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Christina McKelvie MSP
Convener
European & External Relations Committee
Scottish Parliament
Edinburgh
EH99 1SP

Our Ref: SO/CF

28 March 2014

Dear Convener,

As I promised to do in the evidence session last week, I am writing to provide additional information on some of the points raised by you and committee members.

International Contacts

We discussed the engagement that the UK Government has with international contacts. UK Government Ministers and all British diplomatic missions routinely promote Scotland's international interests and the 'Scottish brand', as well as those of the other nations of the UK. For example, this week, Kenneth Clarke is in Brazil, promoting Scottish interests at an international oil and gas conference.

As my official, Chris Flatt, made clear in the evidence session, international interest in the Scottish referendum is high. This is reflected in the high number of requests for briefing that both the Scotland Office and the Foreign and Commonwealth Office (FCO) receive from the diplomatic corps. That interest is to be welcomed. It allows countries – many of which may be affected by a decision by Scotland to leave the UK – to remain well-informed of developments in the ongoing debate and to understand the arguments being presented by both sides of that debate.

The UK Government, like the Scottish Government, is not neutral on the issue of the referendum. The UK Government's policy in this area is no secret, nor is that of the Scottish Government. It is correct therefore that UK Government officials should accurately reflect the UK Government's policy position both at home and abroad.

It is worth highlighting Chris Flatt's evidence to the committee, which made clear that in meetings with the diplomatic corps, officials explain the UK Government position but also take great care to underline that the Scottish Government takes a different position. Indeed, guidance issued by the FCO to diplomatic posts overseas, and shared with the Scottish Government, states that:

“all staff whether working for the UK or Scottish Government should make the following points at the beginning of any conversation with external interlocutors on the referendum or questions associated with the wider debate on Scottish independence:

- Staff should be clear with interlocutors whether they speak for the UK or Scottish Government;*
- They should explain that the two Governments agree that the question of independence is for people in Scotland to decide, through democratic debate and a referendum in September 2014, the outcome of which both Governments have pledged to respect;*
- Within that context, they should emphasise that each Government has a different view on which future is best for Scotland. The UK Government is promoting the benefits of keeping the UK together and the Scottish Government is promoting independence for Scotland;*
- The UK’s approach to the referendum in Scotland demonstrates our commitment to the values of democracy and rule by consent, and to handling debates over governance and national identity through open discussion and a free expression of popular will. This is a good example of democracy in action and one which we are proud of.*

All staff should ensure they represent the latest policy positions of the UK Government accurately in relation to all other matters.

This advice is consistent with the Memorandum of Understanding between the FCO and the DAs which includes specific “Concordats” on EU policy and international relations between the UK Government and each DA”.

I am unaware of what guidance, if any, the Scottish Government has issued to its staff engaging with diplomats at home and abroad. Your Committee may find it useful to seek confirmation of guidance issued to officials in the Scottish Government to provide yourself with the assurance that both Administrations are open in their presentation of the referendum debate in their interactions with other countries.

As you know, under the terms of the Memorandum of Understanding between the UK Government and the Devolved Administrations, the FCO regularly facilitates international visits by Scottish Government Ministers.

Scottish Government Ministers and officials regularly meet with incoming Government visitors to Scotland, with the Edinburgh-based Consular corps and with foreign governments overseas. The Scottish Government has made some 50 international visits over a 16 month period, many of which have been facilitated by the UK Government. A list is attached. This is only visits overseas and does not include any meetings that Scottish Government Ministers and officials have with diplomats in the UK.

In addition to these visits, Scottish Government Ministers regularly attend EU Council of Minister meetings, where the UK Government has put in place some of the most inclusive arrangements of any EU Member State. For example, between February and December 2013, there were a total of thirty-one attendances by Ministers from Devolved Administrations. Of this, fifteen were by Ministers from the Scottish Government. No request by Devolved Administration Ministers to attend Council of Minister meetings was refused.

It is also worth highlighting that Scottish Government officials briefed diplomats in Brussels on Thursday 27 March to publicise the Scottish Government's view on independence and the implications for business.

You asked explicitly about meetings between the UK Government and Russian diplomats to discuss the referendum. Two such meetings have taken place – one each with the FCO and the Scotland Office. Both meetings were introductory discussions, at the request of the Russian embassy, for them to better understand the UK Government's policy position and how devolution works. These meetings took place in late January and early February, before Russia's illegal attempt to annex Crimea. You will want to note that the Scottish Government Cabinet Secretary for Culture and External Relations met with the Russian Consul-General in Edinburgh on 13 March 2014.

Devolution Unit

The FCO's Devolution Unit was established in September 2012. It manages foreign policy matters relevant to the Government's relations with the Devolved Administrations of Scotland, Wales and Northern Ireland and the activities of the Devolved Administrations on FCO policy. It maintains good working relations with the Devolved Administrations on their external policy activities and assists them as well as UK Diplomatic Missions overseas with visits by Ministers or officials from Devolved Administrations. It also leads on the FCO's contribution to the cross-Government approach to the referendum on Scottish independence.

UK Government EU Coordination Meetings

You also raised a question in relation to Scottish Government officials attending UK Government EU coordination meetings (a shift in responsibilities means that they are now known as Rogers-Scholar, rather than Cunliffe-Rogers meetings).

The purpose of Rogers-Scholar meetings is to allow Whitehall departments to discuss policy matters internally. It is important for the development of Government policy that Whitehall officials have this opportunity. The agenda and minutes of meetings are routinely circulated to officials in the Devolved Administrations. Devolved officials can request sight of the papers and these can be released unless they are considered sensitive. The UK Government position is not decided at Rogers-Scholar meetings; this is solely for lead Ministers, in many cases following a collective decision by the Cabinet Committee on European Affairs following a recommendation by the lead Minister. The UK Government remains fully committed to ensuring that the Devolved Administrations are properly consulted by lead departments as part of this process, in accordance with the arrangements set out in the EU Concordat.

Jean-Claude Piris

You asked me if I could “confirm that Jean-Claude Piris has written the legal opinion for the UK Government through his consultancy firm and was paid for it by the UK Government”.

This is not the case. The UK Government has been open about the fact that we commissioned and published independent expert opinion by James Crawford SC, Whewell Professor of International Law at the University of Cambridge, and Alan Boyle, Professor of Public International Law at the University of Edinburgh. Their full and detailed legal opinion was published in February 2013 as an annex to the paper *Scotland Analysis: Devolution and the Implications of Scottish Independence*. The Scottish Government has published no such legal opinion.

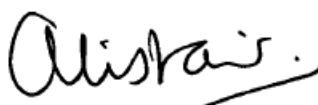
The evidence that Jean-Claude Piris has provided to your Committee is unrelated to the legal opinion commissioned by the UK Government. As far as I am aware, from the evidence provided by Mr Piris, he provided his evidence at the direct request of your Committee.

Jean-Claude Piris is a man with unparalleled insight into the workings of the EU Treaties, not least because of his close, personal role in advising Member States in all the intergovernmental conferences and treaties from 1992 onwards. I realise that his evidence that, “it would not be legally correct to try and use article 48 of the Treaty on European Union for the admission of Scotland as a member of the European Union” is uncomfortable for some. I would suggest that his views, given his knowledge and experience, and legal and professional integrity, should be considered carefully.

Alongside this, I was disturbed to read the press release, issued by the SNP, after the evidence session. This press release quoted you, as Convenor of the Committee, as saying that the Scotland Office was “briefing against Scotland”. As was made clear to you in the evidence session, when meeting with international contacts the Scotland Office sets out the UK Government’s view that Scotland is better off as part of the UK.

To disagree with independence is not to be “against Scotland” but rather to have a different position on where Scotland’s best interests lie. I find it regrettable that you have used your position as Convenor to make these unfounded accusations. The UK Government remains firmly committed to delivering for Scotland internationally.

Yours ever,



**Rt Hon ALISTAIR CARMICHAEL MP
SECRETARY OF STATE FOR SCOTLAND**

Scottish Government visits overseas, as notified by the Scottish Government or Posts to the FCO , the majority of which were facilitated by the FCO

Date of Visit	To	Visitor/s
27 March 2014	Belgium (Brussels)	SG Officials
23rd - 30th March 2014	New Zealand	Cabinet Secretary for Education and Lifelong Learning, Michael Russell
21 March 2014	The Netherlands (Amsterdam)	SG Officials
12 March 2014	Germany	SG Official
6th - 7th March 2014	Finland (Helsinki)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
27th-28th February 2014	Poland (Warsaw/Krakow)	SG official
13th-15th February 2014	Austria (Vienna)	Minister for External Affairs and International Development, Humza Yousaf
12th-13th February 2014	Norway (Oslo)	Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney
10 February 2014	Spain (Valencia)	First Minister of Scotland, Alex Salmond
24th-27th January 2014	Malawi/Zambia	Minister for External Affairs and International Development, Humza Yousaf
9th-10th January 2014	Norway (Oslo)	Fergus Ewing, Minister for Energy Enterprise and Tourism
16 December 2013	France (Paris)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
9 December 2013	Denmark	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
26 November 2013	Belgium (Brussels)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
12-14 November 2013	Sri Lanka (Colombo)	Minister for the Commonwealth Games and Sport, Shona Robison
9th-15th November 2013	UAE and Qatar	Minister for External Affairs and International Development, Humza Yousaf
3rd-7th November 2013	China	First Minister of Scotland, Alex Salmond
30th-31st October 2013	Poland	Cabinet Secretary for Education and Life Long Learning, Michael Russell
29th-31st October 2013	Estonia	Cabinet Secretary for Health and Wellbeing, Alex Neil
17th-19th October 2013	Pakistan	Minister for External Affairs and International Development, Humza Yousaf
10th-14th October 2013	India- Delhi and Mumbai	Minister for External Affairs and International Development, Humza Yousaf
7th-8th October 2013	Estonia	SG officials

4th-6th October 2013	Italy (Rome)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
28 September 2013	Spain (Madrid)	Cabinet Secretary for Justice, Kenny MacAskill
23rd-25th September 2013	Switzerland (Geneva)	Minister for External Affairs and International Development, Humza Yousaf
2nd-4th September 2013	Switzerland and Germany	Minister for Youth Employment, Angela Constance
22nd-24th August 2013	Sweden (Stockholm) & Denmark (Copenhagen)	Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead
13th-16th August 2013	Norway (Trondheim)	Minister for Environment & Climate Change, Paul Wheelhouse
13 July 2013	Brussels (NATO)	SG Officials
7th-8th July 2013	Latvia	Minister for External Affairs and International Development, Humza Yousaf
04 July 2013	USA (Philadelphia)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop (speech during family holiday)
25th-26th June 2013	China (Beijing)	Minister for External Affairs and International Development, Humza Yousaf
26th-27th June 2013	Hong Kong	Minister for External Affairs and International Development, Humza Yousaf
11 June 2013	The Netherlands (Amsterdam)	Minister for Transport and Veteran Affairs, Keith Brown
28 May 2013	Italy (Venice)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
22 May 2013	Qatar	Minister for External Affairs and International Development, Humza Yousaf
7th-8th May 2013	Ireland (Dublin)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
2 May 2013	Germany (Hanover)	Minister for External Affairs and International Development, Humza Yousaf
May 2013	USA (Houston)	Minister for Energy and Tourism, Fergus Ewing
May 2013	South Korea (Seoul)	Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney
17 April 2013	Germany (Berlin)	Cabinet Secretary for Culture and External Affairs, Fiona Hyslop
4th-11 th April 2013	USA (Washington DC)	First Minister of Scotland, Alex Salmond
March	Belgium (Brussels)	SG Official

6 March 2013	Belgium (Brussels)	SG Official
26 February 2013	Belgium (European Policy Centre, Brussels)	Deputy First Minister, Nicola Sturgeon
25 February 2013	Belgium (Brussels)	Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead
16th-17 th January 2013	Belgium (Brussels)	SG Official
3 December 2012	Belgium (The Hague)	SG Officials
29 November 2012	Belgium (The Hague)	Minister for Youth Employment, Angela Constance
19th- 20th November 2012	Germany (Hanover)	First Minister of Scotland, Alex Salmond
18th-19th November 2012	France (Paris)	First Minister of Scotland, Alex Salmond

In addition to these visits, Scottish Government Ministers have also attended a large number of EU Council meetings on Agriculture & Fisheries; Environment; Transport; and Education, Youth Culture & Sports.

Countries which have had representatives briefed by Scotland Office officials

Australia

Austria

Belgium

Canada

Croatia

Denmark

Finland

France

Germany

Greece

Hungary

Ireland

Italy

Japan

Kyrgyzstan

Lithuania

Norway

Philippines

Russia

Spain

Thailand

Turkey

United States

European Commission Office

European Parliament Office

In addition, briefing was given to representatives of the Kurdistan Regional Government and the Catalan Regional Government.

All meetings covered a factual explanation of the UK Government's position on the referendum, with particular emphasis on progress of the Scotland analysis programme. Where applicable, details were also shared on any Scotland Office Ministerial visits to the country.

Scotland Office and FCO officials also attended a lunch, hosted by the Polish ambassador, and attended by representatives of the A10 countries plus Croatia, and the First Minister and Scottish Government officials, the purpose of which was to discuss the Scottish Government's White Paper with the First Minister.