pursue a cross-border connection. These protections mean that eligible EU students should not be treated differently from a home student in relation to the cost of tuition for accessing higher education in another EU member state.

Scottish domiciled students taking a full time course of higher education at sub degree or degree level do not pay for tuition. Instead a fee is paid by the Students Awards Agency for Scotland (SAAS). As a result of the Treaty agreement, students from other EU member states that take part in the same programmes at Scottish HEIs cannot be charged either. Treaty protections do not extend to equal treatment of those domiciled in other regions of the same EU member state, or to those whose home domicile is outside the EU. This means that Scottish HEIs can – and do - charge a tuition fee to students from other parts of the UK and from outside the EU (international students). The fee for students from the rest of the UK is capped at £9,000 per academic year, while there is no cap on the fee that can be charged to international students.

Figures from the SAAS (2014) show that, in 2013-14, 13,550 EU students received financial support from SAAS, resulting in a total of £25.6 million being spent by the Scottish Government on EU student tuition. Typically, an EU domiciled student would only receive support from SAAS in the form of the tuition fee component; there is no equivalent right for EU domiciled students to financial support for living costs (in the form or loans or bursary allowances).

Figure 13 shows the proportion of the full time first degree student population at Scottish HEIs by home domicile during the period 2009-10 to 2013-14. Participation rates for UK (not Scottish) domiciled and international students are included for context.

Figure 13 indicates that the majority of students at Scottish HEIs are Scottish domiciled - representing around 70 per cent of all full time first degree students. The rate of EU domiciled student participation on Scottish HEIs has been increasing, from 7.9 per cent in 2009-10 to 9.5 per cent in 2013-14.

9 A fee of £1,820 is paid to the HEI by the Student Awards Agency Scotland (SAAS) to cover the annual cost of tuition for participation in a full time undergraduate degree programme. A figure of £1,285 is paid for those taking a sub-degree programme (e.g. HNC of HND).

10 In practice, a contribution to living costs can be made available via ERASMUS+ grant funding.

11 Officials at Scottish Government have informed me, while EU student numbers increased each year between 2009-10 and 2013-14: “EU student numbers this year reduced”
Figure 13: Proportion of full time first degree students studying at Scottish HEIs, by home domicile, 2009-10 to 2013-14

<table>
<thead>
<tr>
<th>Year</th>
<th>Scottish</th>
<th>EU (non UK)</th>
<th>International</th>
<th>Rest of the UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>70.4%</td>
<td>7.9%</td>
<td>15.2%</td>
<td>17.5%</td>
</tr>
<tr>
<td>2010-11</td>
<td>70.3%</td>
<td>8.0%</td>
<td>14.7%</td>
<td>17.0%</td>
</tr>
<tr>
<td>2011-12</td>
<td>69.7%</td>
<td>8.4%</td>
<td>14.3%</td>
<td>17.6%</td>
</tr>
<tr>
<td>2012-13</td>
<td>69.1%</td>
<td>9.2%</td>
<td>14.0%</td>
<td>17.7%</td>
</tr>
<tr>
<td>2013-14</td>
<td>69.0%</td>
<td>9.5%</td>
<td>13.5%</td>
<td>17.0%</td>
</tr>
</tbody>
</table>

Source: Higher Education Statistics Agency

Figure 14 shows the total number of EU students at Scottish HEI’s broken down by EU15 (excluding the UK) – represented in the darker colour - and those EU countries joining the EU since 2004 – represented in the lighter shade.

The proportion of EU domiciled students (both those in postgraduate and undergraduate programmes) at Scottish HEI’s has increased from 24.5 per cent to 35.3 per cent between 2009-10 and 2013-14. Those from the EU 15 countries have reduced from just over three quarters (75.5%) to less than two thirds (64.7%). Proportionally, the biggest increase has come from the EU2 countries (Bulgaria and Romania).

Figure 14: Numbers of students by EU15 countries (not UK), 2009-10 to 2013-14

OUTWARD STUDENT MOBILITY

While Figure 13 shows that there is a significant intake of students to Scottish HEIs from other EU member states, the (limited) available evidence on outward migration suggests that few
Scottish domiciled students are taking up the opportunity to study in other EU member states. One explanation for this is that there is no mainstream funding available at Scottish level that offers financial support for a student wishing to take their first degree in another EU member state outside their home nation.

There is a long standing agreement in place that the SAAS will fund certain degree courses running in the Republic of Ireland. SAAS also has an agreement in place to fund certain courses (mainly postgraduate) at European HEIs. The numbers of students that can access support is capped. There is one course that only attracts support for one student, while others can fund between one and six students. As a result of these constraints on funding, figures provided by SAAS indicate that only 20-30 students each year are receiving support to study in another EU member state; around half are studying in the Republic of Ireland (SAAS, 2015). The total cost of this support in 2013-14 was £129,000.

**ERASMUS AND ERASMUS+**

The main study abroad option for UK nationals wishing to spend part of their time in education studying at an institution in another EU member state is ERASMUS+. ERASMUS+ replaced ERASMUS in 2014. It is a European Commission initiative where member states bid for funds. The student mobility element of ERASMUS+ can involve either a period of study in another EU member state (lasting between 3 and 12 months) or a work placement (lasting between 2 and 12 months) taken during or within one year of completing a relevant programme of study. The British Council and Ecorys jointly hold the current UK contract to deliver ERASMUS+ in the period 2014 to 2020.

Figure 15 shows the total number of students from UK HEIs that took part in the previous ERASMUS study or work training scheme in each academic year 2009-10 to 2013-14. The total numbers taking part in these schemes rose from 11,723 in 2009-10 to 15,566 in 2013-14. The proportion of students from Scottish HEIs taking part in these programmes remains at around 13 per cent during this period. Scottish participation in the programme is slightly higher than in other parts of the UK (relative to Scotland’s overall population in UK).

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12 Availability of funding is one explanation or inward and outward student migration. Other factors can also affect the decisions made by students about where to study e.g. a wish to stay near home.

13 There is a pilot programme running in academic years 2014-15 and 2015-16 - funded by the Scottish Government - that offers Scottish domiciled students access to the same funding they would get if they studied in Scotland where they opt to pursue their degree at one of five partner HEIs in other EU member states. There are no figures available on take-up to this programme, or the cost of administration. Information on the pilot is available [here](#).

14 Information and statistics provided by SAAS on request (personal communication).

15 Based on information provided by colleagues at Scotland Europa (October 2015).
Figure 15: Participation in ERASMUS study or work placement programmes, UK HEI numbers and proportion from Scottish HEIs, 2009-10 to 2013-14

Source: https://www.erasmusplus.org.uk/erasmus-projects

EUROPEAN RESEARCH FUNDING

Horizon 2020 is the EU’s main funding programme for research and innovation and is fully aligned with major EU policy goals and with the European Research Area, an initiative which seeks to coordinate and pool research efforts across Europe. The programme has a total budget of €76.4 billion and the programme period runs from 2014 to 2020.

Opportunities for funding are outlined in biennial ‘work programme’ documents published by the European Commission, with grants being allocated on a competitive basis to the best proposals. The proposals are judged and ranked on their scientific excellence, on how they will be delivered (implementation) and on the expected impact that the project will have. There is no geographical allocation or weighting of the funds.

Around 10 per cent of the overall programme budget has been awarded in the first 18 months of the Horizon 2020 programme. Scottish organisations have been awarded over €111 million of this, which is 1.5 per cent of the total awarded Horizon 2020 budget to date (Scotland Europa 2015). This figure also equates to 10.5 per cent of the funding awarded to the UK (over €1 billion).

Scottish HEIs and research institutes have been the main beneficiaries of Horizon 2020 awards to date, securing almost 80 per cent (€89million) of the funding to Scottish organisations. The remaining awards have been to businesses, the public sector and other types of organisations, including charities.

Prior to the start of the programme, Scotland had also successfully accessed EU research and innovation funding via the 7th Framework Programme (which ran from 2007 to 2013). Figures
provided to SPICe by Scotland Europa in September 2015 indicated that Scotland was awarded €741 million in total under this programme\textsuperscript{16}.

\textsuperscript{16} This is the most accurate figure currently available. It may not represent the final figure as not all of the Grant Agreements from the final round of calls in 2013 were signed by the time of the March 2015 statistical release (upon which the figures given to the Committee in June 2015 were provided).
TRANSPORT

Whilst the EU’s engagement with transport policies will generally involve transnational transport routes, other EU policies, such as State Aid and Single Market legislation have had an impact on Scotland’s transport sector. This section of the briefing summarises the European Commission’s approach to transport policy and sets out how EU law has affected Scottish transport.

The European Commission (2011) sets out its transport policies in a white paper *Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system* published during March 2011. This set out a framework for all EU level transport policy, which aims to increase mobility, remove major barriers to mobility and fuel growth and employment. The proposals also aim to reduce Europe's dependence on imported oil and to cut transport related carbon emissions by 60% by 2050. The key goals for 2050 are:

- No more conventionally-fuelled cars in cities
- 40% use of sustainable low carbon fuels in aviation
- At least a 40% cut in shipping emissions
- A 50% shift of medium distance intercity passenger and freight journeys from road to rail and waterborne transport

The white paper sets out 40 initiatives that will be pursued over the period 2011 to 2021, which aim to assist in meeting the 2050 goals, including initiatives around smart pricing of roads and creation of a single European airspace area. These policies will be one consideration in the Scottish Government’s current refresh of the National Transport Strategy.

TRANS-EUROPEAN NETWORKS

Scotland, and the wider UK, has one Trans-European Network Transport Corridor running through it. The *North Sea-Mediterranean Corridor* stretches from Belfast and the Irish ports of Cork and Dublin, as well as from the northern UK ports of Glasgow and Edinburgh through Belgium, with a branch from Amsterdam and Rotterdam, via Luxembourg to Strasbourg and Basel and via Lyon to the southern French ports of Fos/Marseille. It covers rail, road, airports, ports, the Dutch-Belgian inland waterway system as well as the Rhône river. The current Edinburgh-Glasgow Improvement Programme (EGIP) will improve a key Scottish section of this corridor.

STATE AID AND SCOTTISH TRANSPORT

As discussed previously in the briefing, there are strict European rules governing the award of State Aid, particularly in relation to transport operations. The Treaty Establishing the European Community prohibits any aid granted by a Member State or through State resources in any form which distorts or threatens to distort competition favouring certain firms or the production of certain goods.

The aid in question can take a variety of forms, including grants; interest relief; tax relief; state guarantee or holding or provision by the state of goods and services on preferential terms

State Aid rules have had a significant impact on the procurement of lifeline ferry services on the Clyde, Hebrides and Northern Isles routes. The rules require the Scottish Government to competitively tender the award of the contracts for the provision of Clyde and Hebrides and Northern Isles ferry services. In addition, the rules place restrictions on the Scottish Government’s ability to provide financial support for air services. Limiting such support to designated Public Service Obligation routes, which link urban centres with remote rural areas.
The rules also prevent the Scottish Government from providing financial support for route development at Scotland’s two largest airports – Edinburgh and Glasgow.

PASSENGER RIGHTS

The EU guarantees passengers certain rights where their services are subject to delay, cancellation or overbooking, as outlined below:

- **Air**: Anyone departing from an airport located in the EU, or arriving in the EU on a carrier based in the EU, Iceland, Norway or Switzerland is guaranteed rights to assistance and compensation where there are long delays, cancellations and overbooking which prevents boarding.

- **Rail**: Rail travellers on services between EU countries are guaranteed rights to assistance and compensation if their train is delayed or cancelled. There are also rights to compensation for registered luggage that is lost or damaged.

- **Long distance bus and coach services**: Passengers travelling on regular bus or coach services, defined as over 250km, starting or finishing in an EU country are guaranteed rights to assistance and compensation where their service is delayed or cancelled, with the exception of certain services that are primarily outwith the EU.

- **Maritime passengers**: Maritime passengers, leaving or arriving in EU ports on larger ships and travelling for transport purposes are guaranteed rights to assistance and compensation if their ship is delayed or cancelled.

DRIVING LICENCES

European Directives on driving licences date back to 1980. The first driving licence Directive made it possible for EU citizens moving to another Member State to exchange their driving licence without passing a new theory, practical and medical test. The driver however still had to exchange his or her licence within one year of taking up residence in a new Member State.

In 1991, a second driving licence Directive introduced the principle of mutual recognition and abolished the need to exchange one’s licence when taking up residence in another EU member state. However, the implementation of mutual recognition was impeded by different member states having different licence validity periods and medical examination requirements.

A third driving licence Directive was adopted on 20 December 2006, with most of its requirements coming into force on 19 January 2013. This introduced a standard European Union driving licence style, with standard vehicle categories recognised throughout the EU.
JUSTICE

The EU’s justice policies cover a wide range of matters. These include areas of civil justice such as cross-border family law, EU judicial co-operation, and the enforcement of national court judgments; but also Police and Criminal Justice (PCJ) measures and data protection rules.

The EU’s power to act in this area has developed over the years culminating in the 2009 Lisbon Treaty (House of Lords European Union Committee 2014 and Peers (2014)). Amongst other things, the Lisbon Treaty:

- expanded the role of the European Parliament by making the ordinary legislative procedure the norm in most justice areas meaning that the Parliament and Council can only adopt legislation with each other’s agreement (Council of the European Union 2009)
- introduced qualified majority voting in the Council in most cases (thus reducing the number of areas where Member State unanimity is needed to proceed)
- granted the Court of Justice the power to give preliminary rulings (i.e. decisions on the application of EU law) in the field of justice
- allowed the European Commission to take infringement proceedings against Member States under Article 258 TFEU as regards justice matters

In the past, the UK and Ireland negotiated the right to opt into EU justice legislation on a case by case basis. This position was broadly followed in the Lisbon Treaty which, in very simple terms, permits the UK and Ireland to choose whether or not they wish to participate in individual EU justice policies. (House of Commons Library 2011)

The Lisbon Treaty also included a five year transitional period for PCJ measures adopted prior to the treaty’s entry into force. This meant that the new European Commission and Court of Justice powers only kicked in on 1 December 2014 in relation to existing PCJ law (in effect retaining the status quo for Member States during this period) (see Article 10 to Protocol 26 TFEU).

The Lisbon Treaty also gave the UK the option, within this five year transitional period, to opt out of all (130) PCJ measures adopted prior to the treaty’s entry into force (Article 10(1)–(3) of Protocol 36 TEU). The UK Government (2014) notified the Council in July 2013 that it wished to exercise this block opt-out. However, it simultaneously negotiated individual opt-ins to 35 PCJ measures on the basis that these were in the national interest. These included Eurojust, Europol and the European Arrest Warrant. The latter proved to be the most politically controversial opt-in (primarily on the basis that it allows British citizens to be extradited to Member States with less robust legal systems and/or for minor offences).

As indicated the UK’s participation in the EU Justice programme has already involved a series of opt-ins and opt-outs. In the event of the UK leaving the EU it would, therefore, seem likely that there would be a need to negotiate certain bilateral or multilateral agreements with the EU and/or individual Member States (in particular as regards PCJ measures).

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17 For details see paragraphs 4–13 of the House of Lords EU Committee Report: Strategic guidelines for the EU’s next Justice and Home Affairs programme and Professor Steve Peers, Mission Accomplished? EU Justice and Home Affairs law after the Treaty of Lisbon
18 See Command Paper 8671; Official Journal of the European Union, December 1, 2014 and the House of Commons Library Briefing Paper on the UK block opt-out in police and judicial cooperation in criminal matters
19 See the House of Commons Library Briefing Paper on the European Arrest Warrant and Daily Telegraph, How the European Arrest Warrant debate descended into a shambles, 14 November 2014
SOCIAL AND EMPLOYMENT RIGHTS

Membership of the European Union provides all citizens of member states with a number of social and employment rights. Membership of the European Union is not necessarily essential for the continuation of these rights but the EU has promoted this agenda over several decades.

All persons who hold the nationality of a member state are also granted citizenship of the European Union. In addition, Article 18 of TFEU provides that no citizen shall be discriminated against on the basis of nationality. This means that EU citizens across all member states must be treated in the same way.

EU citizens also have the right to vote for and stand as a candidate in European Parliament, local and regional elections and be protected by the diplomatic and consular authorities of other EU Member States if their own Member State is not represented in that country.

EU citizens have also benefitted from the extension of social and employment rights through the establishment of minimum standards across the European Union. Following agreement of the Treaty of Amsterdam in 1997, the EU Treaties have enshrined principles relating to non-discrimination in the areas of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 TFEU). As a result, the EU has developed comprehensive legislation in the area of non-discrimination and equality. It began with sex equality in the employment context and has now extended to race, disability, sexual orientation, age and religion or belief in employment, and race and sex in the provision of goods and services. (UK Government 2014)

EU Citizens are also guaranteed the right to equal treatment with European legislation providing for minimum standards for example in relation to employment and, in some cases (including racial or ethnic origin and gender), in access to goods and services.

Articles 151 to 161 of TFEU provide a legal basis for all EU action in the area of social policy. For instance, Article 153 of the TFEU gives the EU legislative competence to set minimum standards in areas such as health and safety, working conditions, social security and social protection of workers and informing and consultation of workers. Through this competence, the EU has adopted legislation covering health and safety for fixed-term and temporary workers (1991); informing employees about their employment conditions (1991); parental leave (1992); working time (1993); young workers (1994); European Works Councils (1994); posted workers (1996); and agency workers. (UK Government 2014)
ENERGY

Membership of the EU requires the United Kingdom and Scotland to comply with European legislation in the energy policy field.

Although responsibility for energy policy in Scotland is shared between the UK and Scottish Governments, the UK Government is responsible for framing the UK position in European Union negotiations.

EU action in the field of energy has tended to focus on attempts to establish a single competitive energy market alongside constructing an energy policy which can help reduce emissions and guarantee security of supply for all EU citizens. Policy is based on three pillars: Security of supply, competitive markets and sustainability.

In 2008, the EU committed to a legally-binding Climate and Energy Package which became known as the 20-20-20 targets. By 2020, Member States agreed to achieve:

- A 20% reduction in EU greenhouse gas emissions from 1990 levels.
- Raising the share of EU energy consumption produced from renewable resources to 20%.
- A 20% improvement in the EU's energy efficiency.

These targets were updated in January 2014, with EU countries agreeing a 2030 Framework for Climate and Energy (European Commission 2015) which agrees to:

- A 40% reduction in EU greenhouse gas emissions from 1990 levels.
- At least a 27% share of EU energy consumption produced from renewable resources.
- At least a 27% improvement in the EU's energy efficiency.

ENERGY DIRECTIVES

A number of Directives enforce the 2020 targets, including the Large Combustion Plants Directive (2001/80/EC – LCPD), and its successor the Industrial Emissions Directive (2010/75/EU – IED). However, in a Scottish context, the most influential has been the Renewable Energy Directive (2009/28/EC) and related targets.

Renewable Energy Directive

The Renewable Energy Directive and related targets were transposed by the UK Government through the Renewable Energy Roadmap (UK Government 2011). The Scottish Government’s own Renewables Routemap (Scottish Government 2011) proposes tougher 2020 targets than both the UK and EU ones. Namely, to produce 30% of all Scottish energy from renewable sources, within which 100% of electricity demand will be renewable, contrasted with a UK target to produce 15% of all energy from renewable resources, of which 30% is expected to come from renewable electricity.

20 Energy matters are largely reserved with the UK Government responsible for UK Energy Policy. However, the Scottish Government has responsibility for the promotion of renewable energy generation, energy efficiency and as planning consent is devolved, applications to build and operate power stations and to install overhead power lines are made to Scottish Ministers.

21 N.B. This is all energy, not just electricity.
The EU therefore continues to play a considerable role in the development of the UK’s energy policy, and has also directly influenced Scotland’s approach by providing a baseline for renewables ambitions; Scotland’s Renewable Routemap Update (Scottish Government 2015) highlights the Scottish Government’s ambition to be part of a “globally competitive renewable energy industry”, and highlights a number of EU funded projects.

As previously noted, the Renewable Energy Directive has been critical to the development of Scotland’s renewable energy ambitions, and its transposition led to the UK Government’s creation of the Renewables Obligation (RO), which placed an obligation on UK electricity suppliers to source an increasing proportion of the electricity they supply from renewable sources. Both the Scottish Government (2014) and Scottish Renewables (2013) agree that this Obligation has been vital for the development of the Scottish renewable energy sector. Scottish Renewables (2013) states that without “the EU’s Directives and the UK and Scottish Governments’ legislation that implemented them domestically it is questionable whether the Scottish renewable energy sector would be in the situation that it is today”. The UK Government (2014) also cites evidence which recognises the significant role of the 20-20-20 targets on research and development for new energy technologies because investments tend to be drawn to those which are underpinned by clear and binding legislation which in turn gives investor confidence. Whilst an EU exit would create a degree of uncertainty in the renewables sector, it is difficult to say how much would change if those targets were removed as a result of leaving the EU (House of Commons Library 2015).

**Large Combustion Plants Directive / Industrial Emissions Directive**

The aim of the Large Combustion Plants Directive (LCPD) is to reduce emissions of damaging pollutants, particles, and gases. Both Scottish Power’s coal fired plant at Longannet and Scottish and Southern Energy’s gas fired plant at Peterhead are opted-in to the LCPD via the National Emission Reduction Plan (NERP). Under the NERP, stations have been set finite annual emission allowances, or ‘bubbles’ for sulphur dioxide, nitrogen oxide and dust (or particulate matter). Emission allowances can be traded with other NERP participating sites, however, the national ‘bubble’ is set to ensure an overall reduction in the UK’s emissions.

The LCPD will be replaced by the Industrial Emissions Directive (IED) from 1 January 2016, with new environmental requirements for generating plant starting in April 2016. The IED will regulate pollutant emissions from industrial installations by placing more stringent requirements on power plants than the LCPD. This will affect the UK coal capacity that has already complied with the LCPD, as well as some gas capacity.

Recent evidence to the Scottish Parliament’s Economy Energy and Tourism Committee’s (EETC) Inquiry into Security of Supply shows that Scottish Power has recently invested £250m in sulphur dioxide reduction as well as smaller amounts in other technologies at Longannet. However, to operate at full output and comply with the IED further significant investment would be required (Scottish Parliament EETC Official Report 2015). In August 2015 it was announced that Longannet would close on 31 March 2016; the principal reason given for this was high grid connection charges, however a range of other commercial factors, including environmental regulation are also thought to have played a part (BBC News 2015).

Evidence to the Committee suggests that there are no plans to close Peterhead in spite of current economic challenges and that it has the capability to operate well beyond 2030. Scottish and Southern Energy more than halved the output of the plant on 31 March 2014, and is investing to make it more flexible (Scottish Parliament EETC Official Report 2015). This reduction in capacity means that it will meet LCPD / IED requirements.
THIRD ENERGY PACKAGE

In 2011, the European Union’s Third Energy Package (2011) was agreed. The package of measures was intended to improve the functioning of the internal energy market, and contained five key measures:

- Unbundling energy suppliers from network operators.
- Strengthening the independence of regulators.
- Establishment of the Agency for the Cooperation of Energy Regulators (ACER).
- Cross-border cooperation between transmission system operators and the creation of European Networks for Transmission System Operators.
- Increased transparency in retail markets to benefit consumers.

The Scottish Government (2014) has stated that it supports the aims of the Third Package and believes that market competences are correctly situated at EU level. The Scottish Government also cited figures showing Scotland’s significant offshore renewable energy potential in an EU context:

- 25% of offshore wind.
- 25% of tidal.
- 10% of wave power.

This potential is considered to be of significant future value in an increasingly integrated market with regulatory alignment, competition and trans-national interconnection.

FUNDING

As previously noted, the development of pan-European renewables targets has had a positive effect on research and development activities, and the period from 2007-13 provided EU funding for some innovative programmes. Relevant funding streams included the Interreg, ERDF, FP7, and NER 300. However, it is not possible to provide aggregated figures for all Scottish initiatives.

One of the key players in European funding for Scottish energy projects is the Scottish European Green Energy Centre (SEGEC). Facilitated by Scottish Enterprise, SEGEC helps Scottish organisations to secure funding from the EU for low carbon energy projects. Examples of relevant projects include:

- European Offshore Wind Deployment Centre – Eleven next generation turbines and a deployment centre for testing offshore wind technologies received €40 million. The Deployment Centre will allow offshore wind farm developers and associated supply chain companies to test new designs, prove existing products and receive independent validation and accreditation before commercial deployment. This will contribute to reducing development risks and lowering capital costs, and provide an opportunity to test reliability and capacity in a real time, offshore environment. The project will provide electricity to the national grid and will disseminate lessons learned to the EU industry at large.
The Atlantic Power Cluster – aimed to meet the needs of the offshore and marine energy sector in the Atlantic Area; i.e. all of Ireland plus the Atlantic regions of Spain, France, Portugal and the United Kingdom. SEGEC was one of 17 European project partners which contributed €3 million of work to the €158 million project for benchmarking, and business and workforce development.

Sound of Islay - SEGEC successfully facilitated a bid from ScottishPower Renewables to develop the first consented demonstration tidal array in the Sound of Islay. The bid was put forward by the UK Government to the European Investment Bank for consideration in the first round of the EU’s New Entrant Reserve (NER300) scheme. It was subsequently awarded €21M of European funding.

Other projects of interest include:

- **Aberdeen Hydrogen Bus Project** – Benefitted from £8.3 million from the Fuel Cells and Hydrogen Joint Undertaking Programme. This has also stimulated further Scottish projects – including the design by **Caledonian Marine Assets** of the world’s first car and vehicle ferry powered by hydrogen fuel cells.

- **European Marine Energy Centre** (EMEC) – Benefitted from £2.39 million of ERDF support in 2006, with a further £0.49 million in 2011.

- **European North Sea Energy Alliance** (ENSEA) - Scotland is one of four regional partners in the European North Sea Energy Alliance (ENSEA), along with regions in Germany, The Netherlands, and Norway. A partnership of ETP, Scottish Enterprise and Scottish Renewables is representing Scotland’s academic, public and industry interests in ENSEA. Nearly €3million funding for developing this collaborative network has been provided from FP7 funding. The main goals of this initiative are to promote cooperation between public, private and academic sectors and to facilitate the development of knowledge and innovation for greater integration of sustainable and renewable energy into the energy system.

Whilst an EU exit is likely to impact on the availability of some funding for research and development in the energy sector, it is not clear whether it would be a definitive barrier, as some non-EU countries are actively involved in EU funded and co-ordinated projects e.g. Norway.
AGRICULTURE AND FISHERIES

SCOTTISH AGRICULTURE AND THE COMMON AGRICULTURAL POLICY

The EU plays a central role in Scottish agriculture in the form of the Common Agricultural Policy (CAP). The 1957 Treaty of Rome made provision for there to be a CAP, and the policy was established in 1962. Europe had suffered food shortages during and after the Second World War, and the initial objective of the CAP was to increase food production. Since then, many rounds of reforms have been introduced, the latest being reforms for the 2014-2020 round of funding.

The CAP represents almost 40% of the EU budget and gives direct support to farmers throughout the EU via Pillar 1 funding, and supports the wider rural economy through Pillar 2 funding. Pillar 1 is entirely financed from the European Agricultural Guarantee Fund (EAGF) and supports farmers’ incomes via direct payments and market measures. Pillar 2 is co-financed from the European Agricultural Fund for Rural Development (EAFRD) and Member States. It provides support for the development of rural areas in the form of Rural Development Programmes.

CAP funding is negotiated and allocated at Member State level, and the budget is then allocated internally by the Member State, in the UK Government’s case to its Departments and to the Devolved Administrations. CAP funding comes with a large number of regulations which govern how funds can be allocated and what farmers can and cannot do. Implementation of the CAP is devolved to the Scottish Government.

Agricultural land makes up 78% of Scotland’s land area, some 6.2 million hectares. Scottish agriculture is important economically, environmentally and in terms of sustaining rural communities. Economically, agriculture makes up about 1% of Scotland’s economy (measured by gross value added). (Scottish Government, 2015). Agriculture also makes indirect contributions to the economy through its links with other industries supplying farming and industries using Scottish produce. The Scottish Government recently announced that food and drink turnover is up £550 million on the previous year, an increase of 24% since 2008 and on track to meet the target of a turnover of £16.5 billion by 2017.

Overall, 66,300 people work in the sector, but in remote rural areas, agriculture, forestry and fishing account for 17% of employment (Pack et al, 2010). With around 18,670 claimants in Scotland of pillar 1 funds in 2012 (Allen et al, 2013)

Farmers and land managers actively manage the Scottish landscape. They play an important role in delivering public goods to society, such as the cultural and ecological aspects of agricultural landscapes; farmland biodiversity; reduced flooding risk; soils of high functionality; water of high quality; and animal health and welfare (Pack et al, 2010).

2014-2020 CAP ALLOCATIONS

Over the 2014-2020 period the total value of the CAP (in 2011 prices) will be €373.19 billion, of which Pillar 1 direct payments will account for €277.85 billion and the rural development programme €84.9 billion, a fall of 11% and 12% respectively on 2007-2013 figures (Allen et al, 2013).

Over the seven year period the UK will receive approximately €25.1 billion in direct payments and €1.84 billion in rural development support. Table 1 sets out the total UK allocation and the Scottish share for Pillar 1 and Pillar 2 (Defra, 2013).
Table 1 - UK and Scottish Allocations for the CAP 2014-2020

<table>
<thead>
<tr>
<th></th>
<th>Pillar 1 / € (approx non-inflation adjusted)</th>
<th>Pillar 2 / € (approx non-inflation adjusted)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total UK allocation</strong></td>
<td>25.1 billion</td>
<td>2.6 billion</td>
</tr>
<tr>
<td><strong>Scotland</strong></td>
<td>4,096 million (16.3%)</td>
<td>478 million (18.5%)</td>
</tr>
</tbody>
</table>

Note: Figures are in nominal terms (i.e. they have not been adjusted for inflation over the period) Source: (Defra, 2013).

Whilst all of Pillar 1 funding comes from the EU via the CAP, Member States are required to provide at least minimum levels of co-financing for the Pillar 2 (rural development) support they receive from EU funds. Member States can opt to fund above the minimum co-financing rates if they so wish. Member States are also given the option to transfer up to 15% from their Pillar 1 direct payment allocation to fund Pillar 2 measures or 15% from Pillar 2 to Pillar 1. The UK and Scottish Pillar 2 allocations along with the additional co-financing are provided in Table 2.

Table 2 - UK and Scottish Allocations for the CAP Pillar 2 (€m) 2014-2020

<table>
<thead>
<tr>
<th>2014-2020 (€m)</th>
<th>EAFRD</th>
<th>Government</th>
<th>Transfers</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contribution</td>
<td>Co-financing</td>
<td>between</td>
<td></td>
</tr>
<tr>
<td><strong>Scotland</strong></td>
<td>478</td>
<td>853</td>
<td>364</td>
<td>1,695</td>
</tr>
<tr>
<td><strong>UK</strong></td>
<td>2,580</td>
<td>2,548</td>
<td>2,591</td>
<td>7,719</td>
</tr>
</tbody>
</table>

Source: Allen 2014 (update from Scottish Government, 2015, pers comm.)

The UK as a whole will receive an increase (known as an uplift) in its Pillar 1 budget from 2014-20 under what is known as the external convergence mechanism. This is where Member States that receive less than 90% of the EU average payment per hectare, close the gap between their average payment and 90% of the EU average by one-third by 2019. This uplift is worth around €10m in 2015 rising to €60m in 2019, a total of €230m over the period (Allen et al, 2014).

The Scottish Government argues that Scotland compares badly with other EU states on both Pillar 1 and Pillar 2 funding, when using a per hectare measure. This is the measure used by the EU. Others have argued that if comparisons are made on a per claimant basis (ie at a farm level), Scotland receives one of the highest amounts per claimant in the EU (Allen, 2014).

**IS THE CAP EFFECTIVE?**

Whilst Scotland receives considerable funds from the Common Agricultural Policy, many would argue that it is still associated with considerable problems. Oxfam (2004) Bureau and Mahé (2008) for example highlighted a number of concerns that are still relevant in today’s reformed CAP:

- The funding comes with complex and often controversial regulations which have unintended consequences

Source: Allen 2014 (update from Scottish Government, 2015, pers comm.)
The impacts of the EU common agricultural policy on developing countries’ markets has been negative. They struggle to remain competitive against subsidised food products being dumped on their markets.

The CAP ignores the rules of supply and demand and leads to over production and waste.

The biggest slice of the subsidy goes to the largest farms, and (Oxfam argue) to the wealthiest individuals.

Taxpayers pay into the EU and therefore into the agricultural policy and then pay when CAP artificially inflates food prices.

Oxfam also argue that because subsidies are based on land area, they artificially inflate the value of land and the price of rents, which impacts on tenant farmers.

CAP subsidies shield farmers from competition, hindering the evolution of more modern, efficient agriculture.

In the latest round of reforms the UK Government argued that more CAP funding should go on Pillar 2, to support the natural environment and to pay for public goods and ecosystem services, such as flood protection. Oxfam argue that the environment damage caused by agriculture is significant. This includes issues related to pesticides, greenhouse gas emissions, water pollution and biodiversity loss.

Whilst there are pros and cons associated with the CAP for Scotland, it is unclear what an alternative might look like. As the past president of the National Farmers’ Union remarked, ‘there has been no serious attempt to explain what an independent British agricultural policy would look like’ (Kendall, 2013). This is true for Scotland. In October 2015 NFUS highlighted the uncertainty. “At this time we know what membership of the EU entails but we don’t know what would be the impact of being outside of the EU since we do not know the relationship the UK would have, nor the conditions under which our farmers would be expected to operate if we choose to leave the EU….. The CAP we have now is technocratic, driving support away from the areas that need it most in Scotland and burdening farmers with regulation. The outcome of the Government renegotiations will be critical for some on whether they see the brighter future as being part of the EU.”

With CAP renegotiations being discussed already, and nothing to compare it against, it is difficult to understand what the consequences of not being in the Common Agricultural Policy might be for land managers in Scotland.

**FISHERIES**

Fisheries policy in the European Union is directed by the Common Fisheries Policy (CFP) which forms the basis of the rules under which EU fisheries are managed. The CFP is intended to ensure the sustainability of the EU’s fishing industry by managing fish stocks as a shared resource. Quotas are set specifying the maximum quantities of each fish species that may be caught, which are then shared out between Member States on the basis of historic fishing activity.

The CFP also provides measures intended to manage the capacity of the EU fishing fleet to prevent the depletion of fish stocks, and engages in market interventions to foster economic stability for those involved in the industry. The CFP was first formally put in place in 1983, and the most recent reform came into effect in January 2014 (the framework of which is set out in Council Regulation No 1380/2013).

European fisheries policy was funded initially by the Financial Instrument for Fisheries Guidance (FIFG) from 1994 to 2007, and later by the European Fisheries Fund (EFF) between 2007 and 2013. It will now be funded by the European Maritime and Fisheries Fund (EMFF) until 2020, with a total budget of €6,396m.
Across Scotland, fishing makes a very small contribution to GDP. However, in the locations where wild capture fishing is based, there is a very significant local economic and social impact, such as in Shetland, Fraserburgh and Peterhead in Aberdeenshire, and Stornoway in the Western Isles. In these and other smaller concentrations of fishing effort there are usually limited prospects for alternative employment.

EUROPEAN MARITIME AND FISHERIES FUND

The EMFF is the fund for the EU’s maritime and fisheries policies for 2014-2020. The fund aims to help fishermen in the transition to sustainable fishing, supports coastal communities in diversifying their economies and finances projects that create new jobs and improve quality of life along European coasts.

Allocations of the EMFF between Member States were announced on the 13 June 2014. [http://ec.europa.eu/fisheries/cfp/emff/index_en.htm](http://ec.europa.eu/fisheries/cfp/emff/index_en.htm). The UK has been allocated €243 million, 46% of which (€108m) will be allocated to Scotland, a larger proportion of the UK total than the previous 41% under the EFF.

The EMFF is split into 4 distinct funding streams:

- **The Sustainable Fisheries** component is used to make fisheries and aquaculture more sustainable and profitable.
- **The Control and Enforcement** component is used to monitor compliance with the European Common Fisheries Policy and protect a fair access to healthy stocks.
- **The Data Collection** component is used to collect the data the scientists need to improve knowledge of the seas and the long term management of our fisheries.
- **The Blue Economy** component is used to support sustainable growth and job creation from seas and oceans.

THE CFP – A FAILED POLICY?

It has been argued that the CFP is a failed policy. Lebrecht (2013, in The UK & Europe: Costs, Benefits, Options. The Regent’s Report 2013) commented that “For years Europe’s Common Fisheries Policy (CFP) did not deliver a sustainable and profitable UK or EU fishing industry, nor did it command the support of stakeholders.” In July 2011 European Fisheries Commissioner Maria Damanaki described it as a “failed policy”. Major reforms have since been implemented, but the effect of the reforms remain to be seen. Lebrecht, 2013 argues that for the reforms to work they need to deliver:

- Significantly improved conservation of fisheries stocks leading to an improved environment and a more stable, sustainable and profitable fishing industry in the medium term
- Better returns for fishermen via the discards ban
- Greater say for fishermen in the detailed conservation measures that would affect them (i.e. less Brussels micro-management)
- More stable management through long term plans based on Maximum Sustainable Yield
- An opportunity to improve the structure of the fleet through Transferable Fishing Concessions, if the Government and/or devolved administrations choose to adopt them.

As with agriculture, the value of the CFP to the Scottish Fishing sector depends on the possible alternative. Lebrecht, 2013 suggests that “outside the CFP, the UK authorities would be free to determine fisheries policies specifically suited to UK circumstances and waters. The UK could in theory determine its own Total Allowable Catches (TACs) and also exclude all foreign vessels from fishing in UK waters. But it would effectively lose control over the management of all stocks
which straddle UK and EU or Norwegian waters, as it would have no say over what happened outside its own waters. A free-for-all – in the absence of Joint Management agreements – would lead inevitably to overfishing on these stocks.”

AQUACULTURE

Aquaculture in the EU accounts for approximately 20% of fish production and employs around 80,000 people. In Scotland, aquaculture is regarded as a “nationally important industry” (Scottish Government, 2008). It provides employment for 1,700 people (full-time equivalent) with a further estimated 3,000 in processing predominantly in the west coast and islands. A number of fish and shellfish species are farmed, however the industry is dominated by Atlantic salmon being the largest producer in the EU, and third largest in the world. Over 160,000 tonnes of salmon were produced in 2012, with a farm gate value of around £537 million. It is Scotland’s top food export (Scottish Government, 2015).

Aquaculture is included in the CFP for the first time in the latest set of reforms, but in the form of a series of non-binding guidelines. These guidelines are intended to promote growth by reducing the administrative burden on the industry, and encouraging the sharing of best practice between Member States.
ENVIRONMENT

According to Scotland Europa (2015) ‘Currently more than 80 per cent of all environmental legislation transposed by the Scottish Parliament originates at EU level.’ As a result, Scotland’s environmental policies are heavily influenced by European Union legislation. EU action in a number of environmental areas such as nature conservation, climate change and resource use is illustrated below, the Scottish Parliament is then responsible for transposing the EU legislation into Scots law.

As with most policy areas discussed in this briefing, the standards required by EU legislation in relation to the environment and climate change had already been achieved by Scotland or may have been achieved irrespective of EU membership. However, it is clear that EU action in this area has helped push forward action across a number of areas. If the UK voted to leave the EU, it is not clear whether the standards adopted as a result of EU legislation would be reversed.

This section of the briefing provides some examples of the ways in which the EU has used its competence over environmental policy to introduce legislation which is applicable in Scotland.

HABITATS AND BIRDS DIRECTIVES

The Habitats Directive together with the Birds Directive forms the cornerstone of Europe's nature conservation policy. The Habitats Directive is built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. According to the European Commission (2015a): “the directive protects over 1,000 animals and plant species and over 200 so called "habitat types" (e.g. special types of forests, meadows, wetlands, etc.), which are of European importance”.

The Birds Directive is “a comprehensive scheme of protection for all wild bird species naturally occurring in the Union” (European Commission 2015b). It was adopted unanimously by the Member States in 1979 as a response to increasing concern about the declines in Europe's wild bird populations resulting from pollution, loss of habitats as well as unsustainable use. It was also in recognition that wild birds, many of which are migratory, are a shared heritage of the Member States and that their effective conservation required international co-operation.”

MARINE STRATEGY FRAMEWORK DIRECTIVE

The EU Marine Strategy Framework Directive (MSFD) aims to achieve good environmental status of the EU's marine waters by 2020 and to protect the resource base upon which marine-related economic and social activities depend. The MSFD establishes European Marine Regions for which Member States must develop strategies including detailed assessments of the state of the environment, a definition of Good Environmental Status and the establishment of environmental targets and monitoring programmes (European Commission 2015c).

The goal of the MSFD to achieve “Good Environmental Status” of EU marine waters by 2020 is complementary to the objectives of the Water Framework Directive which requires surface freshwater and ground water bodies to reach “Good Ecological Status” by 2015.

The MSFD includes a requirement to establish a network of Marine Protected Areas (MPAs) which would include the Natura 2000 network which is designed to assure the long-term survival of Europe’s most valuable and threatened species and habitats. The Natura 2000 network is comprised of Special Areas of Conservation (SAC) designated by Member States under the Habitats Directive and Special Protection Areas (SPAs) under the Birds Directive.
The Marine Protected Area network in Scotland’s Seas is designed to conserve a selection of marine biodiversity (species and habitats) and geodiversity (the variety of landforms and natural processes that underpin the marine landscapes), offering long-term support for the services the seas provide to society.

As of 24 July 2014, 30 MPAs have been designated under the Marine (Scotland) Act and the UK Marine and Coastal Access Act. In line with EU legislation, suitable management measures must be implemented at each site to conserve the protected features. Of the 30 MPAs, 17 fall under the Marine (Scotland) Act 2010 in Scottish territorial waters and 13 in offshore waters under the Marine and Coastal Access Act 2009. These 30 have been recommended by Scottish Natural Heritage (SNH) for inshore waters and the Joint Nature Conservation Committee (JNCC) for offshore waters. These designations fulfil duties in both the Marine (Scotland) Act and the UK Marine and Coastal Access Act 2009, as well as furthering commitments to form part of the wider UK contribution to the OSPAR North-East Atlantic MPA network (Scottish Government 2015).

WATER FRAMEWORK DIRECTIVE

The EU water framework directive (WFD), adopted in 2000, is a core part of water environment protection, covering all water bodies from source to sea, including Bathing and Shellfish Waters. The Directive sets out a precise timetable, with 2015 as the deadline for getting all European waters into good condition. The Directive was transposed into Scots law by the Water Environment and Water Services Act (WEWS) 2003. SEPA is the competent Authority for Scotland empowered to implement the Directive.

The Water Framework Directive sets a number of objectives to improve water quality, according to the European Commission (2015d):

“The key ones at European level are general protection of the aquatic ecology, specific protection of unique and valuable habitats, protection of drinking water resources, and protection of bathing water. All these objectives must be integrated for each river basin. It is clear that the last three - special habitats, drinking water areas and bathing water - apply only to specific bodies of water (those supporting special wetlands; those identified for drinking water abstraction; those generally used as bathing areas). In contrast, ecological protection should apply to all waters: the central requirement of the Treaty is that the environment be protected to a high level in its entirety”

BATHING WATERS DIRECTIVE

The "new" Bathing Water Directive 2006/7/EC replaces the former Directive 76/160/EC. It applies to surface waters that can be used for bathing except for swimming pools and spa pools, confined waters subject to treatment or used for therapeutic purposes and confined waters artificially separated from surface water and groundwater. (European Commission 2015e)
CLIMATE CHANGE

As noted under the section of this briefing covering Energy, the EU energy and climate change programme that was agreed in early 2008 included a target to reduce carbon emissions by 20% by 2020. Under the EU-wide target different member states agreed individual targets and the UK committed to a 16% reduction in UK greenhouse gas emissions by 2020. Subsequently the UK and Scotland adopted targets that are more ambitious than these and Bomberg and McEwen (2008) note that:

‘... the UK government has more ambitious targets than those set by the EU, and the Scottish government has set more ambitious targets than its UK counterpart.’

On 23 October 2014 EU leaders agreed to a higher binding target of reducing EU emissions by at least 40% below the 1990 level by 2030. Equivalent UK and Scottish targets remain higher than the EU ambition for 2030.

The Scottish Government cites the influence that policies out-with Scotland’s have on emissions here (Scottish Government 2015a) ‘Scottish emission levels also depend to a significant extent on policies at UK and EU level.’

Low Carbon Scotland – The Second Report on Proposals and Policies (RPP2) (Scottish Government 2013a) sets out the measures aimed at meeting Scotland’s emission targets and is structured around key emission sectors e.g. energy, homes and communities and transport. For each sector the document details whether the control of policies or proposals rests at an EU, UK or Scottish level. In the transport and waste sectors significant planned emission reductions are attributed to EU measures (e.g. vehicle standards to reduce emissions).

RPP2 also highlights how the EU emissions trading system constrains Scotland’s progress in cutting emissions in some areas (Scottish Government, 2013a):

‘When the Scottish Parliament was considering the Climate Change (Scotland) Bill in 2009, the expectation among those scrutinising the Bill was that the EU would strengthen its 2020 target to require a 30% reduction in greenhouse gas emissions. The number of emissions allowances in the EU Emissions Trading Scheme would be reduced as a consequence and this would provide a greater incentive for accelerated action on emissions from large emitters in Scotland such as electricity generation and heavy industry. However, stalling international climate change negotiations have so far limited further progress in Europe and constrained the contribution that the so-called ‘traded sector’ is making to cutting emissions in Scotland.’

RESOURCE USE/WASTE POLICY

The Scottish Government frequently cite the role of EU legislation and policy on waste as a driver or origin of domestic waste policy, in particular:


The European Landfill Directive (1999) requires Member States to develop strategies for reducing landfilling of biodegradable wastes and sets specific reduction targets. Scotland’s National Waste Plan (2003) set out Scotland’s approach to achieving these landfill reduction targets. Since then further efforts to limit waste being sent to landfill has been included in Scotland’s Zero Waste regulations (Legislation.gov.uk 2012) including bans on certain materials being disposed of to landfill and a requirement on local authorities to provide a collection service for dry recyclables and food waste.
The European Waste Framework Directive (2008/98/EC) ref) set out the following hierarchy for the management of waste

- prevention;
- preparing for re-use;
- recycling;
- other recovery, e.g. energy recovery; and
- disposal.

The Scottish Government adopted this hierarchy in developing the National Waste Plan and the Zero Waste Plan (Scottish Government 2010). Scotland’s Zero Waste Plan states that:

‘The waste hierarchy will guide our overall approach to managing Scotland’s waste. While recycling performance continues to improve, we must also continue to pursue other treatment approaches to recover greater value from the resources we use.’

The EU Waste Framework Directive (2008/98/EC) is also cited as one of the main policy drivers of the Waste (Scotland) Regulations 2012. These regulations seek to increase the amount and quality of material that is recycled, provide improved recycling services to households and businesses and create conditions that will boost business investment in recycling and materials reprocessing (Scottish Government 2012).

In 2012, the European Commission published Manifesto for a Resource Efficient Europe (2012). This manifesto set out the need to move towards a circular economy: ‘In a world with growing pressures on resources and the environment, the EU has no choice but to go for the transition to a resource-efficient and ultimately regenerative circular economy.’ Subsequently the European Commission have published a number of documents relating to circular economy including ‘Towards a circular economy: A zero waste programme for Europe’ (European Commission 2014). The Commission has made a commitment to publish a circular economy strategy in late 2015.

The Scottish Government also refer to the need to move towards a circular economy. In ‘Low Carbon Scotland Meeting the Emissions Reduction Targets 2013-2027’ the Scottish Government (2013b) advocate a ‘shift toward a more circular model of resource use and economic growth that ultimately designs waste out of our economy’. The document notes that this ‘isn’t simply about using less and recycling more. It’s about supporting new forms of manufacturing, redesigning products and packaging, reshaping supply chains and stimulating innovative new ways to transform recyclables into new, higher value materials.’ In August 2015 the Scottish Government published a consultation on the circular economy in Scotland (Scottish Government 2015b).
ALTERNATIVES TO EU MEMBERSHIP

Given it is unclear what kind of relationship the United Kingdom would seek to develop with the European Union in the event of a UK exit, it is not possible to provide information on the impact of an exit on the economy and other policy areas detailed in this briefing. There are however some examples of different options available if it is assumed that the UK Government would seek to reach some sort of trading agreement with the EU.

EUROPEAN FREE TRADE ASSOCIATION

One option would be to seek membership of the European Free Trade Association (EFTA) which is an intergovernmental organisation set up for the promotion of free trade and economic integration to the benefit of its four Member States – Iceland, Liechtenstein, Norway and Switzerland.

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

Since the beginning of the 1990s, EFTA has actively pursued trade relations with third countries in and beyond Europe. The EFTA States currently have 26 free trade agreements (covering 36 countries). At present EFTA does not have free trade agreements with the United States of America, India (negotiations are on-going) or China (though it does have an agreement with Hong Kong, China). (EFTA 2015a)

EUROPEAN ECONOMIC AREA

The Agreement on the European Economic Area, which entered into force on 1 January 1994, brings together the 28 EU Member States and three EEA EFTA States — Iceland, Liechtenstein and Norway — in a single market, referred to as the “Internal Market”. Although an EFTA member, Switzerland does not participate in the EEA. The EEA Agreement also states that when a country becomes a member of the European Union, it shall also apply to become party to the EEA Agreement (Article 128), thus leading to an enlargement of the EEA.

The EEA Agreement provides for the inclusion of EU legislation covering the four freedoms — the free movement of goods, services, persons and capital — throughout the 31 EEA States. In addition, the Agreement covers cooperation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture, collectively known as “flanking and horizontal” policies. The Agreement guarantees equal rights and obligations within the Internal Market for citizens and economic operators in the EEA.

The EEA Agreement does not cover the following EU policies:

- Common Agriculture and Fisheries Policies (although the Agreement contains provisions on various aspects of trade in agricultural and fish products);
- Customs Union;
- Common Trade Policy;
- Common Foreign and Security Policy;
• Justice and Home Affairs (even though the EFTA countries are part of the Schengen area); or
• Monetary Union (EMU).

**EFTA States Participation in EU Programmes**

The EEA Agreement ensures participation by the three EEA EFTA States in a number of EU programmes and agencies. During the 2007-2013 programming period EFTA states participated in programmes such as the Framework Programme 7 (now Horizon 2020), the Lifelong Learning Programme and the Competitiveness and Innovation Programme. (EFTA 2015b)

**The EEA Grants**

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

For the period 2009 - 2014, Norway, Iceland and Liechtenstein contributed to reducing social and economic disparities in Europe and to strengthening bilateral relations with 16 countries in Central and Southern Europe through the EEA and Norway Grants. A total of 1.79 billion euro was set aside under the Grants for this five year programme period. Norway provides around 97 per cent of the funding. (Norwegian Government 2015)

**Norwegian Participation in EU Programmes**

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

According to the Norwegian Government (2015):

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

**THE SWISS MODEL – EFTA BUT NOT EEA**

Switzerland is in EFTA and Schengen but is not a member of the EU or the EEA, but it has a bilateral agreement with the EU. According to the Swiss Government (2015a):

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

This approach means Switzerland has access to the Single Market in many areas and each time legislative changes to the Single Market are agreed it requires a new agreement with the European Union. According to the Centre for European Reform (2012):

“Switzerland signed up to the EU’s customs union in 1972, which abolished subsidy and tariff barriers. Since then, it has also decided to sign up to the majority of the single market: it is a full member of the single market for goods, a signatory to the Schengen agreement, and it has signed up to most of the single market for capital. In many areas, therefore, Switzerland is effectively a member of the single market. But like Norway, it does not have the ability to affect the rules that govern it.”

**Swiss Financial Contribution to the EU**

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

**Swiss Enlargement Contribution**

Switzerland makes an Enlargement Contribution to finance specific, high quality projects aimed at reducing the economic and social disparities in the twelve new EU-Member States. In this way, it supports the EU objective of strengthening the economic and social cohesion (to be understood as internal cohesion), and it does so in its own particular way.

According to the Swiss Government (2015b), since 2007, Switzerland has contributed CHF 1 billion (around €950 million) to projects and programmes in the ten states that joined the EU in May 2004. Bulgaria and Romania, which joined in 2007, will be supported with an additional CHF 257 million (€244 million) and Croatia with an additional CHF45 million (42 million).

**Alternatives to EU Membership Conclusion**

The alternatives to EU membership, such as membership of the EEA or EFTA, would not be cost free as the examples of Norway and Switzerland illustrate. In addition, EEA membership requires legislation relating to the four freedoms to be implemented into national law. These factors were cited by a source close to the Prime Minister in an article in the Guardian newspaper on 28 October 2015. The article stated:

“Cameron will focus on the “Norwegian option”, often cited by the Leave campaign, which has allowed Oslo to enjoy access to the single market without joining the EU.

“The prime minister believes it is important to highlight the questions Britain would face if it left the EU and followed Norway’s model,” a No 10 source said. Downing Street pointed out that Norway is the 10th largest contributor to the EU budget and is bound by the rules of the single market without any say in the decision-making process.”
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The Development of the European Union


The Path to a Referendum


Scotland's Current Status in the European Union

What EU Membership Currently Means for Scotland


The Economic Value of EU Membership


Migration


National Records of Scotland, Scotland’s Census, [Online] Available at:

OECD (2014), Is migration good for the economy? [Online] Available at:


Higher Education

Erasmus+ Creating Opportunities for the UK Across Europe [Online] Available at: https://www.erasmusplus.org.uk/erasmus-projects [Accessed 28 October 2015]


Transport

Europa.eu Air Passenger Rights [Online] Available at:


Justice


Social and Employment Rights


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