European and External Relations Committee

2nd Report, 2012 (Session 4)

Developments in the Eurozone and their implications for communication between the Scottish and UK Governments

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European and External Relations Committee

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European and External Relations Committee

Remit and membership

Remit:

The remit of the European and External Relations Committee is to consider and report on-

(a) proposals for European Communities legislation;
(b) the implementation of European Communities legislation;
(c) any European Communities or European Union issue;
(d) the development and implementation of the Scottish Administration’s links with countries and territories outside Scotland, the European Communities (and their institutions) and other international organisations; and
(e) co-ordination of the international activities of the Scottish Administration.

(Standing Orders of the Scottish Parliament, Rule 6.8)

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European and External Relations Committee

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The Committee reports to the Parliament as follows—

INTRODUCTION

1. At the EU Heads of State and Government meeting on 9 December 2011, the British Prime Minister threatened to exercise a veto over proposals to instigate a new EU Treaty that would introduce greater fiscal discipline and oversight of Member State budgets. In the absence of the required unanimity, the 17 Eurozone members together with 8 other Member States agreed to progress with the proposal through *international agreement* rather than through an EU Treaty\(^1\). The resulting agreement is called the Fiscal Compact.

2. At the informal Heads of State & Government Council of 30 January 2012 the Eurozone countries together with 8 other Member States agreed to the provisions of Fiscal Compact (subject to parliamentary endorsement, and in the case of Ireland, a referendum). The UK and the Czech Republic declined to support the Compact.

3. The European Councils took place against a backdrop of significant discussions in Brussels of interest both to the UK and to the Scottish Governments, notably concerns as to the future of the Eurozone itself (and its implications both for the Single Market and the UK’s Financial Service industries) and early consideration of the EU’s Multi-Annual Financial Framework with its implications for both budget contributions and future funding.

4. The European and External Relations (EER) Committee held three evidence sessions to consider the implications for communication between the Scottish and UK Governments, of developments surrounding the Fiscal Compact. The Committee took evidence from Fiona Hyslop, Cabinet Secretary for Culture and External Affairs, Scottish Government on 7 February 2012; then from the Rt Hon David Lidington, Minister of State (Europe and NATO), UK Government on 20 February; and finally from the Rt Hon David Mundell, Parliamentary Under-

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Secretary of State (for Scotland), UK Government on 20 March. The Committee thanks each witness for their contribution.

5. The aim of this report is to explore the communications between the UK and Scottish Government that preceded both these meetings and to determine:

   a. whether the UK Government made adequate efforts to both consult and to inform the Scottish Government in advance of these EU gatherings;

   b. whether the existing forums and channels of communication are adequate and appropriate for consultation ahead of important EU Councils; and

   c. the impact of the UK actions on future Scottish-EU relations.

6. The report is not an analysis of the Eurozone crisis itself. A detailed consideration of developments in the Eurozone is available in a SPICe briefing.

   **KEY ISSUES**

**Events preceding the December 2011 EU Council**

*Background*


8. The MOU provides for the establishment of a Joint Ministerial Committee (JMC), to address European issues, the terms of reference of which are:

   a. to consider non-devolved matters which impinge on devolved responsibilities, and devolved matters which impinge on non-devolved responsibilities;

   b. to keep the arrangements for liaison between the UK Government and the devolved administrations under review; and

   c. to consider disputes between the administrations.

9. The JMC (Europe), which is chaired by the UK Foreign Secretary (or his representative), serves as one of the principal mechanisms for consultation on UK positions on EU issues which affect devolved matters. The MOU states that ‘In this functional format, it is likely that the majority of business will be conducted

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2 EER Committee meeting paper, EU/S4/12/6/4, 20 March 2012
3 Devolution: Memorandum of Understanding and Supplementary Agreements, 2002
through correspondence, although meetings will also be convened where necessary.\textsuperscript{4}

10. The JMC (Europe) meets prior to each European Heads of State & Government Council meeting, which are held four times a year.

11. In addition to the JMC (Europe) the Committee recognises that much of the communication between the UK and Scottish Governments occurs on a regular basis at a ministerial and at an official level, a fact stressed by each of the witnesses.

\textbf{JMC (Europe) 21 November 2011}

12. The JMC (Europe) meeting of 21 November 2011 was the last formal opportunity for ministerial discussions between the UK and Scottish Governments ahead of the European Council meeting of 9 December 2011.

13. Commenting on the meeting itself, the Cabinet Secretary stated that the ‘\textit{Foreign Secretary gave no indication that the UK was considering using a veto in any form}'\textsuperscript{5}, and stated later that thereafter ‘\textit{the Prime Minister failed to consult the devolved Administrations in December about the threatened use, and then use, of the veto}'

14. In responding to this question, the Minister for Europe made reference to the minute of the JMC (Europe) meeting, stating that, ‘\textit{as the minutes show, he [the Foreign Secretary] said that the agenda for the December European Council would include the possibility of treaty change}'\textsuperscript{6}.\textsuperscript{7}

15. This position was affirmed by the Parliamentary Under-Secretary of State who stated, ‘\textit{A topic of discussion at the joint ministerial committee was the fact that treaty changes would be discussed at the European Council meeting}'\textsuperscript{8}. He did however note that, ‘\textit{The veto was not necessarily discussed, but the UK Government’s position was discussed, as was the fact that we would not want any compromise of the single market}'\textsuperscript{9}.

16. The Minister for Europe noted that ‘\textit{limited treaty change}' was first raised at the October European Council\textsuperscript{10}, but that the precise nature of the proposed change only became evident ‘\textit{very shortly before the [December] Council}'\textsuperscript{11}. However, he noted that,

\begin{quote}
\textit{The Prime Minister made clear in the House of Commons in the days immediately preceding 9 December—if my memory is correct, it was at Prime Minister’s questions on Wednesday 7 December—that the UK would seek}
\end{quote}

\begin{footnotes}
\item \textsuperscript{4} \textit{ibid.}, Paragraph A1.9
\item \textsuperscript{5} EERC, 7 February 2012, Official Report, Col 352
\item \textsuperscript{6} Both the Scottish and UK Governments declined to provide the minute of the JMC (Europe) meeting of 21 November 2011.
\item \textsuperscript{7} EERC, 20 February 2012, Official Report, Col 383
\item \textsuperscript{8} EERC, 20 March 2012, Official Report, Col 445
\item \textsuperscript{9} EERC, 20 March 2012, Official Report, Col 446
\item \textsuperscript{10} EERC, 20 February 2012, Official Report, Col 382
\item \textsuperscript{11} EERC, 20 February 2012, Official Report, Col 383
\end{footnotes}
safeguards in return for agreement to a treaty of 27 and that if they were not forthcoming, he would not be willing to agree to such a treaty.  

17. The Minister for Europe outlined the time-line,

‘On Monday 5 December, Herman Van Rompuy outlined his ideas to the general affairs council, which I attended; he published his report the following day, Tuesday 6 December; and on Wednesday 7 December, Chancellor Merkel and President Sarkozy sent a letter to Van Rompuy setting out a different set of proposals. Until that letter was sent out, we did not see the detail of what was being proposed.’  

18. The Minister concluded,

‘At any stage from that meeting [JMC (Europe) 21 November 2011] up until 9 December, when the European Council began, it was open for any of the devolved Administrations to make representations about the content of treaty change or the handling of proposed treaty change. My understanding is that they did not do so.’  

19. The Committee queried whether it would have been, ‘possible ... to have primed the devolved Governments about the direction in which the UK Government was heading in December?’ The Minister answered that it ‘would have been difficult, given the timescale’ and the issues of confidentiality that surround negotiations.  

Risk assessment

20. A recurring theme throughout the evidence sessions, raised initially by the Cabinet Secretary, was the contention that upon such an issue as serious as potential treaty change, the UK Government must have conducted a risk assessment. She stated, ‘We have asked the Prime Minister to share the risk assessment with us, but it has not been forthcoming.’  

21. The UK Minister for Europe responded:

‘With regard to risk assessment, there were certainly discussions at the top of Government, involving, in particular, the Prime Minister, the Deputy Prime Minister, the Foreign Secretary and the Chancellor of the Exchequer, on the best option for the UK. We looked at various contingencies—for example, an agreement among the 27 or an intergovernmental agreement of some sort—and the sort of safeguards that we would wish for if we were to agree to a treaty at 27. However, ministers always kept it clearly in mind that, until we knew the detail of what was proposed—which, as I have said, was only on 7
December—we could not calibrate exactly what we would be seeking from a range of possible safeguards\(^{18}\).

**The December 2011 EU Council**

*Background*

22. The EU Heads of State & Government Council took place in Brussels 8-9 December 2012. At the meeting representatives of 25 out of the 27 EU member-states (excepting the UK and Hungary) reached a political decision to sign a new intergovernmental treaty that would reinforce the existing fiscal rules and establish automatic stabilising/corrective mechanisms for countries that failed to meet their budgetary obligations. The agreement became known formally as the ‘Treaty on Stability, Coordination, and Governance in the Economic and Monetary Union’, [‘The Fiscal Compact’] (see Annex A for details).

23. The Fiscal Compact is an intergovernmental agreement, binding its signatories under international law. It is not an EU Treaty, and as such places no legal obligations upon those EU member states which are not signatories. An EU Treaty can only be agreed with the unanimous support of all EU member states.

24. Attempts to secure unanimity on a new EU Treaty at the 2011 December Council were unsuccessful. The Parliamentary Under-Secretary of State explained that the Prime Minister had declared during the meeting that the UK Government’s support of any treaty revision was conditional upon the acceptance of a number of safeguards, a position he had earlier outlined in the House of Commons:

‘The Prime Minister made clear [during...] Prime Minister’s questions on Wednesday 7 December—that the UK would seek safeguards in return for agreement to a treaty of 27 and that if they were not forthcoming, he would not be willing to agree to such a treaty’\(^{19}\).

25. When these safeguards were not met, the UK Prime Minister stated that he would veto any proposed Treaty. The threatened use of the British veto resulted in a separate treaty between 25 EU members outside the formal EU institutions.

26. Since then 25 EU countries (excepting Britain and the Czech Republic) have agreed to the text of the Fiscal Compact and are seeking parliamentary approval. The Irish Government has stated that it will stage a referendum of ratification on 31 May 2012.

*Reasons for the threatened use of the veto*

27. The Cabinet Secretary in her evidence stated that,

‘The UK Government has still not adequately answered the questions of what interests were really at stake and what the Prime Minister secured through

\(^{18}\) EERC, 20 February 2012, Official Report, Col 383

\(^{19}\) EERC, 20 February 2012, Official Report, Col 385
the use of the veto—or, rather, the non-veto—at the December European Council\textsuperscript{20}.

28. In response to a question from the Committee regarding financial services, the Cabinet Secretary noted that,

‘As the member knows, a financial transaction tax would have required unanimous support across the EU, regardless of what happened in December, so clearly that was not a risk. Regulation of financial services was not even on the table for the discussions in December, so I am not quite sure what interest was protected [...] I think that the financial transaction tax was a red herring, as it was not on the table and would have required unanimity anyway. I do not see how that interest has been advanced in any way. Further, financial regulation was happening separately and would require majority voting…’\textsuperscript{21}.

29. The Cabinet Secretary concluded her point by stating that ‘the veto was used to try to stop something that was never going to happen anyway’\textsuperscript{22}.

30. Responding to questions about the justification for the threatened use of the veto, the Minister for Europe stated

‘We asked for safeguards to ensure that the interests of all 27 member states were protected, including safeguards on the single market and some particular asks with regard to financial services’\textsuperscript{23}.

31. He continued,

‘…a treaty involving 27 member states would have imported into the body of European primary law the objective of greater fiscal and economic integration in the euro zone. […]over time there would inevitably have been a greater risk that the way in which the Commission, the Court and other member states prioritised work—in particular legislative measures—would have regard to that priority of integration in the euro zone and balance it against other European Union objectives, notably, from our point of view, the single European market. We made our specific request for safeguards in order to ensure that we could ring fence the euro zone-specific issues and, when it came to the setting of EU priorities, not have them impinge upon single market matters.’\textsuperscript{24}.

32. Upon further questioning the Minister for Europe gave examples of three specific concerns: (i) ‘if the European Union sought to act on the basis of a new [Treaty] priority to strengthen the integration and stability of the euro zone, it would start to move into areas such as banking regulation that are very close to fiscal policy’; (ii) ‘the European Central Bank’s location policy for clearing houses, as it had introduced a requirement that they must be located in the euro zone’; and (iii)
‘ensure freedom for individual member states to go further than EU minimum standards, particularly on banking regulation, in order to meet global requirements and to guard against domestic fiscal risk’.25

33. In commenting on the general tone and tenor of the discussions on 9 December, the Minister stated that,

‘on the night, a lot of countries—particularly the euro zone 17—felt under huge pressure to come up with an agreement of some sort by the time the markets opened on the Friday morning. The elevation of the debate over treaty change into something that was crucial to the survival of the euro zone meant that that political and market pressure was felt very strongly by them and there was a feeling that they had to get agreement’.26

The impact of the threatened UK Government veto

Relations between the UK and other EU member states

34. In her evidence, the Cabinet Secretary stressed that there were a number of negative aspects to the threatened veto including ‘damaged relationships’ with other EU member states and ‘hindering a confident, united and unequivocal response to the crisis in the Eurozone’27.

35. Citing a specific example of the veto’s impact upon relations between the UK Government and other EU member states, the Cabinet Secretary explained that, ‘The December fisheries council was the first real test of how alliances will hold up under the shadow of the Prime Minister’s veto’28. Whilst lauding the efforts of the two fisheries ministers, Richard Lochhead and Richard Benyon, she noted that it was ‘significant that, on the days at sea issue—the one area in which the UK has a leading interest—the UK was unable to secure the necessary support’29.

36. The Cabinet Secretary continued: ‘People who were at the fisheries talks say that progress was made in spite of the problems that were caused by the veto in December … I was not at the meeting, but people who were there told me that the atmosphere at that fisheries council was not conducive to a positive outcome’30.

37. The Minister for Europe was less negative in his assessment.

‘What I have found striking about where that leaves us as the United Kingdom and Scotland… in terms of relationships with the European Union, is that after what was admittedly a bumpy few days after 9 December… a very energetic sense has come from our partners of their wish to ensure that we remain key players in the European Union.

Chancellor Merkel said that publicly, as did Prime Minister Monti …; President Sarkozy also made it clear … at the summit in Paris [16 February

25 EERC, 20 February 2012, Official Report, Col 394 - 395
26 EERC, 20 February 2012, Official Report, Col 396
27 EERC, 7 February 2012, Official report, Col 335 -353
28 EERC, 7 February 2012, Official Report, Col 354
29 EERC, 7 February 2012, Official Report, Col 354
30 EERC, 7 February 2012, Official report, Col 360
2012]. I have certainly had that type of conversation with ministers from a number of other EU countries since 9 December.\textsuperscript{31}

38. He noted that this attitude also applied to the individual sectoral council meetings which he attended: ‘I have not noticed a difference. There have not been grudges. The other UK ministers to whom I have spoken say that they have not encountered difficulties or obstacles at sectoral council meetings as a result of the decision that we took at the December European Council’.\textsuperscript{32}

39. The minister concluded that in terms of EU relations, ‘business is continuing very much as normal …’\textsuperscript{33}

Relations between the UK and Scottish Governments

40. Following the EU Council of 9 December, the First Minister of Scotland (together with the First Minister of Wales) wrote jointly to the Prime Minister (21 December 2011):

‘…given the potentially serious impact of using the UK veto, we remain deeply concerned that the UK Government did so without consulting the devolved administrations. Issues of prime importance to the devolved administrations are frequently discussed in Brussels and we were not sufficiently sighted to be able to manage the potential consequences and risks of the UK’s recent policy decisions.’

41. The letter stated that the UK Government had failed to follow the principles of communication and consultation set out in the Memorandum of Understanding and related Concordats on the Coordination of EU Policy Issues (see above) and called for the Prime Minister to ‘convene and chair an extraordinary meeting of the Joint Ministerial Committee’ to discuss the implications of developments at the EU Council.\textsuperscript{34}

42. The issue of a call for an extraordinary JMC (Europe) meeting was explored during the discussions with both the Cabinet Secretary and the Minister for Europe. The Cabinet Secretary stated that the failure of the Prime Minister to call such a meeting demonstrated ‘a lack of regard for the MOU’\textsuperscript{35}.

43. This matter was explored in greater depth during an exchange between the Committee and the Minister for Europe. The Committee highlighted that, ‘the UK Government had ignored a joint request from the First Minister of Scotland and the Welsh First Minister on 21 December to hold an urgent joint ministerial committee meeting’.\textsuperscript{36} The Committee continued, ‘In that regard, I note that paragraph A1.8 of the memorandum of understanding states:

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\textsuperscript{31} EERC, 20 February 2012, Official Report, Col 381 - 382
\textsuperscript{32} EERC, 20 February 2012, Official Report, Col 382
\textsuperscript{33} EERC, 20 February 2012, Official Report, Col 382
\textsuperscript{34} A request for sight of the UK Government response to the First Ministers’ letter was turned down by the Scottish Government.
\textsuperscript{35} EERC, 7 February 2012, Official Report, Col 352
\textsuperscript{36} EERC, 20 February 2012, Official Report, Col 385
“Meetings of the JMC ... will be held at the request of the UK Government or any of the devolved administrations.”

44. In responding to the Committee’s question, the Minister for Europe stated that, ‘The UK Government has not breached any of its obligations under the memorandum of understanding’ \(^{37}\). He agreed with the terms of paragraph A1.8 but went on,

‘However, it [the MOU] also says that such meetings should be held, “in the appropriate functional guise”.

The functional formats of the joint ministerial committee are defined in paragraph A1.4 of the MOU as being the JMCE and the joint ministerial committee domestic. The memorandum also says, in paragraph A1.6, that the presumption is that when a JMC meeting—involving the Prime Minister and the First Ministers of the three devolved Administrations—is to take place to address a particular policy issue, that issue will go to the JMCE “only when there is an impasse: i.e. following an unsuccessful bilateral exchange at Ministerial level”.

We tried to find a mutually convenient date in January to have a JMCE meeting closer to 9 December. That proved impossible. We had a meeting at the beginning of February, at which ministers from the devolved Administrations were able to make points of concern about the outcome of the December Council’.

Informal European Council (30 January 2012)

45. An Informal Heads of State and Government Council took place in Brussels on 30 January 2012\(^{38}\). The purpose of such Councils is to allow for more informal discussions over prospective work whilst also allowing for networking and bilateral discussion.

46. The Cabinet Secretary commenting on the dialogue between the UK Government and the devolved administrations in advance of the informal Council stated: ‘It is extremely disappointing that, despite our best efforts to engage, the Scottish Government was again side-lined in advance of the informal European Council that took place on 30 January’ \(^{39}\). She went on,

‘I had to chase the Minister for Europe to remind him that the informal council was taking place and ask him whether he wanted to involve us. Of course, the JMCE meeting took place days after that informal council, so it was not just a one-off offence in December; it was repeated in January’ \(^{40}\).

47. In responding to this issue the Minister for Europe commented that ‘the draft agenda [for the informal Council] was made known and shared with the devolved

\(^{37}\) EERC, 20 February 2012, Official Report, Col 385 - 386
\(^{38}\) The conclusions of the Council meeting can be accessed here: [http://www.european-council.europa.eu/council-meetings/conclusions](http://www.european-council.europa.eu/council-meetings/conclusions)
\(^{39}\) EERC, 7 February 2012, Official Report, Col 353
\(^{40}\) EERC, 7 February 2012, Official Report, Col 357
Administrations’ however, he noted that, ‘it was in an incredibly generalised, almost vague form. It was only at the general affairs council [GAC, 27 January 2012] that we really got clarity … For a time it was very uncertain whether the summit in January would end up being hijacked by the situation in Greece, the woes of the euro zone more generally or last-minute negotiations on the intergovernmental treaty. It was only at the GAC that President Van Rompuy said that he was determined that that was not going to happen, that he wanted the meeting to be about growth and that that was how he intended to choreograph the day’.

The 'Cunliffe-Rogers' meetings

48. Prior to 2008 the devolved administrations had an open invitation to attend the official-level meetings between the UK Cabinet Office’s European secretariat and the UK Permanent Representation to the EU (the so-called ‘Darroch Cunliffe meetings’). The invitation was rescinded by the then UK Europe Minister Jim Murphy MP in 2008. (The meetings have recently been renamed the ‘Cunliffe-Rogers’ meetings and this term shall be used hereafter).

49. In a joint letter to the UK Prime Minister, the First Ministers of Scotland and of Wales requested that the invitation to the devolved administrations be reinstated. The value of these meetings was echoed by the Cabinet Secretary who was of the view that these meetings, ‘allow early warnings to be given of issues that will likely require ministers to make judgements or to hold discussions’.

50. Both the UK Minister for Europe and the Parliamentary Under-Secretary of State were questioned on the prospect of re-instituting a standing invitation to attend the Cunliffe Rogers meetings. The Minister for Europe was unequivocal in his view that there was no merit in the re-instatement of the meetings, explaining that

‘the senior UK officials from the various departments that attend the […] meetings come to those meetings having been fully briefed on and having taken into account the particular interests of the devolved Administrations’.

51. Commenting upon the utility of Scottish participation in the meetings, the Parliamentary Under-Secretary of State stated that ‘the Scotland Office is not represented at those meetings but if we want to input into those meetings, we have the opportunity to do so’. The Minister went on to explain that ‘The devolved positions are known to the people who participate in the meeting’, and that he personally ‘always ensures that the Administration in Scotland has been fully engaged in the process to the extent that its views are known’.

52. The UK Minister for Europe outlined the recently adopted system to ensure that the UK Government departments are fully aware of the views of the devolved administrations. He stated that

\[41\] EERC, 20 February 2012, Official Report, Col 387
\[42\] EERC, 7 February 2012, Official Report, Col 363
\[43\] EERC, 20 February 2012, Official Report, Co 3871
\[44\] EERC, 20 March 2012, Official Report, Col 451
\[45\] EERC, 20 March 2012, Official Report, Col 451
‘... we have set in place a system in which, every six months, each secretary of state in Whitehall has to send to the Foreign Secretary a formal written report explaining their key objectives and the key risks in relation to EU policy for the forthcoming half year. Our template for the departments states that each secretary of state should ensure that his or her department consults the devolved Administrations before the return is submitted. When the returns come in, a summary is prepared to give us a pan-Whitehall view that summarises each department’s main concerns. That is then shared with the three devolved Administrations so that they have an idea and can chip in if they are not satisfied with something.\textsuperscript{46}

Future working relations between the UK and Scottish Governments on EU issues

53. The Cabinet Secretary stated that, ‘\textit{While we remain part of the UK, we will need to work with the UK Government to secure our interests}’\textsuperscript{47}.

54. Both the Cabinet Secretary and the Minister for Europe alluded to discussions at the recent JMC (Europe) (2 February 2012) at which future working relations between the UK Government and devolved administrations were discussed. The Cabinet Secretary commented,

‘the Minister for Europe recognised that improvements need to be made. For example, sometimes the agendas for the meetings of the councils and other meetings that leaders attend, as well as the subject councils, change when they are being finalised in the week before the meeting. We have secured agreement that more informal contact will be made.’\textsuperscript{48}

55. The Minister for Europe categorised the relations between the UK and Scotland as ‘\textit{work in progress. [with] ideas were being debated as to how we can improve our mutual co-operation, and I am open to suggestions of how we can do that successfully}’\textsuperscript{49}.

56. Both the Minister for Europe and the Parliamentary Under-Secretary of State made a number of commitments regarding future working practice. The Minister for Europe stated ‘\textit{in addition to the normal structured process, in which I make myself available to talk to the devolved ministers ahead of each JMCE meeting, I will similarly make myself available at the time or immediately after the general affairs council preceding a European Council}’\textsuperscript{50}. The Minister confirmed that this would apply to informal Councils too. He continued, ‘\textit{I thought that that might be one way of ensuring that we can build into the system a fairly last-minute...}’

\textsuperscript{46} EERC, 20 February 2012, Official Report, Col 388
\textsuperscript{47} EERC, 7 February 2012, Official Report, Col 358
\textsuperscript{48} EERC, 7 February 2012, Official Report, Col 357
\textsuperscript{49} EERC, 20 February 2012, Official Report, Col 381
\textsuperscript{50} Under EU procedure, the general affairs council of ‘Europe’ ministers that precedes a Heads of State & Government Council is responsible for agreeing the Council agenda. It is also the point at which the intentions of President van Rompuy are made clear, \textit{i.e.} the weight the President intends to give to each agenda item, the likely nature of the discussions, etc. EERC, 20 February 2012, Official Report, Col 386
57. The Parliamentary Under-Secretary of State stated that he was in ‘almost weekly contact’ with certain Scottish Government ministers and proposed that a ‘regular, scheduled discussion [with the Cabinet Secretary for Culture & External Affairs] would assist greatly with improving communication’, an arrangement that could happen ‘immediately’. In later evidence he extended the invitation for dialogue more widely, ‘I am happy to work with all members of the Scottish Government whenever they think that the Scotland Office can take forward their views within the UK Government’ [ibid. Col. 460].

58. The Parliamentary Under-Secretary of State gave a further commitment that ‘I assure you that I will do anything that I can to facilitate better communications between the two Governments’.

CONCLUSIONS AND RECOMMENDATIONS

59. Each of the witnesses expressed the view that the communication before and after the December 2011 European Council could be improved upon, since it is the view of the committee that the present arrangements did not work as well as they could have during this period. Indeed, the UK ministers outlined several innovations that could be introduced to bring this about. The Committee welcomes these new ministerial channels of communication. It is the intention of the Committee to review the working of these new channels within 12 months to ensure that they have addressed the various shortcomings detailed in the body of this report.

60. The Committee believes that the level of communication between the UK government and the devolved administrations in advance of the important December Council discussions fell short of the communication necessary to ensure that the views of the Scottish Government was adequately understood and appreciated by the UK government. There is little doubt that such failure, were it to be repeated, could materially impact upon the ability of the UK Government to articulate the Scottish Government’s legitimate EU interests.

61. That being said the Committee holds the view that the JMC (Europe) meeting remains the most important occasion for political engagement between the Scottish and the UK Governments. The JMC (Europe) meeting is the key moment when all the devolved Administrations can have significant input into the UK line that will be advanced in any European Council meeting. It is also an opportunity to undertake a horizon scan of upcoming issues.

62. Whilst the Committee welcomes the report provided by the Cabinet Secretary for Culture & External Affairs following each JMC (Europe) meeting which outlines the Scottish Government stance in discussions, the Committee believes that it would benefit from a dialogue with the Scottish Government on issues that it
intends to raise during the JMC (Europe) meeting, and a private discussion following the JMC (Europe) with regard to the outcome.

63. The Committee welcomed the participation of the UK Minister for Europe in its discussions of 20 February 2012 and would like to extend an invitation to the Minister for Europe to appear before the Committee on at least an annual basis to outline developments in the EU from a UK Government perspective. It would be useful if this session could be arranged to coincide with the Committee’s annual inquiry into the European Commission’s work programme [i.e. February - March each year].

64. The Committee regrets the discontinuation of the participation of Scottish Government officials in meetings between the UK Cabinet Office’s European secretariat and the UK Permanent Representation to the EU (the ‘Cunliffe – Rogers’ meetings). The Committee agrees with the Scottish Government that these meetings provide useful forewarning of upcoming EU issues and it concludes that the exclusion of Scottish Government officials could materially disadvantage Scotland’s interests. The Committee, therefore, recommends that the Scottish Government seeks the reinstatement of the invitation to the meetings or the establishment of a separate forum for officials to meet with their Whitehall counterparts on a regular basis to consider upcoming EU issues.

65. In its report on the European dimension of the Scotland Bill (November 2011) the Committee expressed strongly its view that at European Council meetings where a minister is present, that minister should take precedence over the officials in the delegation, regardless of which government that minister serves. This minister would be responsible for articulating the views of the UK as member state. The Committee would like to reiterate its position that except where otherwise agreed within the UK delegation, elected representatives should take priority over officials in the UK delegation.
Annex A: The EU Fiscal Compact - summary of key provisions

1. The budget of a country must be in balance or in surplus, which means that in structural terms – i.e. excluding one-off items and business cycle variations - the deficit cannot be higher than 0.5% of gross domestic product (GDP).

2. Only countries which have debt to GDP ratios significantly below 60% can maintain a larger structural deficit, but this deficit is not to be more than 1% of GDP.

3. If the budget is not in balance, automatic correction rules, to be written into national laws, will apply.

4. The balanced budget rule must be written into national law, preferably a constitution, not more than one year from the day the fiscal compact enters into force.

5. A Eurozone country which does not write the balanced budget rules into its national law, can be sued in the European Court of Justice and, if it does not comply with the Court's ruling, can be fined 0.1% of its GDP.

6. The agreement will enter into force once 12 euro zone countries ratify it, or on January 1, 2013 whichever is soonest.

7. A country with public debt higher than the EU limit of 60% of GDP must reduce it by 1/20th a year as a benchmark.

8. Euro zone countries will co-ordinate national debt issuance plans in advance.

9. Only countries that have ratified the fiscal compact and written the balanced budget rule into national law will be eligible for euro zone bailouts from the European Stability Mechanism.
ANNEX B: EXTRACT FROM THE MINUTES OF THE EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

3rd Meeting, 2012 (Session 4), Tuesday 7 February 2012

Developments in the Eurozone: The Committee took evidence from—

Fiona Hyslop MSP, Cabinet Secretary for Culture and External Affairs, Elspeth MacDonald, Deputy Director of Constitution and Europe Division, and Graeme Roy, Senior Economist, Office of the Chief Economic Adviser, Scottish Government.

Developments in the Eurozone: The Committee considered the evidence taken earlier in the meeting.

4th Meeting, 2012 (Session 4), Monday 20 February 2012

Developments in the Eurozone: The Committee took evidence from—

The Rt Hon David Lidington, Minister of State (Europe and NATO), UK Government.

Developments in the Eurozone (in private): The Committee considered the evidence taken earlier in the meeting and agreed to consider a draft report at a future meeting.

5th Meeting, 2012 (Session 4), Tuesday 6 March 2012

Developments in the Eurozone: The Committee will consider the evidence taken to date for its inquiry on developments in the Eurozone.

6th Meeting, 2012 (Session 4), Tuesday 20 March 2012

Developments in the Eurozone: The Committee took evidence via video conference from—

Rt Hon David Mundell, Parliamentary Under-Secretary of State (for Scotland), UK Government.

8th Meeting, 2012 (Session 4), Tuesday 1 May 2012

Developments in the Eurozone (in private): The Committee considered a draft report for its inquiry and agreed to consider a further draft at a future meeting.

9th Meeting, 2012 (Session 4), Tuesday 15 May 2012

Developments in the Eurozone (in private): The Committee considered a draft report for its inquiry and various changes were agreed to. The Committee agreed that a revised draft of the report for publication should be agreed to by correspondence.
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