

Common Weal

a short guide
to **starting a**
New Country

A Short Guide to Starting a New Country

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Introduction

If Scotland voted to become independent, what would happen next? There

is evidence that failing to map this out clearly for voters played some part in the loss of the 2014 independence referendum. To try and address this, Common Weal launched the White Paper Project, a series of policy papers

examining each aspect of what would be needed to create an independent

Scottish state.

This has been an enormous amount of work and so it has been pulled

together in a book, *How to Start a New Country*. This is a shorter, summarised version of the longer book. It covers the same areas and outlines the main arguments but cuts back on much of the detail and some of the more detailed arguments. The reader should refer to the longer book (or the original policy papers) for more information.

The aim was straightforward – to look honestly at what work is involved,

to raise the difficult questions and to seek to find workable, deliverable answers. While the project started out from the assumption that achieving Scottish independence is possible and takes a broadly optimistic view of the possibilities, it has not sought to understate or minimise the difficulties.

If there is one conclusion its that achieving Scottish independence will

be hard work, but that most of it is in our own hands to do – if we choose to.

And while the work is hard, it is achievable. Most of the tasks are ones which have been completed many times in many places and there is widespread

knowledge about how to get them done. Some are complex and difficult, but most primarily involve determination to succeed and good planning.

The book does not seek to make the case for Scottish independence

nor does it seek to say anything specific about what life would look like after independence. It begins on the day after a successful vote for independence and ends on independence day. Its focus is purely on the three years it

would take to make that transition.

However, as we look at the work that needs to be done and we

envisage the Scotland that would result, it presents a picture of years of great 1

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opportunity, a genuinely once-in-a-lifetime chance to create a new nation fit for its people and for the 21st century.

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Timeline

Before looking at all the individual tasks which will be involved in setting up a new country, let's take a quick overview of what it might all look like when put together. We can't wait until after we've had an independence

referendum to begin building a new country so let's start the timeline about 18 months before a vote is held.

With about eighteen months to go we need to start thinking about

recruitment. An awful lot of what is involved in setting up a new country involves identifying and recruiting the best people to lead the various

necessary tasks. These are senior people and it will take time to find them and persuade them to take up the role. We should allow a full year and a

half to put a core team together if we want them to be ready to start work immediately after a vote for independence.

Then, with not more than a year to go we should produce an interim

constitution, one to reassure people that their basic constitutional rights will be fully protected. A constitutional convention should be called, primarily drawing on the knowledge of experts in writing constitutions but also

including representatives from Scottish society more widely.

With not more than about six months to go a final detailed White Paper

should be produced to set out everything people will need to know about

what the new Scottish state will look like. This must contain all the detail covered in this book. And then with not more than three months to go there should be in place a full implementation plan – a strategy for how all the work outlined in the White Paper will be delivered effectively and efficiently over the three-year transition period.

That takes us to the independence referendum itself. And of course,

nothing is more important in creating a new country than that it is done

with the support of a majority of the Scottish population. An independence referendum must be won. Then the hard work can begin.

The first thing we should do after that is partly symbolic but is also an important technical requirement – we should immediately seek ‘legal

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personality’ from Westminster. This would not mean being recognised as an independent country but would grant us the ability to negotiate with other international bodies, enter into contracts, borrow money and so on.

While this is happening all the transition arrangements must be put in place. The Holyrood government will continue to run all existing devolved policy areas as they currently do and Westminster would continue to run all devolved policy areas. However, there should be a coordination committee

set up to make sure that what Westminster does does not prejudice what Scotland might be aiming to do during the transition period.

And then we get to one of the biggest tasks. Scotland will need a new body to manage and carry out the very large volume of work needed to set up a new nation. So we should create a National Commission. This would be a body that would exist for only three years and function like a kind of time-limited, democratically governed civil service. It would recruit and employ people to do all aspects of the set-up work.

The National Commission would be open and transparent with all political parties and other civil organisations being represented on its governing body. It would not make or impose decisions which have not been openly debated and agreed. This will give the people of Scotland the confidence to believe that this new start is one that belongs to everyone and not just a selected few.

As soon as it exists the National Commission must put in place strong project and financial management rules. And it must be able to issue government-backed bonds to pay for all the development work. This is how the setting-up of a new Scotland will be financed – the National Commission shall borrow to pay to do all the work and then at the end of the set-up period the debt created by the National Commission will be added to the

national debt for the new Scotland.

It is now time to begin the actual work. The first thing to do is to set

up a digital version of the new Scottish currency. This is what banks need to begin preparing new kinds of accounts and to help all other preparations for currency introduction. At this point the new currency doesn't 'exist' (you can't own it or spend it) – it is a first technical step that is needed.

The next urgent thing to prepare is the negotiating team and negotiating

strategy for agreeing the terms of separation with the rest of the UK. Ideally a chunk of this work will have been done well in advance, but it must now be finalised and committed to. There would be perhaps six months in which to do this.

Another task that should be prioritised in the first quarter of the first transition year is early steps needed to update the nation's IT systems. It is essential that this is done well and that it is all in place so that the transition is seamless, so it must be begun early.

By the time we are into the second quarter of the first transition

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year we should be starting the process of having a full, inclusive national conversation about what should be in the final constitution. This will mean a major programme of going out to communities all over Scotland and

having deep engagement with citizens over what they feel should be the

underpinning principles of the new Scottish constitution. This must be a

lengthy process to give people time to engage.

At this stage we should also be starting the task of setting up a Scottish Defence Force. Recruitment and procurement will take time so should begin early. The same is true for some of the more complex government systems

that need to be set up such as the tax and social security systems.

By the time we reach the half-way point of the first transition year

we should expect to be opening negotiations with the rest of the UK over

the terms of separation, so exhaustive preparations must be in place by

this point. It is the stage at which we can also begin initial contact with international institutions such as the United Nations, the World Trade

Organisation or the European Union to take the first steps towards negotiating future relationships.

The third quarter of the first year (once the digital currency is set up) is when the National Commission should begin working with the banks to

begin the process of setting up new bank accounts in the Scottish currency.

This is also the time to start making the arrangements for establishing a central bank.

There are a number of new government departments which need to be

set up but the one that should now be treated as a priority is a Foreign Office.

Not only will we need this in place to take over international negotiations but we will also have to start talking to foreign governments and identifying properties for a Scottish consular network.

Getting into the final quarter of the first transition year, it is time to build a new digital payment system for the new currency to replace the

BACS system (which can only pay in Sterling).

The last thing that needs to be done in the first year is to get wider

political agreement on how to set up a number of the systems where

duplication of the status quo isn't possible or isn't sensible. An all-party and civic convention should be held to negotiate how to create the interim policies in areas such as tax and social security which are fit for purpose and also a fair starting point for any incoming government.

By the start of the second transition year banks will be starting to be

ready to offer the first bank accounts denominated in the Scottish currency.

These will then need to be accompanied by a public information campaign

about how the new currency will be introduced and to encourage people to

start thinking about making the transition to the new accounts. The central bank should at this point begin to build up the foreign currency reserves it is going to need to support and protect the new currency.

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Moving towards a Scottish energy system should begin now. This will

be a mainly technical process in which a Scottish Transmission System

Operator (to regulate the national grid) and an energy regulator (to monitor the overall market and

protect consumers) must be set up.

The political convention held at the end of the previous year should

have set an interim policy approach for tax and social security systems.

These agreements should now be turned into policies which can be put in

place as development of the technical systems to operate the tax and social security system progress.

The first quarter of the second year is the latest point at which the

process of setting up a customs service should begin. This means recruiting staff, creating customs offices and setting up the infrastructure needed at ports and airports.

This is also the time to start to prepare for a post-independence

broadcasting set-up. That means that a national broadcaster is created

and that both putting in place technical requirements and programme

commissioning begins. There will also have to be negotiations with the BBC

to secure a commercial deal to enable Scotland to maintain access to BBC

content after independence. Finally, a media regulator needs to be set up to replace OfCom.

The start of the second year is also the time to begin initial trade

negotiations. This should begin with conversations with EFTA and initial

contact with the European Economic Area. It should be possible to negotiate a rapid entry to EFTA and from there take the steps towards single market membership through the EEA.

By the second quarter of the second year people will be taking up

Scottish bank accounts and so will be able to own and spend the new

Scottish currency – though only in digital form. It is important that they are able to use these accounts so by this point it must be made possible to pay all Scottish taxes in the new currency.

It is also time to create a new immigration service for Scotland and to

set up a system of ‘citizen identifiers’ to replace National Insurance Numbers.

This is also when we should design the relationship between citizens and the data the state holds about them.

By the middle of the second transition year the steps to disentangle a

new Scottish civil service from the existing UK civil service should begin.

This will also mean a very large recruitment process to begin to replace the many government functions which are currently delivered for Scotland from other parts of the UK.

There are a range of regulatory bodies which must be in place for

Scotland to become a member of the European single market. Some exist

but others don't and they vary substantially in terms of how hard they

are to set up. Indeed, it may be wise to have begun the creation of some

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of these well before this point. This takes us into the third quarter of the second year.

It is good practice to have a large public consultation on what the

banknotes and coins of the new currency will look like; the easiest way

to do that is to integrate it into the ongoing public consultation over the new constitution. By the middle of the second year it is time to start

commissioning the physical notes and coins, which means that all vending

machines in the country need to be adapted to accept them. This should

also begin now.

Ideally it would have been best to start the preparations for Scotland's

border with England by this point but since many of the arrangements will rest on negotiations with the rest of the UK it may not be until this point that proper planning for the border arrangements can begin (though some

technical aspects can start much earlier). Another procurement job at this point will be to begin the production of Scottish passports.

By the end of the second year it will be worth starting to work our way

through the many international treaties to which Scotland is a signatory

through its membership of the UK. A different approach to each will have to be taken so they will need to be prioritised.

We now enter the final transition year. At this stage all the existing work programme will be at a peak with many work streams beginning to come

to a conclusion and many 'facts on the ground' starting to be in place. It will be 18 months since negotiations with the rest of the UK began. If adequate preparations have been made it is to be hoped that these negotiations will be reaching agreement.

As we get into the second quarter of the final year the large public constitution-writing process should have been completed and the findings should be being written up as a final proposed constitution for Scotland.

The mid-way point of the final year is a crucial milestone. We should now be seeing all the main systems in place and 'shadowing' the existing systems. That means having tax, social security, IT arrangements, customs service, new government departments and so on all in place and operational.

They will not yet take over these functions but by operating them as a 'shadow' to the UK systems which on which we will still be relying there is a six-month 'trouble-shooting' period in which to make sure they are robust and ready to take over responsibility after independence.

It is also important that by this point all the technical infrastructure to manage Scotland's borders is in place and operating as a shadow to the UK systems. The border policy position will also be clear by this point assuming negotiations have been completed. These must be implemented.

At this point with less than six months to go before independence, it will be important to underpin the new constitution by seeking public support for it in an approval referendum. It is important to be clear on what this means; 7

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the decision to become independent has been made and independence day

has been set. That decision was made on the basis of a published interim

constitution. The crowd-sourced, publicly-produced constitution developed by the National Commission will also be ready. The people of Scotland will be asked formally to approve that new constitution. If they don't, Scotland would progress on to independence based on the interim constitution and

the issue would become one for the Scottish Parliament after independence.

Since there will be a referendum, this is also an opportunity to resolve

any other contentious issues which have not yet been resolved. For example, questions about whether

we should rejoin the European Union (the process for which couldn't begin until after independence anyway) and who should be the head of state could be resolved at this point.

As we go through the third quarter of the year it should also become mandatory to pay all taxes in Scotland in the new currency. This will involve a campaign of public support to help people get their bank accounts set up so taxes can be collected.

The start of the last quarter of the last year is when the logistical process of issuing the new banknotes and coins should happen. There will have to be support for retailers and in being ready to trade primarily using this currency and employers supported to be able to pay wages in it.

The second last step is to refinance all the national debt. This will include both the debt incurred by the National Commission in setting up the new country and also any debt that Scotland would inherit as a result of negotiations with the UK. That debt will be refinanced and then inherited by an incoming Scottish Government.

The final step is then to introduce the new banknotes and coins into general circulation and to switch over from all the existing infrastructure to all the new infrastructure which has been created over the preceding three years – moving to the new computer systems and so on.

Preparations will also have been made to hold a full Scottish General

Election within three months of independence day. This is when independent Scotland will choose its first government – and when the business of being a proper country starts in earnest.

And with all this done, at the end of the third transition year, the work will be complete. Scotland will become an independent country.

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The strategy

The contents of this book are based on a solid strategy and that strategy will help to guide the work and how things are designed. These are the

assumptions that underpin that strategy:

More haste, less independence

It would be possible to attempt to create an 'express' form of Scottish

independence, to minimise the transition period and move as quickly as

possible to independence day. This will be emotionally attractive to many people, but it comes at a cost. The only way to move rapidly to a Scottish state is to build in a greater degree of dependence at the start. We can share systems with the remainder of the UK (to be referred to as rUK) and that

will save us time setting up those systems for ourselves. But this has two consequences.

First, Scotland will begin as an independent country with substantial

restrictions on what the nation can do. Each shared system will be

dominated by the country which ‘owns’ the system (primarily rUK) and so

it will not be possible to deviate too far from the policies of that country.

It places a great restriction on the country, and so inevitably will result in demands to become more autonomous. This means that the early years and

possibly decades of independence could be bogged down as the Scottish

Government has to unpick all the sharing agreements it has entered into –

and it may not be possible to change these unilaterally. It would be a new nation with its hands tied.

But there is a second important reason why a higher degree of

dependence on rUK is harmful to Scotland’s move to independence – the

impact on negotiations. Scotland will have to negotiate some contentious

issues with rUK and inevitably the two sides will have different interests. In a negotiation, the side which needs more out of the negotiation is always in 9

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the weaker position. The more Scotland needs from rUK (such as sharing

agreements without which Scottish independence isn’t viable), the easier it becomes for rUK to extract potentially painful concessions from Scotland.

The more we need, the less we get.

Impatience will not make Scotland more independent – quite

the opposite. So a timescale must be set which enables us to enact an

independence strategy successfully. This requires us to look at all the individual tasks and look at which will take longest. Some simply can’t be completed until after independence (if Scotland wishes to rejoin the European Union, it cannot formally apply until it is a fully independent nation state) and others are

long-term projects (building up the full capacity of the armed forces will take time). Of the systems which must be in place for independence day, the one which will take the longest time is introducing a new currency.

So if enough time is allowed to get a currency set up properly, the other essential tasks are capable of being completed within that timescale. And since (with solid preparation) a currency can be implemented in three years, that is the transition timescale which has been accepted as the basis for all of this work.

Build it properly – then choose

This therefore strongly suggests a maximalist approach to Scottish

independence, that we are as self-reliant as is reasonably possible from day one. It means that the things that would be expected of a modern nation are fully functioning on independence day. A nation needs to collect all its taxes and pay all its wages and benefits, manage its borders, negotiate its foreign relations and so on. The strategy is based on having all of these things in place and fully working by independence day.

This does not mean that Scotland would behave in an ‘isolationist’ way

or not seek to be involved in many international partnerships. What it means is that Scotland can then choose what it wants to enter into partnership with and not be forced to form partnerships to be able to function. All nations voluntarily give up elements of their sovereignty when they create trade

deals or sign international treaties. This strategy does not see Scotland as any different; only that we should broadly seek to develop full sovereignty and then decide which bits we wish to give away through collaboration and agreement.

So the strategy is based on examining all the ‘moving parts’ of a

modern nation state, identifying which ones are missing in Scotland – and fully replacing them.

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More than one thing happens at once...

This means there is a lot of work to do, and that it must be done properly.

That is not going to be achieved through one small team managing and

controlling everything. It can only be achieved if a proper work programme is put in place with many individual teams working in parallel to get all the tasks completed – but in a coordinated way.

So this strategy is based on the assumption that Scotland must create

the capacity to undertake a good many tasks at the same time, that this

capacity must be in place very quickly after a vote for independence, and that it is carefully coordinated and project-managed to ensure that it is all completed in the three year timescale. This is not capacity which is currently sitting around somewhere in Scotland, twiddling its thumbs. It means that we need the infrastructure to build the infrastructure.

Built by people

There are a small number of tasks which involve a substantial amount of procurement and many of them require a substantial amount of investment.

But the new Scotland is not built out of high-grade steel and it is not powered by rare elements. The vast majority of what will make the set-up process

successful is the quality of the people doing the work; by far the most

important inputs are skills and knowledge. The strategy is based much less on trying to answer the fine detail of every question or intricately designing complex systems and much more on providing clear, unambiguous

guidelines on what is to be done and then finding and recruiting the best possible people to do it. Achieving Scottish independence will be a people-powered job.

Built for people

In turn, the reason for building this new Scotland is also people – Scotland’s citizens and the many people from around the world who live here or

visit us. Big corporations (usually consultancy companies like the big four accountancy firms) would probably be quite happy to bid for an outsourced contract to build a new country. More often than not, that is how even

government’s in Scotland go about procuring big new projects. However,

as we have seen over and over again, it is inevitable that the commercial interests of the corporation will clash with the interests of the Scottish public.

And, over and over again, we have seen how it is the public which loses out.

There may be some superficial attractiveness in simply winning an

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independence vote and celebrating while the contracts to build it are all handed to Edinburgh financiers. This would be a disaster. Scotland must be built by and for all of Scotland. Every step of the process must be transparent and democratically accountable.

Making many futures possible

The forces which have fought for (and will eventually win) Scottish independence have quite strongly tended to the progressive side of the political spectrum and for many creating a more progressive future is often a driving factor. In turn, Scotland of course has a political party which has led independence campaigns since the 1950s. The likelihood is this party will continue after independence and that the broad political will of the Scottish electorate will remain on the progressive half of the political spectrum.

However, that is not for those who create a new nation state to decide; the decision of what kind of country to become is one purely for the people of Scotland through democratic elections. Preempting that decision by building the infrastructure of a country in a way designed to deliver only one outcome is simply not a fair or just way to proceed. The new Scotland must be ready to work for whatever kind of government is elected.

In addition, we must be clear that no-one has a mandate to set up a new Scotland. No political party has set out detailed proposals for how a new country will be structured which have been put to the electorate and then supported by a majority. So no party has a right unilaterally to start to build a new country in their own image. Scotland must accommodate many different views of our future in its design and set-up; its institutions must be capable of delivering more than one kind of political agenda.

These principles are more difficult to enact than might at first appear to be the case. In producing new systems (such as a tax collection system or a system to manage immigration), a default position might be to create as close as possible a replica of the status quo. However, this is quite clearly not a neutral stance since they have variously been designed over different periods to deliver different political agendas and those legacies are deeply engrained in the status quo. Adopting the UK tax system in a status-quo manner would then leave most incoming governments a monumental job of unpicking that system to remove its overtly ideological aspects.

Just as important in achieving a state capable of 'many futures' is to ensure that its starting systems are as fit for purpose as is possible. Here replicating the UK systems on a like-for-like basis is almost impossible to justify. It is a close to unanimous view that, if you were going to create a tax code for the UK from scratch, you would not replicate what is there. It is a 12

tangled mess and, for Scotland, would be a poor foundation for whatever was to come next.

And of course, this is all complicated by the fact that there are winners and losers when systems are changed, and the process of creating a new

Scottish state must take care not to make decisions which will create

large wins and large losses; those kinds of decisions must be preceded by democratic elections to provide a mandate.

These are very difficult principles to reconcile. The approach taken has

been roughly to try to create a broad design for systems which makes them as fit for 21st-century-purpose as is possible and which provide the firmest possible foundation for whatever government is to use them, but which

avoid substantial policy changes or policy choices which prevent or make

difficult other future policy decisions.

The aim is to create good systems which work well and which are

ready to evolve quickly or slowly, in one direction or another, as the people choose – but without making those choices for them before they have a say.

As a shorthand, we have tried to produce ‘future neutral’ approaches which are the right foundation but do not imply any single future.

Be prepared

Setting up a country is a complex task, and setting a clear strategy such as this is an important way to navigate that complexity. But, as with all complex tasks, preparation is essential. Things take time; nothing ‘just

happens’. If we do not have a proper negotiating strategy, we must either wait until we do or we can expect to be out-negotiated. If we have not

recruited the right personnel we must wait until we do – or have jobs

undertaken by the wrong personnel. If we make promises that we have not

fully thought through, we will then be stuck trying to work out how to do what we promised we’d do rather than doing it.

Gaining a pro-independence majority at the 2011 Scottish elections was

a surprise. There was then a very tight window to deliver a referendum.

There was very little time for preparation. Those excuses no longer exist; if Scotland wishes to become

a successful nation state in a short timeframe

(three years), it must be prepared in advance. If the pieces are not in place by the time of a vote, we can reasonably expect to add at least a year to the transition time period – and possibly more.

Kick-start our start-up

It is clear there is a lot to do and it is clear that serious investment will 13

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be needed to get it done. If this were a business start-up, the dream start would be to receive a major injection of investment as it is building up.

Unfortunately for most start-ups, any investment that can be brought in goes back out almost immediately as the company invests to grow. Thankfully,

Scotland is a nation rather than a start-up business.

This means that the investment that it makes through raising funding

to complete all the necessary tasks is also (potentially at least) a major investment in itself. As the National Commission is raising finance through issuing debt to fund the creation of a new state, most (if not quite all) of that money can be spent in Scotland. We can source our IT expertise from

many Scottish companies rather than outsourcing it to a multinational

corporation. The Scottish companies will spend the money in the Scottish

economy, boosting our economic wellbeing; the multinational will not,

boosting instead the economic wellbeing of its shareholders.

Every job created to build a new Scotland (and there will be many) is

more pay in more Scottish pockets, to then be spent in the Scottish economy.

Every supplier that can be found in Scotland means investment is recycled.

All of this creates the growth in wealth (directly and in myriad knock-on ways) which enables healthy tax returns which will repay the debt.

A core part of Scotland's strategy for setting up a new nation must be to look closely at every penny of expenditure to work out how best to spend it so that it both delivers on its purpose and also maximises the economic boost to Scotland. The new nation will begin on the back of a massive 'Keynesian'

economic stimulation – if we plan our strategy properly. If we don't, the money will end up with multinationals, accountancy firms and lawyers, and Scotland will start its new life with the debt but not the stimulation.

Before we begin

To be independent as quickly as possible we need to be as ready as possible.

That means there must be proper preparation – and there are three areas

in which this will be particularly important. If these tasks are left until after there is a vote for independence the moment when Scotland is properly able to become independent will be pushed back, and perhaps substantially so.

The first of these is to have a clear proposal for what an independent

Scotland would look like. At the last referendum there was a White Paper

which contained within it elements of a statement about how an independent Scotland would be set up, but it was a long way short of a comprehensive

plan and it used a number of ‘short cuts’ to get round an unavoidable lack of preparation, primarily by relying on sharing agreements. That White Paper also contained a lot of material which was better suited to a discussion

document – it was not about how to set up an independent state but a

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description of some of the things that a future government might do after independence.

There were two implications of this. The first was that voters regularly

reported that, while they very well understood the principle of becoming

independent, they struggled to understand how it would happen or what it

would involve (and as a result campaigners tended to rely on ‘it’ll all be OK’

answers). A failure to have a clear sense of what would happen after a Yes vote is regularly reported as a factor in people voting No.

But every bit as important, had there been a Yes vote, much of the job of actually managing the transition and creating a new country would have had to be made up as we went along. As an analogy, it would be the difference between building a tower block from detailed engineering drawings and

trying to make it up on the spot on the basis of artists impressions. It can be done – but it is much, much slower and will result in more errors that must then be corrected.

A speedy and effective nation-building process (better able to gain

public support) will need a reasonably detailed specification for what is being built before the transition begins. This means that the answers to all the big questions must be there, at least in outline. In many cases, building can't begin until these questions are properly answered so if building is to begin immediately after a successful vote, preparation is key.

A White Paper which explains what will happen between a vote for

independence and independence day itself should be published at least six months before a vote. Once published it should become a firm commitment

– this isn't intended as a consultation (that should happen during the production of the White Paper). It sets the outline shape of what the work must achieve.

The second thing that will be needed to move this process forward

properly is a project plan. Specifying what you are going to achieve is

necessary, but working out how you are going to achieve it is just as important

– at least if work is to get underway rapidly. How will fine detail be produced?

Who will do it? How will it be project managed? What inputs will be required (recruitment and procurement)? From where will they be sourced?

Inevitably, this plan will adapt and evolve once work is underway, but

that work cannot begin in earnest until this is considered. So there should be an outline project plan before the referendum which would become a full project management approach when a referendum is won.

Discussing project management may not have the romantic appeal

that the campaign for achieving Scottish independence has, but it would

be a serious mistake not to think clearly and seriously about this at an early stage. Setting up Scotland as a new nation state is a complex and involved process. It has many strands and, as well as each strand being complex in itself, many of them interact with other separate strands.

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So for example, setting up a digital payment system to replace BACS

will be necessary to implement the new currency. But at the same time,

payment systems will need to be put in place in every IT system in the entire public sector to be able to move to payment in the new currency. So if there is a delay in the implementation of a digital payment

system, this will mean a delay in preparing every single IT system in the public sector.

The way to manage this is to have very good project management. The

overall project must be split into individual work stream. Each of those must be further broken down to a schedule of individual tasks, and these must be allocated to teams whose responsibility it is to deliver them. There must be some form of progress monitoring in every project strand and then detailed milestones must be set. These must then be integrated into the project plan for each other task that relies on the same milestones being achieved and so on.

And no matter how well the overall project is planned or how talented

the people delivering it, no project ever goes entirely to plan. There are always problems, unexpected circumstances and mistakes; nothing

proceeds entirely smoothly. So it is important to create a 'risk register' – a detailed assessment of all the things that might go wrong and how each

would impact on other work streams. For example, it might be concluded

that failure to produce the payment system would be considered a potential crisis for other parts of the work. This enables contingency planning to be put in place. It also helps managers to prioritise that which has the biggest potential impact if it is not implemented properly.

These are all absolutely standard project management approaches and

are not in and of themselves difficult or unusual. But this is a difficult and unusual project simply in the volume of crucial work being run in parallel.

So it is essential that a very high degree of importance is placed on the project management and that must begin well before a referendum is won.

Thankfully, Scotland has many excellent project managers and identifying a team capable of seeing this entire project through from start to finish should be perfectly possible.

Which takes us on to the final piece of essential preparation –

recruitment. There are some major projects which rely heavily on specialist goods and services – protected intellectual property rights, advanced

computer components, extensive distribution networks and so on. This

is not the case when setting up a new nation state. There are of course

materials and agreements that will be necessary (military hardware, IT

programming, negotiated agreements with other nation states). But the vast majority of the work is not resolved by a component or some software code but by human talent.

Scottish independence has sometimes been presented as being, at

heart, a complex procurement issue – ‘from where will you be able to get

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your tanks/consulates/software systems?’. In fact, it would be much more

accurate to see it as a major recruitment and human resources issue. We will need the best negotiators that we can find. We will need people with deep knowledge of currency and monetary policy issues. We will need people

who have wide experience of defence and military issues. If we can recruit good people with the right knowledge and skills (and equip them with a

solid plan to enact) we can be confident of successful outcomes.

We need to be realistic about where we can get talent from. In many

of the areas of expertise needed to complete the work it will be possible to find high-quality candidates in Scotland. Where possible, this should be the preferred source of talent. But not all of the skills needed can be found in Scotland – since we don’t have any monetary policy responsibility we have few if any practitioners in-country.

A second option is to look for Scots who are working elsewhere and to

try and attract them back. But we cannot be short-sighted and we should

be ready to seek to recruit anyone who is best able to do the job. This might mean looking at people who have worked with other governments to do

these kinds of jobs in the past or it might mean looking for late-stage career professionals who want a last, major challenge – there are many people who would be attracted to the possibilities contained in designing new systems from the ground-up in an integrated way.

But we will need many new people and it will undoubtedly take time to

get them in place, particularly those who are at a senior level. The process for recruitment begins with proper job and person specifications for each role.

This is followed by substantial research (involving talking to many experts in any given field) to find suggestions of possible candidates. Once sufficient numbers of candidates are identified they must be reduced to a shortlist by researching each of them individually and assessing them against the job

and person specification. This will lead to specific targets.

The task of persuading them to accept a job offer involves many

elements because people are motivated by different factors – personal and ethical as well as professional and economic. For each target a persuasive package and recruitment strategy must be put together, and these may

look very different for someone with a young family compared to someone

nearing the end of their professional career. People are seldom motivated by money alone – quality of life factors and the scope of professional

opportunities offered are crucial.

The task is made more complicated in this instance because it is not

possible to absolutely guarantee that the job will exist given that it relies on the outcome of a democratic vote. Ideally, campaigning for Scottish

independence will have been successful to the extent that a positive vote appears highly likely from polling evidence giving potential candidates

for roles a degree of confidence that the job will actually exist. Either way, 17

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conditional offers will have to be made to get people ready to be in place by or soon after the beginning of the transition period.

To illustrate the timescales involved, the recruitment of a core team of

say 100 senior people would be expected to take not less than 18 months

of work by a team of about 20 or 30 professional recruiters. If this is not done in advance we are left with two options – either we delay the start of work substantially or we ‘make do’ by ‘recycling’ the people who are already involved in public affairs in Scotland (a ‘friends and family’ approach).

Neither is an attractive solution.

If Scotland wants to be prepared to become independent as quickly

as possible, it should have a recruitment team in place not less than 18

months before a vote, a clear and comprehensive White Paper published not less than six months before (and preferably substantially before that) and a detailed project plan ready with not less than three months to go.

Getting started

Once an independence referendum is won there are a number of initial

tasks necessary to get all of the work completed. One is having the legal right to negotiation, one is

having the capacity to do all the actual work, and one is putting in place robust arrangements to make sure that the day-to-day business of government continues effectively throughout the transition period.

So the first thing Scotland should do is to seek ‘legal personality’ (and, specifically, international legal personality). Legal personality just means that a person or an entity is recognised by the law as be able to participate in the law by signing contracts, entering into binding agreements with other actors and so on. Having legal personality does not mean that Scotland is an independent nation state – the UK’s ‘Crown Dependencies’ like the Isle of Mann and Jersey have international legal personality but are not independent.

It simply means that Scotland would be designated as an entity which is able to enter into contracts and agreements on the international stage.

This in turn does not mean that Scotland would be able to act as if it was an independent country – the vast majority of international state actors (governments from around the world and their agencies and multinational institutions) would almost certainly wait until Scotland was designated as a fully independent country before entering into binding agreements (and they would be likely to see the agreement of rUK as fundamental to that).

But it would enable Scotland to enter into a full range of financial contracts and would make it easier to begin exploratory discussions with international partners.

It would be for Westminster to grant Scotland legal personality and

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there is no reason why that should not be done quickly. As well as enabling the transition process, it would of course also be a significant and symbolic act in and of itself.

The next crucial element of the post-referendum preparatory work will

be to establish the capacity to carry out the work of setting up systems

and institutions and to undertake negotiations. There are reasons why the Scottish civil service is not the best body to undertake this work. First, while the civil service in Scotland now operates in a much more devolved manner with many more lines of responsibility terminating in Scotland rather than London and much more of the HR function now located in Scotland, even

so the Scottish civil service is not devolved; it is an integral part of the UK

civil service.

This leaves two options – either there would need to be a rapid ‘separation’ of the civil service into two discreet entities for Scotland or rUK

or a series of ‘firewalls’ would need to be put in place to overcome the fact that negotiations over Scottish independence would effectively have

the same organisation facilitating, supporting and carrying out much of the work of negotiation on both sides of the negotiating table. A second problem is that the civil service answers only to a government which, by the time the transition process has begun, will have no mandate to dictate the shape and details of the transition process. Unless there was a major change in the way the civil service works, all non-government parties and other stakeholders would simply be ‘consulted’ and the active decision-making would be in the hands of the government that was in place at the time of the referendum.

In the event of necessity both these problems could be overcome. But

there is a more fundamental problem; there are simply not hundreds of

senior civil servants sitting around in Scotland, twiddling their thumbs and looking for something to do. The scale of any one of the tasks involved

in achieving Scottish independence would probably be considered a major

project in the everyday work of the civil service; combining them all together would be beyond the scale of anything the Scottish civil service had ever attempted.

In addition, the Scottish civil service simply does not currently employ

people with the full set of skills and expertise which would be needed. Since

– by definition – most of the work involves setting up departments and

institutions which are not currently devolved to Scotland or do not exist here, many in the Scottish civil service will have no direct experience of these policy areas.

But perhaps above all, there is enormous merit in making sure that the

process of setting up a new Scotland is seen by everyone in Scotland as a collective endeavour, one that feels ‘owned’ as much by those who voted

against independence as by those who voted for. It should not become the

preserve of one political party or interest group.

For all these reasons, the solution is to create a new organisation to do the work. It should be called the National Commission and it should be kind of like a democratic, time-limited civil service with a single purpose. It would employ people (or take them on secondment), project manage the work,

finance it, deliver it and then hand it over to the people of Scotland at the end of the transition process.

The exact structure of a National Commission is open for discussion,

but it is suggested that it should have an ultimate governing body which

is made up of representatives of all Scotland's political parties and also of civic organisations such as trade unions, business organisations, third sector bodies and so on. That governing body would have both the initial

White Paper and the project plan (both published before the referendum)

to guide its work – they would have the responsibility of ensuring that work is done in the spirit in what was presented to the Scottish people in the referendum.

There would of course also be many specialist advisory panels offering

guidance to and monitoring of the individual strands of work. It is important to ensure that these are not 'captured' by financial and commercial interests but are balanced and always working in the public interest. In addition

there are of course many parts of the transition process which must involve participation and consultation. The National Council must be equipped

with staff who are expert at best practice in engaging with (and properly listening to) the views of all of Scotland and not just its 'elites'. The work of the National Commission must be up to (and even beyond) existing best

practice in openness and transparency. There should be no question of this work being 'outsourced' to a corporation or any other private body.

A properly established, properly resourced and properly staffed National

Commission with clear plans to work to, a strong system of governance and a responsive system of 'participatory design' will be a very powerful tool for the Scotland that is being born. It is hard to emphasise how much getting this right is the key to getting so much of the rest of the work done – and done well.

The final aspect of putting in place the basic conditions for transition

is to ensure that the work of domestic governance continues uninterrupted, delivering essential services to the public and maintaining the public realm throughout the three-year period. This is fairly straightforward to achieve.

There are two main sets of powers necessary to keep Scotland moving

during the transition and they both have existing governments.

At the time of a successful independence referendum there will be a

Scottish Government in place which has a full mandate to run all devolved services and to legislate on devolved issues. There will also be a UK

government in place with its own mandate over reserved issues. Continuity of government simply requires that both of these governments continue to

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enact the mandates that they have throughout the transition process, with their respective civil services also continuing in their current roles.

There are some complications. The first is that, during this process, it

is likely that decisions will be made at the UK level which will not apply to Scotland after independence. Indeed, there may be an incentive to make

decisions at a UK level which actively benefit rUK over Scotland during

negotiations or by ‘rearranging the furniture of the state’ which disadvantage Scotland (for example, by redesignating the status of certain assets to reduce what Scotland might argue for in negotiations).

There are two solutions to this. First, a mandatory ‘Transition

Committee’ should be set up with three bodies in membership – the UK

Government, the Scottish Government and the National Commission. The

role of this Committee would be to oversee decisions being made by all three bodies to ensure that they do not unduly or unfairly harm any others’ ability to act reasonably within their own remit. The second is to set a ‘day zero’ for all negotiations, a calendar date which defines what moment is taken to be the ‘status quo’. This date is likely to be well before the referendum itself was held, perhaps one year prior to the date of the referendum. Any changes

which are made after that date (especially if they appeared designed to

affect the process of independence) would not be considered the starting

point for negotiations.

Two other complications arise in maintaining government across the

UK as-is during transition, relating to the electoral terms of each government.

It is possible that in Scotland a new government might be elected, hold a referendum, win it and still have a full three years of its term left to 'see out'

the transition process. It is more likely that the relevant Scottish Government will be part way through its term at the point of a referendum vote. That would mean that elections ought to be held for the devolved administration during the transition period.

This clearly makes no sense; there will have to be full elections after

Scotland's independence day so that an incoming government has a proper

mandate over the full range of the powers that an independent Scotland will have. In that context, an election to renew a devolved mandate for perhaps one extra year would be of little help. The obvious solution would be to

extend the term of the then-existing Scottish Government until the end of the transition period. If this meant adding one year to the term it would probably be uncontroversial.

However, it is in theory possible that a Scottish Government might

hold a referendum shortly before it would otherwise be required to hold a domestic election. Extending the term to the end of the transition period in this case could potentially mean one government being in power for eight

years on the basis of one election, which might be politically unacceptable to some. This would need to be negotiated, and some sort of 'national'

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government which included representatives from other parties could be a solution.

There is an electoral complication at the Westminster end as well.

Again, it is possible that a UK government would go into the transition

process with sufficient term left to see out the entire period, but a scheduled UK General Election might fall during the transition period. There is simply no neat solution to this problem; if Scotland participated it could create a government in London which was destined to fall (perhaps only a matter

of months later) when Scottish MPs withdrew. If Scotland chose not to

participate it is possible that (for example) Scottish troops could be sent to fight in a war started by a government that no-one in Scotland had any say in electing. There are inevitably going to be some anomalies during the transition process and this is simply one of them. There is likely to be no single, elegant solution to this, so a solution will need to be negotiated as and when the situation is clear.

With these arrangements in place, work on building the new Scotland can begin.

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Some technicalities

It is worth outlining some technical details of how to get key tasks done. The first is how to finance all the work that is required. To do this the National Commission must be given the powers to issue government-backed bonds.

This is in effect borrowing to carry out the work with government acting as a guarantor. This would be contained within the legislation passed to set up the National Commission, but there would need to be legislation at Westminster to ease the severe borrowing restrictions imposed on the Scottish Government to enable it to act as a guarantor for the full value of the borrowing.

It is important for the Scottish Government to act as guarantor to reduce the cost of borrowing to the National Commission. Governments are globally considered to be 'safe bets' for lending to since they (generally) cannot go bust or cease to exist. This makes borrowing costs low. Scotland has some borrowing track record because of its limited existing borrowing powers but these are modest and not in the nature of the kind or scale that an independent nation would require. It is therefore expected that, even with Scottish Government guarantees, the National Commission would have to borrow at a rate about half a percentage point higher than the rate at which the UK can borrow.

It would then be for the National Commission to act as the body funding all activity including paying for staff and paying for assets or infrastructure or other services. Once new organisations and institutions were created, properly constituted and able to hold their own debts, those debts which are not directly public debts (for example, the cost of building up an independent or semi-independent central bank) would be passed to that institution. The rest would be accrued by the National Commission until the end of the transition period and then would be summed up and accounted for as a final 'bill' for establishing a new nation state. At that point Scotland would be independent and the new Scottish Government would refinance this total

‘final bill’, along with any financial liabilities towards the rUK which were 23

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agreed during separation negotiations. That amount would then become the national debt of an independent Scotland.

This explains how the process would be financed. The means through

which it would be managed have already been discussed above, both in terms of the governance of the National Commission and the project management

and recruitment processes needed. It is simply worth reiterating here that these three elements are likely to define how successful – and pain-free –

the transition process is. Governance (including tight financial oversight and monitoring) make sure that what the National Commission is supposed to

be doing is exactly what it is doing. This is the ‘safety check’ which confirms that it is working in the national interests, delivering an agreed plan and doing it in the way which provides the best outcome to Scottish citizens and the best value for Scottish taxpayers.

Project management is what will ensure that complex tasks are

completed and that there are no catastrophic failures which substantially delay progress. It is also the means through which the many strands of work can be coordinated such that there are not endless ‘unforeseen impacts’

of one workstream on another. And since most of this work is predicated

on the quality of the people doing the work, the best possible recruitment process is the best means of ensuring that quality.

It is then worth considering the basis of what a lot of the core work

required will involve. Much of what has to be done is the setting up of

new departments, organisations and institutions. For the most part, this is straightforward. If you want to set up a new ‘Department for International Development’ for example, you simply create the civil service structure, put in place the basic infrastructure and recruit experienced people to run it.

The real work in ‘building’ that department is then determined by what

the department is asked to do, which in turn is determined by the first and successive governments elected in Scotland. But whether this department

is designed to specialise in a few areas, or to focus on a limited range of countries, or to have a broader strategy is not something that needs to (or should) be decided during the transition process.

Likewise, the process of creating a new civil service is comparatively straightforward. Remaining lines of accountability to Whitehall must be severed and functions which remain in London (like aspects of the HR process) need to be replicated in Scotland. The biggest task will be in HR where eventually all civil servants will need to be transferred onto new contracts of employment ready for being part of a new civil service. The process of delivering this should be made as straightforward as possible by seeking to maintain as much of existing terms and conditions as possible and working to prevent those changes which are necessary from being substantial. Negotiation over issues like historic and future pensions liabilities will be necessary.

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Broadly this work is all straightforward, but that is not to say it is easy or that it can be completed quickly, only that it does not involve great complications or major problems to solve. However, that is of course not the case in every example; some new departments and institutions do face important and sometimes difficult decisions if they are to be set up effectively. These cases are considered individually throughout the rest of this book.

There are two other general technicalities to be considered. The first is that the Scottish Parliament must be made capable of absorbing all the additional work which will come with the full powers of independence. The workload on existing MSPs is substantial and expecting them to accepting

new responsibilities over complex matters like defence, foreign affairs and monetary policy – and to scrutinise them effectively – is not realistic. The number of legislators needs to be increased. There are wide variations

between the ratio of politicians-to-citizens in European parliaments, further complicated by wide ranges in how much power is dispersed to federal

states or local government. There is therefore no ‘right answer’ to how many there should be.

But a reasonable mid-way suggestion might be to add 50 politicians

to the total, taking the Scottish Parliament up to 179 MSPs. This should be sufficient to absorb the new workload but not lead to excessive ‘bloating’ of the parliament. And for anyone who thinks that ‘more politicians’ is a hard sell, it is worth being clear that this will still be fewer politicians than Scotland currently elects to national parliaments, and that good governance (which, in the end, is what citizens want) is not improved by not having enough

people to scrutinise and hold to account the work of government.

There is also a question of whether Scotland should have a ‘second

chamber’ (a senate or some kind of replacement for the role the House of

Lords takes in UK politics). This is not necessary – there are plenty unicameral (i.e. only one legislating chamber) parliaments. But people may think it a good idea. This is a big question and there is no reason it must be settled immediately. In fact, the best bet is to include it in the process of consulting on the overall constitution (see below). Either way, there will also need to be a review of facilities in the existing Scottish Parliament, which will inevitably need to be adapted and expanded to accommodate more members.

There is a final technical issue which needs to be considered here – and

that’s that not everything is technical. As was discussed above, a ‘future neutral’ approach has been taken here, meaning that the way things are set up should not prejudice whatever any future government wishes to achieve.

However, that can’t be achieved simply by replicating the status quo. In the end, some decisions are political and must be political.

Some that fall into this category will be the shape of the initial tax

system inherited by the first independent Scottish Government, the nature 25

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of the social security system, possibly the exact degree of independence (or otherwise) of the central bank. These questions must be answered, and as

the answers are inherently political, a way of coming to a political solution must be found.

It is therefore suggested that, towards the end of the first year of

transition, a national conference is called to seek to resolve these questions.

This conference should be made up of each of the political parties in

proportion to either their current parliamentary numbers or (if elections have been a long time previous) possibly current reported voting intentions.

But this is not the work of ‘normal legislature’ and so there is a case for adding other stakeholders to

this conference, with or without voting rights.

Whatever outstanding questions need answered for the National Commission

to complete its work need to be formulated early on in the process – towards the beginning of the first transition year. These must then be made public to give the political parties and other stakeholders time to formulate their own answers to those questions. When the conference is held, they must be finally resolved.

This all puts in place the broad technical consideration of how things

will actually be done. So what are the big tasks and the big questions to be answered?

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Constitution

The idea of ‘constitution’ is a bit different in Britain than it is in most countries. Here it is usually taken to mean ‘the various sets of rules and laws that defines how the country and its democracy works’. In most

developed countries it means something subtly but importantly different.

It means something like ‘a single set of rules and laws, codified and above and superior to all other rules and laws, which govern the country and its democracy’.

The difference is that where most countries have a written constitution

which is protected from being altered on the basis of a normal parliamentary majority, in Britain basically any government can change any part of the

constitution any time it wants – there are no checks and balances because the ‘constitution’ is just bits and pieces of ordinary law.

This would not be considered a ‘constitution’ in other countries but

rather simply a body of domestic law. For them a constitution would be a

single document and to change it would require a ‘supermajority’ – more

than just 50 per cent of legislators plus one. Many would also require any changes to be ratified by a public referendum. This is because in this model, the constitution is not considered to be the ‘property’ of parliamentarians but rather the public’s protection from potential abuse by parliamentary

majorities.

In this sense, the UK does not have a constitution at all. Periodic

complaints about a government trying to redefine electoral boundaries to

increase their chances of winning elections are routine in the UK but would be utterly alien to others. In fact, the only developed countries which do not have a written constitution which is above the rest of the body of domestic law are New Zealand, Israel (and to a slightly lesser degree Canada).

It should therefore be assumed that a new, independent Scotland will

need a written constitution. Achieving this will require two processes – and should involve three kinds of people. First are ‘experts’. There is a very large amount of experience of constitutional law from around the world; what

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works, what doesn’t, what unforeseen problems can arise and so on. While

a constitution should represent the values of the people of a nation, they must also effectively govern its democracy and its institutions to provide legal protection to the public. It needs the input of experts to make sure this protection is sufficient.

Next, it is unavoidable that ‘elites’ must be involved in the constitution process. Yes, it is largely the ‘elites’ which a constitution seeks to regulate and whose power it seeks to limit. But it is also the ‘elites’ (including the legal elites) who will generally have to implement, monitor and adjudicate on the constitution. In Iceland a constitution was written solely via the input of citizens. It was an exemplary participatory process which produced a

genuinely people-source constitution. But it has never been implemented

because Iceland’s elites blocked it. There is a lot of attraction in the idea that since elites are being regulated, elites should not dominate the process. And nor should they, but pragmatically they must be involved in the process so that there is enough buy-in to make sure that it is not blocked or stymied.

But more importantly, a constitution must involve ‘everyone’ if it is

really to succeed; the citizens of a nation must own their own constitution and it must reflect their values for their nation. A constitution written only by elites and experts would not be an acceptable basis for the underpinning of a democratic country. And while in the past the involvement of ‘everyone’

might mean no more than ratification through a referendum, that is not

sufficient for a modern nation state which seeks to be a modern democracy.

An additional factor is that there must be some kind of interim or

transitory constitution in place so that if there is any problem in producing a final constitution, the public can be reassured of the basic protections expected in the modern world – the right not to be incarcerated without a trial, the right to democratic elections, the right to private property and so on. That should be a commitment that is already in place by the time of an independence referendum.

So there should be a two-stage process. First, well before an

independence referendum, there should be a Constitutional Convention.

This should involve constitution-building experts as well as a broad range of the legal and political elites. The purpose of this Convention should be to agree a short but comprehensive interim constitution which enshrines

the basic standards of modern democracy. This constitution should be

based on internationally recognised standards and norms to which states

must adhere if they are to claim democratic legitimacy in the eyes of the world. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and

the Convention on the Elimination of all forms of Discrimination against

Women – as well as regional instruments such as the European Convention

of Human Rights and the European Convention on Local Self Government.

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This constitution should be completed and published with not more

than six months to go to a referendum. The referendum should then be

based on this interim constitution being the absolute minimum constitutional protection which will be in place on the day Scotland becomes independent.

In the event that a fuller constitution cannot be produced or ratified for any reason, this would then become the default constitution.

However, this is a ‘minimum backstop’ position. Scotland should aspire

to a much better constitutional process than that. It is at the point when Scotland has voted for independence that the public participation in creating a constitution should begin, and it should begin broadly from the Icelandic model of actively enabling and encouraging as many citizens as possible to be able to start with a blank sheet of paper and fill it with whatever they think should be the principles of a constitution. Of course, it will be important to provide support and guidance to get the most out of this process, but there should be no preconceptions about what people want in their constitution.

Some may wish to use it to express what they believe are the core

‘values’ of the new nation and its relationship to the rest of the world. Many will want a constitutional ban on chemical weapons, biological weapons and other weapons of mass destruction such as nuclear

weapons. Some might

wish to create a constitutional bar on declaring war in any circumstances other than immediate self defence. Others may want to write the obligation to participate in international military coalitions into the constitution.

Others may wish to write a more comprehensive set of legal rights

into the constitution – for example, a right to a house, the right to food, the right to an income, the right to a state pension. Others again may wish specific constitutional protection for individual groups in society. And the nature of guaranteed democratic rights might also be up for debate – should Scotland have a three-tier structure of government (national, regional and local) guaranteed by the constitution?

It is for citizens to produce and discuss these ideas. All of this will need best practice in participatory practice and consultation. It should be the job of the National Commission to organise and run this process so it must

seek out and recruit experts who are best able to implement a first-rate

participatory process. It should begin not more than six months after a vote for independence and must be completed not less than six months before

independence day.

This is necessary because all the public input must be brought together,

assessed and written into the new draft constitution – and this must be

ratified by referendum before independence. It must be emphasised that this second referendum is not about whether Scotland will become independent

or not but about what constitution it adopts. If the constitution which is drafted at the end of the participatory process is rejected in that referendum, Scotland would begin life on the basis of the interim constitution produced 29

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before the independence referendum itself. This will then complete the

process of producing a constitution.

It is worth noting that this final referendum may wish to draw out some

specific constitutional questions itself. For example, there are some more controversial issues which it may not be desirable to seek to resolve before a vote for independence such as the nature of the head of state and the exact relationship with the European Union. A multi-question referendum held

perhaps three months before independence day might be a good way to

debate and resolve some of these ‘tricky’ issues.

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Money and banks

The most pressing and time-consuming individual project strand will be creating a new currency. The experience of introducing the Euro in 1999 is quite a close parallel with what Scotland would want to do and that experience strongly suggests a three-year timescale. This is how a currency would be implemented over that period.

First, a digital currency must be created. This is not ‘money’ which can be spent or even exchanged, it is just the underpinning technology which all currencies need. The main reason to introduce a digital currency as soon as possible is to enable banks to go through the processes needed to set up accounts – the banking system mostly links accounts to a single digital currency. Once that currency is set up all the transition processes can begin.

For reasons of continuity it is probably sensible to call the new currency the ‘Scottish Pound’ since the change in pricing in shops from Pound Sterling to Pound Scots would mean the least disruption (though alternative options might be considered). Throughout the transition period the Scottish Pound would not be internationally tradable and so its exchange rate (effectively, how much its worth) is defined in the set up of the digital currency. A Scottish Pound would be set at the same value as Sterling throughout the period,

giving them exactly the same value.

This would therefore still be the value of the currency at the point when it is fully introduced and therefore tradable. As soon as that happens economic and monetary factors (including currency speculation) will begin to alter the value of Pound Scots in comparison to other currencies. This will not happen until after independence day. At that point a decision can be made about what approach to take – it is possible to use monetary policy to

‘peg’ one currency to another to keep their value the same by influencing the value of your own currency up and down accordingly. If you don’t ‘peg’

the currency it will ‘float’. A time will almost certainly come when Scotland will want its currency to float (as its economy becomes different from rUK), but when and how this is done is a political decision for after independence.

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The first task then becomes setting up bank accounts denominated in Pound Scots. If currency other than pound Scots was deposited into that account, the bank would 'swap' the currencies at the existing exchange rate and deposit the resulting sum in Pound Scots into the account. For the transition period this means that any Pound Sterling deposited would become one Pound Scots, while someone depositing US Dollars would have those Dollars converted according to the current Sterling exchange rate, exactly as it would for a Sterling-based account.

It would be possible to 'redenominate' (which is to say to convert) existing Scottish Sterling accounts into Pound Scots – but there are a number of complications. The first is identifying which is a 'Scottish' account. Banks with branches will have a sort code which indicates where the branch is and so where the bank account is. All accounts with a Scottish sort code could be quickly identified.

But some banks don't have branches and so have only a single sort code for all their customers. In this case the postcode of the account holder might be used, but this brings more complications. Also, there are people who may have lived in Scotland at the time they set up their account but now live elsewhere who will not want their account converted. And of course, there is an important issue of 'compulsion' – it will be better to let people transfer their accounts from one currency to another at their own rate.

So the best route is for people to be able to open a new account or to choose to switch their existing account when they're ready. Almost all banks now deal in multiple currencies which means that the IT systems they already use make it easy simply to integrate the new Scottish currency into its system and therefore quickly offer accounts. There are a small number of smaller financial institutions (for example, credit unions) which may have a single-currency system and they may need a little more support during

the transition. It is highly unlikely any major bank wouldn't offer Scottish accounts but if for any reason that happened the Current Account Switching Service would allow customers to move their account to one that did.

People are likely to move to new accounts at different speeds. There

will be a group of strong supporters of independence who will want to open accounts immediately they are available. Others will wait and see how things go but will open accounts reasonably early once their trust grows. Others will make the move when it becomes mandatory to pay Scottish taxes in

Pound Scots, and others will change at the last minute when the currencies are finally ready to be switched over.

But many people will want to keep dual accounts. For as long as the

Scottish Pound is pegged to Sterling, there will be no transaction charges involved in paying for things denominated in one currency using the

other currency, but if the two currencies are floating freely, they will have different values and so converting from one to the other will result in a small 32

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transaction charge. People who spend a lot of time in England may wish to keep dual accounts for this reason. Many businesses will also want to hold dual accounts. This is common practice in Ireland already where different currencies are used in the north and the south.

The next task is to create an electronic payment system. The system

with which most people will be familiar is BACS. Most people will have

salaries paid through that system and will probably use it for setting up various of their own payments. However, BACS is a Sterling-based payment

system so couldn't make payments in Pound Scots. However, replacing it is not a complicated task. There is now an international standard for electronic money transfer systems (known as ISO 20022). Many countries such as

the USA, Switzerland, Australia, New Zealand and Canada are already in

the process of changing to this standard and most others will eventually

follow. Creating a payment system using this standard will therefore

be straightforward. Along with setting up Pound Scots on the SWIFT

international payment system, this will mean global money transfers will be as easy as they currently are in Sterling.

We would then have bank accounts and an electronic payment system.

The next part of the task is to create a 'clearing' system. Bank clearing is effectively a kind of 'middle man' between banks which helps to move

money about. When you make a payment to someone you would specify

their sort code and account number and the amount to be paid. Your bank would then transfer that money in a clearing system. The clearing system would identify the bank and account the money is to be transferred into and send that money on. The clearing system has many functions including speeding up money transfers, creating greater trust in the system and helping to monitor and eradicate fraud and money laundering.

While there are some alternatives to a clearing system being proposed, they are still at an experimental stage and so no-one has yet tried to implement one. Scotland should therefore set up a clearing system and there is a strong case that it should be wholly publicly owned to further combat fraud (some clearing systems are private companies).

There are a few remaining arrangements that banks will have to make.

One is to deal with Standing Orders and Direct Debits. Standing Orders are instructions to pay a set amount at a regular time. If the sending account is redenominated into Pound Scots but continues to pay to a Sterling account, this will be straightforward during the transition period because currency equivalence will mean there will be no additional transaction costs. If the relative value of the currencies changed in the future, there would be a

small commission paid on each transaction. It would be for the individual to decide whether to keep dual accounts and pay Sterling bills from a

Sterling account. This would of course not be the case if both accounts were redenominated, so businesses which wanted to keep their Scottish

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customers would be likely to set up a Scots-pound-denominated bank account to deal with this.

Direct Debits are a little more complicated as they are ‘permission to

take money’ rather than ‘instruction to send money’. But the solution is much the same. It is mainly big suppliers like electricity providers who take Direct Debits. Most of these will not want to lose their Scottish customers so will set up a bank account to enable Direct Debits in Pound Scots. Those which

do

not will become uncompetitive for Scottish customers and they will move.

For many of the most common suppliers taking payments by Direct Debit

(utilities companies, banks and so on) there is a legal requirement to enable customers switching with the minimum effort so they would lose business.

This is therefore more of a problem for suppliers than for banks.

Finally, the last thing banks would need to deal with is mortgages.

The way these would be treated would be likely to depend on the time

of final repayment. Any mortgage due to be repaid during the transition

period would be paid off as is. Those still running after independence and not involving the customer being 'locked in' to a special contract such as a fixed interest rate would be resolved either by the mortgage provider setting up Scottish accounts to enable payment in Pound Scots – or customers

switching to a mortgage provider that did.

For those locked into longer-term contracts there might be a penalty

fee for seeking to end that contract early to switch to a provider which

offers payments in Pound Scots. Clearly, this would be unfair on the citizen because they would incur this fee through no fault of their own and so there would be a case for the Scottish Government to pay those fees on their

behalf. If this applied to every mortgage the cost could potentially run into the hundreds of millions. However, if the fees were being paid at this rate it would mean that a number of mortgage providers were losing an enormous

amount of business and customers. Again, it is very likely indeed that all the big suppliers would want to offer existing Scottish customers Scottish mortgages, so paying fees for anyone caught out by being with a smaller or specialist supplier would be substantially less expensive.

It is worth noting at this point that the same issues will crop up with

other businesses. There would be no impact on a Scottish customer buying

from an England-based business (or visa versa) while the currencies were

pegged, but the same purchase would incur an exchange transaction cost

if the Scottish Pound was floated. Once again, the vast majority of online payment systems already handle payments in multiple currencies and

many already offer prices in multiple currencies too. In the event of a free-floating Scottish Pound, these companies would have the option of meeting the transaction cost themselves, adding 'Scottish Pound' to their list of accepted currencies (and setting up a Scottish bank account) or becoming

less attractive than their Scottish competitors.

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With all this done, the banking side of the transition is all in place. Next we must sort out the physical currency. The design of a currency might seem like a small matter but it has proven surprisingly controversial in the past. A banknote is a key aspect of the state and can say a lot about the nature of the state – is it reassuring and traditional, modern and innovative, who does it depict if it uses historical characters, where does it depict if it uses elements of landscape and so on. There should be a national design competition to

come up with options and the public should be able to vote on the preferred options, giving the best chance of a design with wide public support.

That done, it is possible to commission the notes and coins. There are

options for commissioning the physical bank notes and coins but the Royal Mint (which will do this on a commercial basis) is the obvious option. The timing of the actual release of the new banknotes and coinage will be close to the time of the final shift from one currency to another - close to or on independence day. The banknotes and coins would be widely distributed to

banks and others and on a chosen date would be released for use. People

would be able to bring in a note or coin in Pound Sterling and swap it

directly for a Scottish equivalent. (What could be done with the resultant Sterling will be considered below). For ease it would make sense for Scottish denominations to be the same as those in the UK – one pence, two pence,

five pence and so on.

To get ready for transition day, some adaptation will be necessary. First, every vending machine in the country will need to be adapted for the new

coins and notes. This is a big task, but it is one which is done regularly anyway (every time the UK changes one of its coins or notes). And changing a vending machine for all the coins is no more difficult than changing it for one coin, so would be no more costly than was the recent introduction of

the new Sterling pound coin. In fact, many modern vending machines now

integrate IT systems which mean they can be adapted remotely. Most other

adaptations would be very minor – since the notes and coins would map

onto their Sterling equivalent, cash registers and so on would not require to be altered. On the first day of the new currency, shop prices would be identical to the day before; the creeping inflation that happened when the Euro was introduced would not happen because, on the transition day, there would be one-to-one equivalence between the currencies.

The main task remaining is to support the public throughout this process

with public information campaigns and advice lines etc., and to encourage people to start using the new money as early as possible. To achieve this latter task, ways of paying for things in Pound Scots should gradually be introduced. The first will be Scottish taxes, which for a period would be payable in either currency but with perhaps months to go to independence

day would require to be paid in Pound Scots. This would be a final ‘nudge’

for people to get their Scottish bank accounts sorted.

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OK, so that’s the new currency introduced – but there are still bits of

essential supporting infrastructure that are needed. The first is a Central Bank, the second a foreign currency reserve. A central bank is virtually never a commercial bank in the form most people know. It’s purpose is to manage and protect the financial and banking system and therefore to protect the wider economy. Central banks have a number of main functions.

The first thing it does is issue currency – print notes, mint coins and

distribute them. If a commercial bank wants more banknotes, it deposits a sum of that amount in the central bank and the bank provides them with

the notes. Clearly, the cost of printing the notes is lower than the face value of the notes. A central bank will keep this difference in value, a process which is known as ‘seigniorage’, and this provides the income source which pays for the running of the bank. In fact, many central banks will make

enough profit that they will return some of it to the government for public expenditure.

The next role is to play a part in the clearing system described above.

There will often be some private clearing services as well, but in most cases the central bank will have a key role. Then the bank will act as a ‘lender of last resort’. The financial system is so crucial to the wider economy that generally it cannot be allowed to ‘fail’, and so the central bank will intervene and prop up commercial banks if they deem the impact of the bank failing

to be too great for the economy. This ‘lender of last resort’ role is a subject of much debate after the 2008 financial crisis, but the capacity for a central bank to intervene on occasions when there is a risk of serious economic

impacts is now generally taken to be a core function.

But the central bank is also supposed to prevent these crises from

happening by being part of a regulatory and monitoring framework. Some

central banks fulfil the regulatory function entirely themselves while in other cases the bank works with another external regulator (as is the case in the UK with the Financial Services Authority). The events leading up to the 2008

crisis show just how important proper regulation and monitoring is and the regulatory function in an independent Scotland should be strong to protect the fledgling economy.

Finally, a central bank often has the lead role in monitoring and

influencing issues like the impact of the balance of trade and in maintaining price stability. This latter issues (price stability) has become seen as one of the most important functions of central banks, all of which have targets for inflation so that prices in the shops do not rise rapidly. The main tool banks use to control inflation is interest rates, but again, the 2008 crisis has exposed the severe limitations in this, with UK base interests rates (the rate at which the central bank will agree to lend to other banks) at close to zero for many years now. This has opened up a range of other approaches

which were once considered undesirable, most notably quantitative easing

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(‘printing money’ to buy government bonds which inflate assets prices

which in turn is supposed to stimulate the economy). The role and practices of central banks change all the time (they did not act as ‘lenders of last resort’ during the 1929 financial crash).

So how can a central bank be set up in Scotland to manage all of this?

In fact, there is a lot of support internationally for central banking. For example, both the International Monetary Fund and the European Union

have developed a range of support tools for emerging economies setting up new central banks (in Europe particularly during the post-Soviet era when a number of countries were setting up new central banks).

Why do they do this? Straightforwardly, central banks are not in

competition. The financial system is now so globalised that it is in the

interest of every central bank that every other central bank is maintaining a stable financial system in their respective countries. Central banks routinely coordinate and support each other because they all rely on the stability

of the global financial system. There is very little technical infrastructure needed to set up a central bank – once again this is a case where all the crucial work is in the development and implementation of policies and so

primarily relies on the quality of people recruited to do this work. There is substantial support for the development period if it is needed.

But this leaves a number of important questions unanswered. The

first is degree of independence. Central banks can range from being very integrated with government (acting almost like a government department)

to being entirely private bodies. In the past there were concerns that

governments had too much incentive to intervene in central bank policy

– for example, by encouraging policies which create mini-booms when

elections are approaching. So in recent decades there has been a strong

assumption towards central bank independence, and indeed this is a rule of membership of the European Union.

However, even among the majority of central banks which are

‘independent’, what this means is interpreted widely. When existing central banks were asked what underpinned their independence, a list of eight main factors emerged – but not a single central bank said that all eight factors were important to their own independence. So the Bank of England is generally

considered a fairly independent bank – but its Governor is still appointed by government (actually, technically by the Monarch). And this question

of independence became even more blurred after the 2008 crisis where

central banks and governments closely coordinated their rescue activities to an extent well beyond what would previously have been considered

‘independence’.

Another question is how the regulatory function should be handled –

should a Scottish central bank also have the regulatory function or should that be carried out by a separate regulatory agency. There are arguments in 37

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both directions. The governance of the bank is also an important question.

In some cases the people who run the bank select themselves and their

successors, in some cases government appoints the key figures in the bank, and in other cases stakeholder models are used where the bank is governed by a wider range of people than simply financial sector professionals,

including groups such as trade unions.

This book is not the place to seek to design every detail of a central

bank. There are clear principles which should drive this – accountability, transparency, public benefit tests, minimising risks of financial crisis and so on – but there is substantial debate to have around what these mean. Ideally this would be debated and agreed before an independence referendum so

that the National Commission could get straight on with building the bank from a reasonably complete blueprint. If this is not done, answering these questions will be an important priority.

In other regards, setting up the bank should be fairly straightforward

– as is its first task. That first task should be to start building up Scotland’s foreign currency reserves. Because a ‘sovereign currency’ can be created

at will by its government, there is no inherent ‘value’ in the money. It used to be the case that the banknote was an agreement to pay the holder an

equivalent sum in gold – so the intrinsic value of the gold underpinned

the value of the currency. This system is no longer used; instead, other

tradable currencies are held. In theory if the value of a currency in one country collapsed, it would still have substantial sums held in reserve in the currencies of other countries which did not collapse in value, underpinning the value of the currency.

But the main reasons foreign currency reserves are held now is to protect the currency from ‘speculative attack’ and to ensure financial stability of the overall economy. When a currency can be traded internationally, currency

traders will try to find ways of making a profit from trading that currency.

One way to do this is to ‘bet’ that a certain currency will drop in value and then actively do things to make the currency fall in value and then call in the bet – a so-called speculative attack. This can have serious consequences for the economy of the country concerned.

So how could Scotland be protected from this? The first thing to be

clear about is that these are always risky bets – it takes a lot of money to actively influence the value of a currency and if the speculative attack does not work, this money would be lost. The usual way to attack a currency

would be to sell it off in international markets, increasing its supply and therefore reducing its value. The usual way to protect a currency is for a central bank to do the opposite – if someone starts selling Pound Scots to reduce its value, the central bank would start buying Pound Scots back to push its value up again, and it needs to buy them back using a foreign

currency. Scotland is often believed to be vulnerable to speculative attack 38

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because it would be a comparatively small currency. However, this is also an advantage – there is much less profit to be made from a speculative

attack on a smaller currency. To prevent it happening you just need to make speculators believe that you have more capacity to protect your currency

than they can make from speculating against it. That's what a large foreign currency reserve does.

It also does a number of other things. For example, if there was a

banking crisis the central bank might choose to pay off the foreign currency obligations of those banks to maintain Scotland's reputations as a safe

trading partner (if there was a domestic bailout that would be done in Pound Scots). Likewise, in the event of emergencies (such as a natural disaster) a foreign currency reserve would mean Scotland could pay for any emergency

supplies it needed from abroad. The reserves can also be used as an

investment fund, though not too much of it can be invested or by definition it is not sitting in reserve in the case of emergencies.

So how big a reserve would Scotland need? Traditionally, it was believed

a country should hold the value of about three months worth of all imports, which for Scotland would be about £6 billion. However, the much wider

range of uses of a currency reserve in the modern financial system means

this would be insufficient. International comparisons only help so much

because of the range of reserves different countries hold in comparison to the size of their economy.

For example, the US holds 0.64 per cent of GDP worth of reserves,

Canada five per cent, New Zealand nearly ten per cent of GDP and China

27 per cent (though this is a special case because China aims to run a

permanent trade surplus). All of this means that we simply have to make a judgement on the size of

reserves for Scotland, and so here a 'high average'

of developed countries like Scotland will be used – so about 20 per cent of GDP (nearly four times the size of the UK's reserves). This would mean a

fund of about 40 billion US Dollars. This should be more than sufficient for a strong, developed economy like Scotland's, even allowing for the 'new start'

nature of our currency and national institutions after independence.

So how would it be created? First of all, Scotland would be due its

share of the UK's reserves. As Scotland will not be seeking a share of other assets, if it sought a slightly high 10 per cent of Bank of England reserves that would come to just over £14 billion worth of US dollars, Euros and

Japanese Yen. The next step would be to use the Sterling which has been

swapped for Scottish Pounds during the switch of currency. All the notes

which individuals bring in to exchange would still have value after the switch and can become part of the currency reserves, coming to at least another

£3 billion. Next, because central banks are not in competition, there would be a 'currency swap'. Just as Scotland will need to hold Sterling because of our trade with the rest of rUK, so rUK will need to hold Pound Scots to cover 39

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the financial liabilities of Scots who will make repayments to UK banks in Scottish Pounds. As this money is all being held in reserve (i.e. not being spent in the economy) it will not create inflation. So the two central banks can simply 'print' the money and then swap it. This would probably be done on an annual basis – the Bank of England and Scotland's central bank would each create about £10 billion of their currency and swap it with each other on a rolling 12-month basis. The actual amount held would alter over time as the relationship between the two economies develops and changes.

Finally, that would leave Scotland perhaps £6 or £7 billion short of its

target reserves. To raise this Scotland would issue a series of bonds in Euros, raising about €8 billion. This would be the only part of the currency reserves which would be 'borrowed' and carry interest. However, part of this would be invested again and would generate income. The difference between the

borrowing cost and the investment return would be about £70 million a

year. To put this into perspective, Scotland currently pays about £500 million a year to the Bank of England to service the cost of the UK's foreign currency reserves – having our own would save Scotland close to half a billion pounds a year.

This will create the reserves of the size needed – but not necessarily in the currency balance desirable.

Again, while there is no rule about this, generally a country will want to hold its reserves in the IMF's reserve currencies (US

Dollar, Pound Sterling, Euro, Japanese Yen and Chinese Renminbi) and the

currency of any other major trading partner, roughly in proportion to the amount of Scottish trade carried out in those currencies. You would then

buy and sell between the currencies in your reserves until you achieved

the balance you want. It is suggested that following the steps above with a couple of swaps of currency (for example, half of the Yen inherited from the UK being swapped into Renminbi), Scotland would end up with currency

reserves of \$15.2 billion Sterling, \$10.9 billion Dollars, \$8.7 billion Euros, \$3.4 billion Renminbi and \$2 billion Yen.

This would produce a powerful foreign currency reserve at a level

capable of protecting the Scottish currency and its economy in a balance

of foreign currencies appropriate to Scotland's international trading profile.

And it would cost substantially less than the existing cost to Scotland of the UK's currency reserves.

With the currency introduced, the central bank and regulatory capacity

(inside the bank or a separate regulator) built, the foreign currency reserves built up and a government treasury department set up, and independent

Scotland's monetary infrastructure would all be in place.

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Citizenship and passports

Nothing is more fundamental to a nation state than what it means to be a

citizen – who is a citizen, who can become a citizen and how, how can they get access to both the rights and responsibilities of citizenship and how can we achieve this in a means fit for the 21st century?

While some of these issues will be enshrined in the constitution, issues

of the practicalities of being a citizen will change as other factors (such as technology) change. The right to apply for citizenship is a governmental

matter and can generally be changed by governments as conditions change

(for example, to encourage more or less immigration). In addition, in usual circumstances achieving

citizenship is not something which is considered

much by people who are born into citizenship. This is different when a new nation is being created because it is important to be clear to everyone that they can be confident of a path to citizenship. It is therefore important to make clear from as early a stage as possible how people will be treated.

During the three-year interim period people will remain citizens of

the United Kingdom and continue to have the rights and duties of British

citizenship. The processes of creating Scottish citizenship will be put in place over the transition period and on independence day those eligible for Scottish citizenship shall automatically become Scottish citizens. This would mean gaining access to a Scottish Citizen ID (a replacement for a National Insurance Number which is explained further below). This would then give

citizens all the rights and responsibilities of citizenship including the right to access public services, the right to a passport, the right to vote in elections, the duty to pay taxes as decided by the elected government of Scotland and so on.

So who will become a Scottish citizen? Citizenship shall be automatic for those who are currently British citizens and habitually resident in Scotland and for any British citizen born in Scotland but currently living outside Scotland. These groups shall automatically gain Scottish citizenship on the day of Scottish independence. Newborns can then become citizens at birth

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from any point after independence, and they will always have an automatic right to that citizenship. This will include any child born in Scotland to at least one parent who has Scottish citizenship or indefinite leave to remain at the time of birth or a child born outside Scotland (but whose birth is registered in Scotland) with at least one parent who has Scottish citizenship.

The next group of people do not have automatic right to citizenship but

have an automatic right to apply for citizenship and to enter a naturalisation process that would lead to citizenship. A citizen of any country (including Britain) who has a parent or grandparent who qualifies for Scottish

citizenship will have the right to register as a Scottish citizen. Migrants who are in Scotland legally and citizens of any country who have spent at least ten years living in Scotland at any time and have an ongoing connection

with Scotland will have the right to apply for Scottish citizenship, subject to the immigration and naturalisation policies of the Scottish Government at the time of application.

Migrants currently in Scotland either through studying or working and

asylum seekers resident in Scotland will be entitled to apply for citizenship.

There is a range of rules to achieve this entitlement. A migrant and refugee must have been in the country for two years (a refugee will be given a work visa within this two-year period). All applicants must be able to show some kind of evidence that they intend to continue to live in Scotland and that they either have a working grasp of one of the official languages of Scotland (with subsidy provided for language classes if need be) – but there will be no ‘citizenship test’ which has to be passed. Scotland will also have a policy of actively offering a naturalisation process to any student who achieves an honours degree or above in Scotland. Scotland will allow dual citizenship with the UK for any citizen who wishes it – so long as the UK government is also willing to allow dual citizenship

This creates an initial framework of establishing citizenship. Those

with automatic right to citizenship will have that right written into the constitution. Other immigration and naturalisation policies are subject to change according to the democratic elections of future governments – but

the set of arrangements outlined above will provide reassurance to current residents of Scotland that they will not be personally disadvantaged in terms of their rights in Scotland should Scotland become independent.

One of the rights of citizenship is the right to hold a passport. Passports are governed by a series of standards set by the International Civil Aviation Organisation and if a passport is to be recognised internationally it must conform to all of those standards. The National Commission should set up

a passport system (it is assumed that the UK’s passport offices in Scotland would transfer to Scottish control) and commission passports ready for

those who wish to apply for them. All the technology required to manage

passports in Scotland is already in place and would be inherited.

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A final element of citizenship is how an individual citizen is recognised or identified. At the moment the main means of doing this in the UK is the National Insurance number. However, while those seeking dual citizenship

with the UK would be able to continue to use their existing National Insurance number for any purpose required by the UK government (such as accessing

pensions rights), it would be entirely impractical for Scotland to continue using this system. While it might just about work for those with existing NI numbers, new generations would not get UK NI numbers so a new system

will be required and this should be built in from the start.

A citizen identifier is used to verify identity – although what this

means in practice has little to do with the identifier itself. For example, the requirement to hold an ID card is a political one and the existence of a citizen identifier in no way means ID cards are necessary. The more important use for a citizen identifier in the modern world is to link a citizen to their data.

As we interact with the public sector we create a large data trail – every tax bill we pay, the notes of every visit to a doctor, every planning application we submit and so on. In general the way that personal data is stored and, even more importantly, the way it is accessed, managed and shared is a

highly controversial issue, particularly when it comes to the commercial use of data. This is even more the case with crucial personal data.

This is largely resolved by the requirement to abide by the EU's General

Data Protection Regulation if Scotland wishes to be a part of the European single market. Under the GDPR all of an individual's data belongs to them and cannot be accessed and shared without their permission. For example,

this means that data about you gathered from a private visit to your doctor can't be sold to a pharmaceutical corporation without your permission. On the other hand, you may well wish voluntarily to share that data as part of a big NHS study which is trying to improve treatments for certain diseases.

The issue of Scotland's new IT systems will be considered in more

detail in the next chapter, but one aspect should be to create an effective way for citizens to access and manage their own data. If effective IT systems are created and data is effectively shared in a way fit for the modern world, each citizen would effectively have a 'data store' which would hold all of their data. They would then be able to access an online portal (those without internet access will require support) which would let them make decisions about how their data was used and shared. This would create a relationship between citizenship and the data produced by citizenship which is properly fit for the 21st century.

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IT Systems

There are two things to acknowledge when it comes to getting Scotland's

IT systems ready for independence; first, there is a lot to do, and second, the track record of doing it in the UK is pretty terrible. The history of recent public IT projects is littered with failure, cost over-runs, systems that don't work and more. There are a number of straightforward reasons for this, but they mainly revolve around how IT contracts are given out and the general attitude to the management of IT systems in the public sector.

First, we should be clear on the scale of the task. Some systems are in

place and working and might seem like they need no adaptation – but there will be a series of new systems with which they may well have to integrate, so even wholly-devolved IT systems which are functioning now may need to

be further developed. Some of this may be routine – for example, all our IT

systems are set up to pay in Sterling and so must be altered to pay in Pound Scots. This is not difficult using modern payment systems, but it needs to be done everywhere an IT system makes a payment. Then there will be another

series of systems which are partially there just now or are in the process of being implemented – but which will need to be substantially extended. For example, Scotland will soon have its own IT system dealing with tax, but it won't be able to deal with Corporation Tax or many aspects of VAT.

And then there are other systems again which simply don't exist at

all as discreet Scottish systems such as defence, customs and immigration, international consular network and so on. These will have to be produced

from scratch. The longer, more detailed partner book to this shorter

summary contains details of all the system that require work, what needs

to be done and how much it will cost. In total this may come to £1.5 billion

– not especially large by public sector IT contract standards, but significant all the same.

The default reaction from many in the public sector to being told new

IT systems are needed is often dread because of past experience. There is no need for this; all that needs to happen is that a better procurement system should be used. There are three main reasons public sector IT contracts

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go wrong. The first is that the procuring agencies (the government or local authority or health board) generally knows a lot less about the subject than those they are procuring from. It is simply impossible to manage a contract you don't understand and this is ripe for commercial contractors to exploit; after all, it is in their interests to let specifications and therefore costs balloon where a proper system of project management will prevent unnecessary

'feature creep' and keep specifications lean and focussed on purpose.

The second reason is also about how contracts are handed out. First,

every public authority contracts independently and directly. This means that three local authorities can have three IT systems doing exactly the same

things but each of those systems might be entirely different and unable to talk to the others effectively. This is because of the overuse of proprietary software. From choice, a big IT company will programme a proprietary,

bespoke piece of software – because it will retain the commercial rights and this will ‘lock out’ the local authority and any other software developer from ever being able to fix or adapt the system. At any time in the future when the software requires to be adapted, only the original contractor will be able to do it, and this monopoly stranglehold over public sector IT is why it is fragmented, inconsistent and badly maintained.

And this is the third reason for difficulties in public sector IT – software systems are seen by public authorities as things which can be ‘finished’.

This is entirely the wrong way to look at IT; it should be thought of in

terms of ‘releases’ not ‘completion’. When a piece of software is launched it is constantly evaluated for problems (bugs or errors), for useability and for how well it meets its purpose. The first release is never perfect, so an ongoing process of monitoring and evaluation leads to another release (an update), then another, then another. Every so often there may be the need for a major overhaul, but mostly development is incremental.

This is not what happens in the public sector. Contracts are handed

out, software is handed over, and it is left to run and run – until it is no longer working. It is then replaced by handing out a contract, receiving the software and letting it run and run... No commercial software works like this (as you will know from the constant updates you are asked to install on your phone and computer). Constant development of IT is not more expensive, it is very much less expensive.

Most of these problems can be resolved simply by ending the use of

proprietary software and moving instead to open source. Open source just

means that the computer code which makes the piece of software work can

be seen (and understood) by any developer, and any developer is free to

use that software for themselves. In fact, the bulk of software is made up of lots and lots of open source ‘modules’ – little bits of code that do a specific thing. Every time someone creating software wants that thing to happen

they simply copy in that ‘module’ of code (there are big databases of free 45

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open source modules which are what all developers use to create software).

Another developer looking at this software can then see ‘ah, there’s the

module that does this, then one that does this – I can see what is happening here’.

The best example of the impact of open source is the internet. Had

the internet been procured by any single government or programmed by

any single corporation, it simply wouldn't have worked. Instead, it is based on a small number of underlying protocols which help all computers talk to each other and display information in exactly the same way, and then lots of other modules or 'plugins' are added on top to create a constantly-evolving capability. But throughout, still any two computers anywhere in the world which are running HTML and HTTP (the two main protocols on which the

internet is built) and have downloaded any necessary plugins will be able to access exactly the same web applications.

This is the principle on which Scotland's IT system should be based to

make it fit for the 21st century. A series of standard protocols should be set and all systems should be built on these so that they are all immediately able to talk to each other. This means they can be constantly updated without

massive cost and that when any more substantial work is required, any

contractor would be capable of coming in and doing the work – we would

not be held hostage by corporate IT providers locking us out of systems we paid for.

To achieve this the National Commission should create a specialist

IT unit which would manage the IT adaptation for the entire public sector.

Where a fix is required to move from current practice to what an independent Scotland will require, a consistent approach should be taken to all systems across the public sector. Where the ability to access data is built in, the format of the data should be the same so that one set of data can be used by everyone. Using an open source approach means that a very much wider

range of contractors can all be working on the project, each working from the same specification so they all integrate. In fact, there is a strong case for the National Commission simply employing a lot of really good coders and

doing the whole thing in-house.

One aspect of public IT which is paramount is its resilience – the impact of IT systems breaking down can be severe. Here again open source gives a major advantage. As well as meaning that emergency 'fixes' can be done by a much wider range of contractors, open source software is naturally more resilient than its proprietary equivalent. This is because while proprietary software will have been tested for bugs and other problems by a small team inside the company doing the development, open source modules have

been rigorously tested by many thousands of programmers around the

world many times. The bugs in modules that are used by programmes were

identified and removed a long time ago, making them much more secure. If

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this remains in doubt, it is sobering to be aware that the entire US defence IT system is based on open source code for this precise reason.

Taking this approach can not only deliver the project in a time- and

cost-effective way but get Scotland's IT fit for the future, ending the legacy of failure after failure. But there are other ways we should be future-proofing our systems as well. One of the most important recent developments in

software is 'distributed ledger', part of the technology which makes crypto currencies like Bitcoin very difficult to hack. Rather than data being held in a lot of different databases, probably in a different format in each, data is

'distributed' so that every database holds the same data and when that data is updated in one place it automatically updates it everywhere. This not only makes data consistent, it makes it much more secure (for technical reasons there is not space to go into here).

A distributed ledger approach means that you would only ever have to

enter your details into a public sector database once. At the moment you will have registered with many government services from self assessment tax

to refuse collection so your bins get picked up. If you were to move house, you'd need to update every one of these. With a distributed ledger approach, you'd simply change your address and that would update every single public sector database where your data is held. The system also means that only you or organisations you authorise can alter your data.

Distributed ledger approaches are developing fast – but are still

developing. This is likely to be the future of how personal data is managed.

Where the technology is ready now, it should be implemented. Where it

isn't, whatever is implemented now should be built with the expectation of transition to that approach at a later date. The current practice of building a system which is fit for last year is a ridiculous way to manage IT. Scotland has a massive opportunity here. No-one should underestimate how much

IT development will be needed to set up all the systems an independent

Scotland will need. But no-one should fail to see the beneficial impact that would result from using this requirement for substantial change to make

Scotland's IT fit for many generations to come.

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Defence

Scotland must begin the process of putting in place its defence infrastructure as quickly as possible as there is no avoiding the fact that it will take time to achieve full capability – certainly not less than ten years. So as well as beginning to build that capability it must also create effective partnerships, relationships and transition arrangements with others.

To set up a defence system effectively Scotland must consider the real

threat environment it faces. There are five categories of threat – organised crime, cybercrime, terrorism, espionage and military threats. Of these the least likely to pose any real threat for the foreseeable future is a military attack on Scotland's territory by another state. Most of the real threats come from non-state actors such as terrorism or cybercrime. Scotland is in just about as geopolitically stable a part of the world as it is possible to be, surrounded by liberal democracies and distant from the world's main conflict zones.

However, defence capabilities cannot be plucked from the air suddenly and geopolitical environments change; the fact that Scotland is very unlikely to face any form of military attack on our soil any time soon does not mean it is impossible that it ever will. We must build defence capacity now so we can respond to possible future threats.

There would be five key elements of Scotland's defence infrastructure

– a Scottish Defence Force, a Scottish Security and Intelligence Agency,

Defence Scotland, a National Defence Academy (and training estate) and a

set of constitutional checks and balances on this capability.

The Scottish Defence Force (SDF) would consist of three services

branches – army, navy and airforce. These would be designed to create

capacity in the key areas Scotland will need – defending the coastline

(including organised crime such as smuggling), supporting Scottish

institutions in civil emergency and contributing to legal joint international military operations. This means that the airforce and navy would have a

greater emphasis than would land-based troops.

The Scottish Army's land-based capabilities would be designed to

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respond to domestic crises and to contribute to regional and international security, built around a number of light and mechanised infantry battalions with supporting artillery, reconnaissance, signals, medical, engineering

and logistics capabilities. Engineering and medical capabilities would be proportionately larger than in the UK to enable a greater focus on non-combat as well as combat capabilities. There would be a small Scottish

Special Forces unit to conduct anti-terrorism activities. The army would be dispersed around Scotland with a headquarters at Redford Barracks near

Edinburgh, increasing geographical responsiveness and spreading the

economic impact of military spending across Scotland.

The Scottish Air Force would have responsibility for protecting Scottish

airspace and providing air support and logistics to the other Scottish Armed Forces service branches, civil agencies and allied nations. It would operate Scotland's air defence radar network and have a number of air defence

squadrons which would operate multi-role fast jet aircraft. These aircraft would primarily operate in the quick reaction alert role, responding to

potential air threats in or near Scottish airspace but would also be capable of supporting international security efforts through the provision of close air support to deployed Scottish or allied forces or as a contribution to an air policing operation. A fleet of transport aircraft would provide the Scottish Air Force with the ability to ferry personnel, equipment and supplies long distances, for example to deliver humanitarian supplies to hard-to-reach

locations overseas as part of an international operation.

The Scottish Air Force would operate a fleet of maritime patrol aircraft

to monitor Scottish waters and provide support to civil agencies, the Scottish Navy and regional partners in customs enforcement operations. A helicopter fleet would provide tactical air transport and support for Scottish Army, Marine and Special Forces units, anti-submarine support and airborne early warning for Scottish Navy vessels and search and rescue. The Scottish Air Force would also have a number of aircraft, ranging from gliders to fast

jet trainers, for training pilots, weapons systems officers, ground crews and airspace controllers. The Scottish Air Force would operate primarily from two bases, Lossiemouth and Leuchars – the latter of which would be reactivated as an airbase from its present role as an army barracks.

The Scottish Navy would primarily be responsible for protecting

Scottish waters, supporting civil agencies and providing a contribution

to international security. As a maritime nation, Scotland has over 11,000

miles of coastline, nearly 800 islands and critical offshore infrastructure. To cover this the Scottish Navy would have a fleet of cutters, offshore patrol vessels and corvettes. These ships would function as a coastguard and carry out maritime constabulary duties such as protecting Scotland's offshore

interests (for example energy infrastructure and fisheries), counter-piracy and counter-smuggling. They would be the workhorses of the Scottish Navy

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and would be primarily tasked with supporting domestic civil agencies as part of customs enforcement or environmental protection operations.

The Scottish Navy would have a number of frigates for contributing to

international security efforts and providing a more robust defence capability when required. They would have a modular design, similar to the Danish

Absalom-class, allowing them to be adapted for a number of operational

profiles including anti-submarine, anti-air or sea lane control operations. The Scottish Navy would have a support fleet comprising a range of specialist vessels including hydrographic survey, mine countermeasures, transport,

tankers, tugs and replenishment ships. The Scottish Navy would also include the Scottish Marines, a maritime infantry force tasked with providing fleet protection duties and conducting amphibious operations. They would utilise fast attack craft capable of operating from shore or Scottish Navy vessels.

The Scottish Navy would not initially require a submarine capability. The Scottish Naval Fleet would operate from two bases – Clyde and Rosyth – and the Scottish Marines would primarily be based at RM Condor near Arbroath.

The second part of the security infrastructure needed is a single

integrated 'all-source' national intelligence agency responsible for collecting, analysing and utilising information in support of law enforcement, national security and foreign policy objectives. The Scottish Security and Intelligence Agency (SSIA) would be part of the national police service, but would be

responsible for both domestic and foreign intelligence operations. The SSIA would be based at the Scottish Crime Campus in Gartcosh, with a satellite office in Edinburgh to advise policymakers and liaison offices in police

divisions and Scottish embassies overseas. The SSIA would work closely with law enforcement agencies, the Scottish Defence Forces and the intelligence services of allied countries with the

capability to collect and use intelligence from the full range of sources.

While the vast majority of intelligence would be gathered from overt

sources or government databases, the nature of the SSIA's work will involve the need to carry out covert surveillance and intelligence collection through the use of the full range of lawful interception capabilities and with proper oversight (judicial commissioners to review practices, procedures and

conduct, requirements for a minister of state and a senior judicial official to sign off on an interception warrant, the need for approval for a warrant application from the SSIA's internal legal advisors and approval for a warrant application from a senior intelligence officer etc.). These are intrusive capabilities and must be very carefully monitored but they are essential in the task of detecting, disrupting and dismantling criminal networks which hide amongst the civilian population and operate in a clandestine manner.

Other law enforcement agencies would require similar capabilities to do their work effectively.

The SSIA would require new legislation to give it a statutory basis and

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replace previous acts of the UK Parliament which should be produced by

the civil service during the transition period such that it can be scrutinised (both by parliament and the wider public) and passed either in time for

independence day or shortly thereafter. This should not slow down the steps necessary to set up an SSIA (which should be led by the National Commission in close cooperation with Police Scotland). Given the transnational nature of modern threats the SSIA would need to work closely with regional and

global partners. Membership in bilateral and multilateral intelligence-

sharing agreements would therefore be essential in providing access to

the information that Scotland would need to guarantee its own security.

However strict safeguards would be implemented to protect the privacy of Scottish citizens.

The SSIA would also house the National Cyber Security Agency (NCSA)

which would be tasked with protecting Scottish networks from cyberthreats.

The NCSA would work across public and private sectors to build resilience to cybercrime, promote best

practice and audit cybersecurity measures.

The third element of the defence infrastructure is Defence Scotland, a government department which would take over the responsibilities of the UK's Ministry of Defence. It would be responsible for defence

policy, procurement, finance and accountability and so on. It will be the responsibility of Defence Scotland, working with all the other elements of the defence system, to build up Scotland's capabilities and to put in place the legislation necessary to enable an effective but accountable defence system. The fourth element is a National Defence Academy and related training

estate. Recruitment will be a difficult task in the initial years. It is probably wise to be pessimistic about how many existing Scottish military personnel will transfer to a Scottish Defence Force from the UK military and so training new recruits will be crucial, particularly since the SDF will almost certainly take a very different military stance than the UK, much less focussed on 'power projection' and combat. It will take time to build up the strength of numbers necessary – and indeed it will probably take time to build up the training capacity needed to do the training (although partnerships with the military of international allies will help). So creating the NDA is a priority. It should probably be based at Faslane to help make up for the loss of activity there which will result from the removal of Trident nuclear weapons from the base.

The final element is essential – a comprehensive system of oversight,

transparency and constitutional controls over the use of Scotland's defence capabilities. As well as Defence Scotland there would be a Parliamentary

Defence Committee tasked with scrutinising the conduct and expenditure

of the Scottish Armed Forces and Defence Scotland and an independent

military justice system. There would then be a series of constitutional

conditions which would govern legitimate use of military power – to be

considered as a 'triple lock'.

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First, Scottish Armed Forces could only be deployed if there is a clear

mandate under international law – a right to defend oneself in response to aggression, responding to a request from another national government for

military assistance against a threat and supporting a UN Security Council resolution or UN General Assembly 'Uniting for Peace' resolution. Second, the Scottish Government, in concert with the

commanders of the Scottish

Armed Forces, must be able to articulate a strategy for how the use of

military forces can support a political resolution or prevent an imminent humanitarian catastrophe. Examples might include the deployment of

forces to separate warring parties, disarm illegal militias or to protect refugee camps and humanitarian convoys. Finally, other than in cases of emergency leading to imminent threats, there must be a vote in the Scottish Parliament to authorise action.

In addition, Scotland will put into domestic law a number of additional

safeguards. Ratification of the Rome Statute will make the crime of aggression an indictable offence under Scottish law and prohibit the deployment, use or stockpiling of weapons of mass destruction as well as the use of Scottish territory for the transit or storage of such weapons. It is to be expected that there would be a strong political consensus in Scotland for a constitutional clause requiring the Scottish state to sign the UN Treaties prohibiting

Biological, Chemical and Nuclear weapons and any other weapons of

indiscriminate mass killing. The 2017 Treaty for the Prohibition of Nuclear Weapons provides an international framework for a state which at the point of signature has another state's nuclear weapons on its territory. Within a set period of joining, the state has to submit a time plan for the removal of the weapons, immediately making them non-operational and then removing

them entirely from their territory under the supervision of the International Atomic Energy Agency.

Together these safeguards would constrain the ability of the Scottish

military to be used for national or economic aggrandisement and ensure

that they are only deployed when appropriate and necessary. Other nations have even more stringent constitutional limits on their military activity such as prohibiting military personnel from operating outside domestic territory, and these may possibly be raised during the constitution-building process.

As a small nation, Scottish national security would depend on forming

strong relationships with like-minded countries who share similar strategic interests and face common threats to their security. Good relations with

regional neighbours would therefore be a vital cornerstone of Scottish foreign policy, as would some form of engagement with existing international

security structures - given the transnational nature of most modern

threats and the role of intelligence-sharing in countering them it would be detrimental to Scottish national security to avoid such engagement. This

means 'pulling our weight' in a number of ways including our contribution to 52

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foreign aid, diplomacy, trade, military and law enforcement efforts. Both the EU and NATO provide collaborative structures but come with strong policy

implications. This means there will need to be proper future democratic

debate on these issues. As a first step Scotland should pursue associate

membership in these organisations such as joining the NATO Partnership

for Peace program or the European Economic Area before considering full

membership.

There is no avoiding the fact that building up and maintaining a defence

capability is expensive, just as it currently is to maintain the UK defence system. Building up Scotland's full capabilities will take a decade or more.

As discussed, recruitment will be a balance of experience military personnel transferring and a new cohort being recruited and trained (this pool of

candidates may be substantially bigger if a civil and crime enforcement role is emphasised rather than 'British militarism'). In terms of equipment, two approaches are possible. One is to inherit Scotland's share of existing mobile UK defence assets (estimated at not less than £8 billion in value) or to take a cash value for these and to procure them directly.

There are strengths and weaknesses of each approach – transferring

assets will create capability faster while procurement means equipment can be better specified for exact purpose and can be used to create an economic stimulus in Scotland (when procurement can be sourced here). It is estimated that a start-up budget of about £8 billion might be divided equally between recruitment and training capacity and asset procurement, and so long as

sensible transition arrangements can be agreed, an assumption towards a

procurement rather than transfer approach should be taken.

But it must be fully accepted that Scotland will not have full defence or intelligence capacity by the time of independence and so must seek interim agreements to enable security. Scotland is in an important geostrategic

position in relation to our allies – while an invasion by a hostile enemy is very difficult to imagine, it is impossible to imagine that NATO and other regional allies would not intervene if this happened before Scotland had full capability.

A bigger problem is intelligence sharing which is essential to effective

policing. While there will be a strong interest across the British isles to share intelligence which helps to tackle organised crime and terrorism, intelligence sharing between states is very much a matter of mutual confidence, and

that kind of trusting relationship can only be built up slowly. Intelligence and other military capacity sharing will be crucial aspects of independence negotiations.

Finally, a word about Scotland's defence industries. It is unlikely that

a Scottish defence and foreign policy stance which seeks to comply with

best practice in international law would permit some of the export activities the UK state allows (in particular, the sale of weapons to oppressive and 53

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aggressive regimes). This will inevitably impact on Scotland's defence

manufacturing industries. This will be partly offset in the short to medium term by procurement in setting up Scotland's defence capacity and there

remain legitimate defence exports Scotland will maintain. However, a

defence industries diversification strategy should be a priority for an post-independence Scottish Government.

The task of building Scotland's defence capabilities is a very substantial one indeed and will take time. Thankfully, this is taking place over a period where military threats to Scotland will be minimal and in a context where it is in the mutual interests of regional partners to maintain defence stability in the region during the transition process. This means that, while the work involved and time required is substantial, continuity of Scotland's security will be achieved.

And, at the end of the process, Scotland will have a military and

intelligence capacity much better suited to its real needs (combatting crime, defending its coastline, policing customs laws) and with an international stance which will reduce the threats Scotland faces.

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Tax and social security

There are two incredibly important aspects of setting up a Scottish state which are technically straightforward but politically difficult – creating tax and social security systems. To begin, let us look at why they are technically straightforward.

This book has already explored recruitment strategies – recruiting and

training sufficient civil servants to operate tax and social security systems is straightforward and could be done quickly. The other things that would be needed are an IT solution to manage these two systems and a payment

mechanism. Both of these have also been covered. In the case of the IT

systems, the fact that both tax and social security are in the process of being devolved to Scotland is an enormous benefit.

Had this not been the case a full database of individuals eligible for

tax or benefit payments would have had to have been created from scratch.

However this work is already well under way and will be completed by

2021. While it will not cover every aspect of social security or tax (powers not devolved will not be implemented into the system), expanding these to enable them to handle a smaller number of additional powers is far easier.

Likewise, the payment systems described in the chapter on setting up a

currency will complete this picture.

So while the technical infrastructure to manage both tax and social

security is not quite complete, expanding it will be straightforward. What is more complicated is exactly what policies will be embedded in the initial systems. It is not possible to set these up as 'policy neutral' – they must be designed to pay specific benefits from specific categories of people and collect specific taxes on specific activities at specific rates. It is here that the political complexity occurs.

Let us look first at social security. The establishment of the European

model of welfare state is one of the most important political developments of the last 100 years. It is an approach which creates 'social security' for all citizens, creating guaranteed payments to prevent destitution or severe

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poverty in specified situations (along with a body of universal public services such as a health service). It is very much supported and defended by the

population of Scotland.

But that does not mean it is not riddled with its own problems. The UK

has a legacy of a number of decades in which governments broadly hostile

to social security provision have held power for much of the time and this has resulted in a system which is full of punitive sanctions, unacceptably low rates of payment and general complexity.

The UK system has more than 30 individual benefits, each of which can have an additional range of different eligibility requirements. The ‘top six’ benefits are pensions, housing benefit, child tax credits, employment and support allowances, disability living allowances and child benefit. Between them these make up more than 80 per cent of all social security expenditure.

The UK is currently undertaking a major shake-up of the social security system with a ‘Universal Credit’ intended ultimately to replace the majority of the means-tested benefits and tax credits (and there are substantial cuts to benefit levels disguised in the introduction of Universal Credits). There is much debate about how effective this will be and what impact it will have; it undoubtedly simplifies the benefit system, but mainly to the financial detriment of those receiving benefits and is strongly opposed by many.

There are few in Scotland who would wish to recreate this labyrinthian system if they were starting from scratch. However, what would be done either to tidy up, reform or replace this system is a politically contentious subject and any actions taken would have consequences.

For example, maintaining the status quo would leave almost any likely first elected government of an independent Scotland with a mess it would want to reform, but which it would find much harder to reform because it has been embedded in systems from the beginning. Tidying up and simplifying the system before implementation would involve making many specific choices, would have cost implications and would inevitably impact on at least some groups who are currently receiving benefits. Designing an entirely new system would potentially have even bigger consequences.

The range of options for reform is not endless. The probable direction of travel in Scotland for social security is towards greater exploration of a Universal Basic Income (in which everyone in society gets a flat-rate payment at a rate able to replace most benefits), but a range of interim tidy-up options is also possible.

For pensions, there is just as little scope. For a number of global economic reasons good, contributory pensions schemes are unlikely to be

achievable because of rates of return on investments being substantially

lower in recent decades than at the height of the contributory occupational pension scheme in the post-war decades. This means that, give or take,

there is not much more that can be done in relation to pensions than create 56

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a revenue-based scheme in which each generation in work is paying for the previous generation's pension – and so on.

The complexity here is what assumptions are made about the role of

the rUK state after Scottish independence. As things stand at the moment, the UK has made a commitment to pay a full pension to any UK citizen who

has achieved the threshold of contributions over their lifetime, irrespective of where they are when they retire. An entitled pensioner who retires to

Spain will still receive their pension so in theory someone who has paid a lifetime of tax in the UK would be eligible to a pension if they retired in an independent Scotland. The impact of this would be that the UK would pick

up a large proportion of Scotland's pension costs for a substantial period of time.

However, unionists will argue (for various reasons) that the rUK

would have no moral or legal requirement to do this if Scotland chose to

become independent and thus Scottish citizens chose to relinquish their UK

citizenship. This in turn is challenged by independence supporters and so on. The final outcome of this can't be known until it is first resolved through independence negotiations and second, potentially tested in a court of law.

However, a universal pension is a fundamental element of the modern

democratic western state, and so the only sensible position to take on this is to implement a system which is capable of delivering a wholly self-funded national pension system whether Scots get a deal with the rUK, walk away

from a proportion of debt or whatever potential outcome arises. This will be no more expensive to operate than the current cost of the state pension in Scotland.

The problems with tax are similar – but worse. While many people are

critical of the UK benefits system, almost everyone is critical of the UK tax code in one way or another and there are serious questions about whether it is even fit for purpose. Listing the number of problems

would take pages, but they largely revolve around its complexity, its inconsistency and the number of tax avoidance opportunities which are ‘baked into’ the system.

This means small businesses pay more tax than big businesses for

the same activities, taxes are a complicated web in which two apparently

identical kinds of activity are treated entirely different and, fundamentally, many billions of pounds goes uncollected through (illegal) evasion and

(legal) avoidance. The overall system is poorly policed and abuses are little investigated.

It is inconceivable that any system Scotland would want would look like

the current UK system. However, tax is as controversial a political issue as there is and almost any change made to the tax system is likely to result in winners and losers – which inevitably brings opposition.

There are a number of possible approaches which could be taken to

underpin a new system and seek to minimise these kinds of problems. For

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example, a ‘principles-based’ model would state precisely what taxes overall are and each specific tax is meant to be achieving, making it much easier to identify and enforce the fundamental purpose of taxes. These should initially be based on principles enshrined in the UN Declaration of Human Rights.

Then there are a range of approaches which would clean up obvious

loopholes. Some of these are straightforward (for example by defining

categories of activity rather than the UK system of listing specific activities), others more technical.

There is also a range of matters of principle that it makes sense to fix (for example, taxing income from all sources at the same rate and not allowing those who have investment income to pay a lower

rate) and a vast array of exemptions, opt-outs and allowances which should almost certainly be very greatly simplified.

Equally, the UK tax system is based on a way of thinking about tax

which is becoming outdated and is not reflected in how central banks are

increasingly managing the monetary system. It would make great sense to

design a Scottish tax system based on more contemporary thinking about

monetary systems.

And of course the overall structure of a tax system should be considered carefully. For example, should a government department managing the

distribution of finance really also be managing tax policy? There is a good case for these being separate ministries. Much more should be done to

define the tax base with an assumption towards inclusion and much more

research and investigation should be carried out to make sure the system is operating in a consistent and fair way.

And then there should be both a greatly strengthened agency to collect

taxes and investigate and pursue taxes which have been avoided – Revenue

Scotland (the tax collection agency being built in Scotland at the moment) must have real investigative and enforcement powers and resources in a

way that HMRC currently does not. And there should be an Office for Tax

Responsibility to monitor both policy and its implementation.

The opportunities contained within this work are enormous. It could

increase revenues in Scotland by billions (largely by ending avoidance

behaviour by corporations and the very wealthy), remove all kinds of

perverse incentives which have distorting effects on the economy and make the system fairer and more trusted. It is inevitable that some steps in this direction would need to be taken in creating a Scottish tax system.

However, the question of how many of these steps to take during

the set-up phase – and therefore what kind of legacy to leave for the first government of an independent Scotland – cannot be handled as a technical

matter. It can only be resolved politically.

It is therefore suggested that, while the technical steps needed to set

up tax and social security systems should begin very quickly after a vote for independence, a political means of resolving some of the unavoidable

policy questions should also be put in place. It is therefore suggested that a

‘political convention’ should be held in the first transition year. This would bring together political parties and other key stakeholders to discuss and negotiated these questions and to provide a brief to the National Commission as it begins to build in the initial policy position of both systems. A consensual solution would be ideal, a solution with a ‘super-majority’ the next option and a straight majority approach being seen as the worst case scenario for solving these issues.

So while setting up tax and social security systems is easy but creating

the initial policy context is not, in both cases the gains possible from getting things right at this stage is one of the most attractive opportunities offered by independence. It should not be avoided but rather tackled head-on.

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Energy

For Scotland to take control of its energy system, three things have to

happen. First, a ‘Transmission System Operator’ must be set up. A TSO

is an organisation which manages the distribution of energy round a grid

(both electricity and gas) and manages the rate of supply to match the

demand of customers so power stays consistent even at periods of peak

usage.

The UK is the only country in Europe which has a privately owned TSO,

and that TSO also owns the grid infrastructure in England and Wales (though not in Scotland where the grid is owned by two different private companies).

So the National Commission will need to create a Scottish Transmission

System Operator to manage the grid, and this should be entirely publicly

owned and accountable. This does not mean that the grid itself would be

nationalised, something which is recommendable but a decision for after

independence. Only the management of supply and demand would be

under public control. This would involve setting up a control centre with the technology required to monitor and manage grid supply, and the recruitment of experienced staff.

The second thing that is required is a governmental department of

energy. This will eventually manage the policy for the development of the over all energy system. While it is for a democratic government to decide that policy, it would be worth establishing the department with clear awareness of the likely direction of travel of energy policy in Scotland. Indeed, there is a good case for the National Commission to consult on views on direction of energy policy to make sure that the right personnel are recruited and ready to develop the relevant approach.

There is then a very good case for nationalising not only the

infrastructure of the grid but gradually to take into public ownership and control the generation capacity – but this is not something which should be attempted during the transition process. The UK functions on the basis of private operators generating electricity and private operators retailing that 60

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energy to customers. That structure will remain in place at independence and any changes would come after that.

However, this means that the third necessary part of the energy system

is needed – an energy regulator to replace the role of Ofgem. This would

have the statutory power to regulate, monitor and police energy markets

to make sure that customers are protected, competition is available in the market and monopolies are not being exploited.

The question of how an independent Scotland would ‘keep the lights

on’ is not a question for the transition period but for future policy. At this stage it is simply worth restating that Scotland is comfortably a net energy producer and exporter and that the large renewable element of Scotland’s

power generation is becoming more efficient and capital costs are being

paid off, increasing the competitiveness of Scotland’s energy generation

(particularly given the costly introduction of large-scale nuclear planned for the UK). It is also worth noting that the rate at which Scotland’s non-renewable energy is being ‘switched off’ (notably Hunterston B) is slower than the rate at which new renewable capacity is being ‘switched on’.

Scotland has enormous potential energy generation resources and so

there is every reason to be confident that a secure and cost-effective energy system will continue to develop (and indeed accelerate) after independence.

The steps above create the foundation for that system.

Communication

Telecoms and communications – radio, TV, broadband, telephones, postal service, mobile phone signals, the print media – would now generally be considered essential to modern life. Getting the framework right for this in an independent Scotland will be important.

The first task is to create a statutory communications regulator. This is the role currently performed by Ofcom at the UK level and it might be possible to agree some kind of ‘sharing’ deal with Ofcom. However, on balance, it is almost certainly preferable to set up a Scottish regulator to enable a Scotland-specific policy (where, for example, the rural nature of much of the country has a direct impact on regulatory issues such as universal postal deliveries). Either way, a Scottish regulator will have to work closely with Ofcom on issues such as cross-border postal services and the management and allocation of the radio spectrum. Ofcom has a range of statutory functions such as protecting listeners and viewers from offensive radio and television content, ensuring fair competition in the broadband market, the allocation of the radio spectrum and maintaining a universal postal system. All of these functions will need to be replicated for Scotland with licensing, regulatory, monitoring and technical specification-setting powers.

The next issue to be considered is press regulation. This is a permanently thorny issue because the print media is intensely hostile to any form of external regulation (even though confidence in their process of ‘self-regulation’ is very low among the public). While much of this opposition is self-serving and hard to justify, there is still a very important risk of getting press regulation wrong and allowing politicians to exert undue pressure on the independent media which seeks to hold them to account is a serious threat to a functioning democracy.

The UK system is entirely voluntary and the current Independent Press

Complaints Commission (the IPCC) would in principle still be able to operate in an independent Scotland. However, Scotland should seek a more effective 62

framework and the National Commission should consult widely on how to establish a suitable system of press regulation in Scotland.

The next issue is broadcast. First, despite legitimate criticisms, the

BBC is a world-renowned broadcaster which makes some of the world's

best television programmes. After independence Scotland will want access

to BBC programming. The BBC has commercial arrangements with many

other countries and Scotland would be no different. While these agreements are commercially confidential, it is possible to get a sense of scale by looking at the Irish situation. While the cost of the deal with the BBC is unknown, we know that RTE (the Irish broadcaster) spends £24 million a year on overseas programming, including from Europe and America as well as the BBC. While

Scotland might well want a more comprehensive deal than the Irish one, this indicates an order of magnitude indicating that achieving an affordable

deal should be perfectly possible.

The next task is setting up a Scottish national broadcasting service – an SBS – which would take on the role of the BBC in Scotland. It is assumed

that all of the immobile assets and most of the mobile assets of the BBC in Scotland would be inherited by an independent Scotland. This would form a substantial basis from which to build an SBS.

While there are arguments against the license fee (it is regressive in

that you pay a flat rate irrespective of income), the alternative options tend to place too much financial power over the broadcaster in the hands of

government which would be problematic in terms of the independence of

the broadcaster. The license fee in Scotland currently raises about £320

million. At the moment about £103 million of this is spent directly in Scotland with another £73 million of non-direct spending allocated here. This means that, even allowing for all of the current programming produced in Scotland including news, current affairs, entertainment, drama, documentary and

network programming produced in Scotland for the whole UK, there is still a surplus of about £144 million. Assuming a licensing deal with the BBC

similar to (but perhaps a bit more comprehensive than) the Irish example, an SBS would begin with a budget of about £120 million.

This is substantial but should not be over-estimated. That budget could

produce about 120 hours of really premium drama a year – but nothing else. Or a thousand hours of mid-range comedy, entertainment and factual – or many combinations of different kind of programming. Along with the current BBC Scotland programming and a substantial amount of BBC content, this would provide for the foundation of a national broadcaster. However, if Scotland wants to be internationally ambitious as the BBC has been with its natural history documentaries or the Nordic countries have been with their high-quality crime drama, a wider strategy and more investment would be needed. A national film agency (or Creative Scotland) should be closely linked to the SBS to help develop programming for export, 63

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to put together co-production funding packages and to help with distribution.

In designing a new broadcaster it is important to be aware of trends

in watching habits. While live sport and news will always benefit from live broadcast, there is a very strong trend towards television ‘on demand’

through services like the BBC iPlayer, Netflix and Amazon Prime and this

trend is especially pronounced among younger viewers. As broadband

capacity improves there are serious questions about whether television will be streamed digitally or continue to be broadcast over the radio spectrum.

These should be carefully considered during the set-up process.

There will be as many views on what an SBS should produce and show

as there are viewers – what kind of content, what kind of mission, what kind of tone and ‘personality’. Viewer trust and support for the new broadcaster will be essential so the National Commission should consult widely while

setting up the SBS.

There are two main remaining areas in the field of communications

– the postal service and telecoms (including broadband). These issues are easy to deal with in the process of Scottish independence – but this is for the bad reason that they have both been privatised and so maintaining service is a purely commercial contractual arrangement. There are some issues of

cost which will arise from Scotland's more distributed population for both post and broadband and so both may require more subsidy in Scotland than

in the UK as a whole – but this should not be prohibitive.

And of course there is a strong case for designating both postal and

broadband services as 'national infrastructure' which should be renationalised and treated as a public monopoly. This may be raised as something which

should be written into the constitution, but any process of total or partial renationalisation would be a political decision for after independence.

It is worth making a brief mention of regulatory issues here over the

emerging digital communications realm. Scotland will have to put some

form of the Privacy and Electronic Communications Regulations in place.

These provide a variety of privacy rights for individuals over issues such as marketing calls, emails and texts, cookies, security of data and customer privacy. And while the global debate about the regulation of social media is changing quickly, some form of social media regulation is likely to be the norm by the time an independent Scotland is set up and this should also

be built into the communications regulatory framework.

With this done, Scotland will have a secure, reliable and trustworthy

system of communications and broadcasting fit for a proper democracy.

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Borders and customs

The issue of 'borders' was a topic of discussion at the last independence referendum – and its importance will be substantially amplified in the

next one. This is mainly a result of the UK's withdrawal from the European Union and the resultant divergence from the European norm. No matter

what position Scotland takes (EU membership, single market membership,

neither...) it is almost certain that a number of policies at either side of the border will change. The greater the divergence, the more complicated the

border issues.

This is intensely complicated and relates to Customs territories,

customs unions, regulatory compliance, immigration policies, single market membership and more. For example, a nation can be a member of the the

EU Customs Union but not the single market or the EU. On the other hand a nation can be a member of the single market but not the Customs Union. Or it can be a member of them all. Or it can be a member of only the Customs Union and nothing else.

There are two factors which will prove decisive in resolving the

questions about borders; Scotland's relationship to the single market and Customs union and rUK's relationship to both and the degree to which it

deviates from the regulatory rules of each. Until all of this is known in detail, precise design of the policies which will govern the border is impossible –

although the technical infrastructure to implement that policy can be put in place. The longer version of this book contains a much more detailed

exploration of these issues.

The next thing to understand is the meaning of 'hard' and 'soft' borders.

These terms are not technical and have no real definition; rather they are political terms which are used to describe how much 'friction' an individual or an importer/exporter experiences when crossing a border. The easier it is to cross, the softer it would be considered and visa versa. Soft borders are generally considered 'frictionless' – you can cross them as if they aren't there.

That is never really true though. For example, while a border with or

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inside the EU may well be entirely frictionless for an EU citizen, it will not be for a non-EU citizen. And while imports from inside the Customs Union

or single market (these do not cover exactly the same classes of goods and services) will face no duties or tariffs, those from outside will. So in reality all borders are at best selectively 'soft' and 'hard'. The aim for Scotland is to have as frictionless a border as possible which operating effective Customs and immigration services.

However, it is probably reasonable to begin from the assumption that

rUK will leave the EU, almost certainly the single market and possibly also the Customs Union. And this is because the current UK Government has

indicated its desire to change regulatory frameworks in the UK. It is the movement of goods or people from one regulatory or legal framework

to another that makes a border 'hard' and the greater the divergence, in

theory the harder the border. While this can't be finally known, it is perfectly possible to prepare for any likely outcome.

Let's begin with customs. This is the policing of the import of goods

into a nation state to ensure that they meet the law of the land and that any taxes, duties or tariffs legally imposed are properly collected. It is a very major part of the tax revenue of a nation – Customs is involved in almost all indirect taxes and these make up about 39 per cent of the UK's total

revenue. It is the duty of Customs to monitor and collect these taxes.

But Customs has an important wider role. A strong customs service

is integral to policing, intelligence gathering and national security among other things. It will play a lead – or at least important – role in tackling modern human slavery and people-trafficking, bio-security, illegal trade in endangered species, counterfeit goods, breaches of intellectual property

rights, the proceeds of crime, preventing the looting or destruction of

wrecks, pollution control, fisheries control, disease control, many kinds of fraud including VAT and Excise fraud and much more.

But the UK Customs system is failing. Where once Customs and Excise

in the UK was a case study of good practice, it has been decimated through a process of under-investment, ideological obsession and a lax attitude to tax gathering. For example, the UK has virtually no Customs guards at UK

ports and airports – when last did you go through the 'nothing to declare'

exit from an airport and see a member of Customs staff?

The UK's ideological obsession with immigration means that Customs

has been relegated to a minor role within the UK Border Force in which 90

per cent of staff are chasing immigrants rather than large-scale organised crime and smuggling. It is conservatively estimated that this costs the UK

tens of billions of pounds in lost revenue every year. About 20 per cent of all organised crime is revenue fraud that a proper Customs service should be

tackling. It is worth about £5 billion a year.

Scotland has a very extensive coastline which is vulnerable to organised

crime, smuggling, the drugs and arms trade and a number of other harmful

activities – and yet no Customs service ‘cutter’ (ships used to intercept smugglers) have patrolled Scottish waters for 30 years now - they are almost wholly un-policed. The complete disinterest in the Customs service in the UK led to mass resignations of highly skilled people who now work globally as consultants and advisors to other nations.

All of this can be addressed if an independent Scotland is able to set

up its own Scottish Customs and Excise Agency. This should be based on

something like the pre-2005 HM Customs and Excise model in the UK which

is broadly the same model used by countries like Denmark, Ireland, Iceland, Germany and France. There would be a Customs Division as part of a beefed

up Revenue Scotland.

It is then important to understand how a modern Customs service

works. It does not stop lorries, ships or airplanes at the border for Customs checks but instead uses a ‘smart borders’ approach. This treats the border not as a single fixed line but as the place where the most effective Customs checks can be done (which is seldom on the border itself). This involves

setting up Inland Clearance Depots which are situated where there would be natural ‘stops’ for goods once they’ve crossed the border or where it makes most sense to do the checks. Sometimes the most sensible place to do this may be close to a final destination where the goods are being delivered.

This prevents any activity on the border which would slow down traffic

or make it more difficult to cross. France, which is miles ahead of the UK in terms of modern approaches to customs, collects 90 per cent of its Customs and associated taxes in post-clearance inland controls. It is modern, efficient and should be the basis for a Scottish system.

But there are other benefits to a dispersed Customs agency – which

is human intel. Effective Customs, like effective policing, requires local knowledge and monitoring to identify the signs of illegal behaviour. It is therefore proposed that Scotland would have 13 customs and excise

offices in Aberdeen, Edinburgh, Glasgow, Shetland and Orkney, Inverness,

Oban, Elgin, Ayr, Dumfries, Dundee, Perth, Stornaway and Stranraer. Each

would have its own list of specialisms which it would pursue. There would be an additional five nationwide divisions such as a Maritime Branch, an

Intelligence Branch and an Investigation Branch, as well as an overall HQ.

It would recruit from among the many experienced officers now working as consultants.

And setting up this service would easily pay for itself – the average

additional income derived from investing in Customs is currently about

£1676 for every one pound spent on an officer. The cost of new equipment

and vessels would come out of Proceeds of Crime, a revenue stream which

would also greatly increase. Over all it would generate an additional number of billions of pounds of revenue for Scotland.

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The infrastructure for immigration (which the UK does take seriously)

is already in place at ports and airports so a Scottish immigration service would be quick and easy to set up, particularly given that the routes for potential illegal immigration into Scotland are fewer and in fact Scotland's economy almost certainly needs to encourage more immigration. The only

missing element would be a government department to set the policy for

the immigration service.

That policy would then depend on democratic elections, but it should

be hoped that a Scottish Immigration Service can quickly become an

service which sees itself as helping legitimate immigrants come to Scotland as quickly and as painlessly as possible – while politely identifying and preventing abuse of the system.

That deals with all of an independent Scotland's borders issues except

one – the land border with rUK, the most controversial of all. The first thing to be clear on is that the final arrangements for the border cannot be decided unilaterally. Or rather, the government on each side of that border is free to do as it chooses on its side. Inconceivable as it is, if the rUK wanted to erect razor-wire fences across its side of the border after independence, there is nothing Scotland could do about it.

However, it is to be assumed that the UK will want to maintain the UK

Free Travel Zone. This not only includes the home nations but also a number of the UK's

'dependencies' like Jersey and the Isle of Man. These already have what should be notionally considered elements of 'hard border' – but that is not how they are managed.

It is worth pointing out at this stage that the world, Europe and even the European single market area are all littered with complex border anomalies.

Norway is inside the single market, outside the Customs Union and not a member of the EU but has borders with two countries which are in all of these and another which is in none.

In fact, so common is this problem that an information resource has

been established to help nations resolve these problems - the Aims and

Tasks of Association of European Border Regions (AEBR) website . It consists of lots of tried and tested solutions to a wide range of 'What If?' questions on border matters and will prove an invaluable resource for dealing with

problems once the final nature of the UK border issues are understood.

So what might be a likely outcome for a Scotland/rUK border knowing

what we know now? There would be customs posts at the border but not

immigration checks or passport checks. Automated license plate checking

would help to monitor cross-border travel and information-sharing between Scotland and rUK would be available to track down any infringements of

migration status (such as someone being in rUK without a legal immigration status who then travelled to Scotland). Small customs checks on a voluntary basis might be done at the border (people taking personal goods across the 68

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borders could declare them at the border) while all other customs checks

would take place at a designated customs centre as described above.

This would feel like a 'frictionless' border to almost every individual

who crossed it but with proper customs checks for large imports. The

technology required to underpin such a border is routine in many countries now (the so-called 'smart border' approach) and it will be easy for the

National Commission to move ahead with developing and implementing

this technology even before negotiations with rUK begin to finalise border agreements.

And that would put in place a comprehensive and effective system of borders, Customs and immigration in an independent Scotland.

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Trade and international relations

Clearly, an independent Scotland's interests will stretch well beyond our own borders. Scotland will want to play a positive and constructive role in the world. It will want to ensure the best possible conditions for its citizens to travel around the world. It will want to have positive relationship with many other nations. It will want to join with other nations in many transnational agreements and treaties towards creating a better world. And of course it will want to trade with nations and businesses around the world.

It is therefore essential that one of the primary tasks of the National

Commission would be to begin early to establish the structures Scotland

will need for engaging with the wider world and to ensure that continuity is maintained for individuals and businesses. There are quite a lot of individual tasks involved in achieving this – and a substantial number of unknowns at the time of writing.

First, to return to where this book started, we must gain international

legal personality for Scotland. This is our ability to enter into negotiations and contracts on an international level and without it there would be no

prospect of beginning negotiations with international organisations. The

UK's 'Crown Dependencies' have international legal personality without

being fully independent so this should not be a problem.

It is then a matter of planning a sequence of negotiations and beginning

them. First in the list should be the United Nations, where achieving

membership involves a four stage process. First, Scotland would submit

an application to the Secretary General and a letter formally stating that it accepts the obligations under the UN Charter. Then the Security Council considers the application. Any recommendation for admission must receive

the affirmative votes of nine of the 15 members of the Council, provided

that none of its five permanent members — China, France, Russian, the UK

and the US — have voted against the application. If the Council recommends admission, the recommendation is presented to the General Assembly for consideration.

A two-thirds majority vote is necessary in the Assembly for admission

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of a new State. Membership becomes effective on the date the resolution

for admission is adopted. Although it is unlikely that this process could be completed prior to the UK recognising Scotland as an independent nation

state, there is no reason (subject to UK agreement) that this process could not begin immediately.

This gives Scotland international recognition, unambiguously

identifying us as an independent nation state. The next stage is to begin to rebuild Scotland's links with Europe. This is of course not uncontroversial

– while it would be ridiculous not to recognise the size of the majority

vote for Scotland to stay in the EU in the 2016 referendum, that does not necessarily inextricably link independence and EU membership. There are

good democratic (and strategic) reasons why Scottish voters might want to reaffirm or reconsider their position on the EU in terms of Scotland as an independent country and not just as part of the UK.

And a number of options would be open to Scotland which were not

open to the UK, such as EEA membership (which would put Scotland in

the single market but not the full EU, so still with full control over fishing, agriculture, foreign policy and so on). It is therefore suggested that since Scotland will have a referendum close to the date of independence day

to ratify the new constitution, some other difficult questions might be

included in that referendum, such as the status of the head of state and the relationship with the EU.

In any case, during the three transition years it would not be possible

for Scotland to begin the formal process of joining the EU (we would need to be an independent nation first to do that) but there are steps which can be taken which would prepare us.

First, Scotland should aim to join the European Free Trade Agreement.

This is currently a group of four countries which are not in the EU but which seek a close relationship with the EU. EFTA has a series of bilateral trade deals to which all members would have access and members are entitled to

apply for membership of the European Economic Area (EEA).

The process for EFTA membership is straightforward – a request to join

by a new nation needs only the approval of the Governing Council of EFTA.

As Scotland is closely aligned economically with current members and is of a similar size to them, this should be comparatively straightforward and an agreement in principle might be achieved in a matter of months.

From there the next step would be to seek to join the EEA. This would

give Scots full freedom of movement throughout the EEA area (the EU plus

EFTA nations), ensure free trade inside the block and so on. It does not

give Scotland a vote on EU legislation and it does require that Scotland

would implement any EU legislation or regulation which impacts on the

single market. But it does not involve signing up to the other aspects of EU

responsibilities or policies.

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Since all the steps which are required for EEA membership would

also be necessary for full EU membership, this would not be a duplication of effort if Scotland subsequently chose full EU membership. Joining the

EEA involves a two-stage process. First, the EU Commission needs to do a

thorough assessment of how well Scotland is harmonised with EEA rules.

While in general Scotland should be fairly well placed for this as a result of currently being in the EEA, there will be aspects which will require work –

particularly on regulatory agencies (see below).

Once the Commission had assessed Scotland as being sufficiently

harmonised with EEA rules, it would make a recommendation to that effect

and at that point Scotland's membership could be agreed by a unanimous

vote of all member states. However, it is possible to be granted provisional membership of the EEA while this process is ongoing. This means that,

while full harmonisation might take a while to achieve, it would be possible to achieve provisional membership of the EEA before that is entirely

completed.

It is worth mentioning what harmonisation means. First, all EU law

and regulation relating to the single market would need to be enacted in

Scotland. That is currently the case through the UK's membership of the

EU so all that would be involved would be to transfer any laws which are

currently UK laws into Scottish law.

More complicated is the question of regulation. While regulatory policy

will also be currently aligned, this must be backed up by a number of National Regulatory Authorities – bodies with the statutory task of monitoring and policing regulations. There are over 25 of these that must exist and, while they can be shared with another nation, they are compulsory.

Here the position for Scotland is more complicated. There are some

Scotland-only NRAs which would continue to exist after independence but

others are UK-wide and, post-Brexit, will no longer be EEA compliant. There are others again where the UK shares in multinational agencies.

There is no option but to put these in place. Some have already been

discussed (an Ofgem replacement, an Ofcom replacement) but a decision

would need to be made about others. Either an appropriate partner country would need to be found with which an agency could be shared (impractical in many instances) or Scotland has to recreate these agencies and the specialist knowledge in them. The latter aspect should not be difficult given how many EU regulation experts in the UK will no longer have a post-Brexit role.

The next decision that has to be made is about Scotland's global trading

relationship. Scotland will want to join the World Trade Organisation, but whether it negotiates its position as a single nation or as part of the EU

Customs Union depends whether Scotland chooses to join or not. (EUCU

membership is compulsory if you're a full EU member but not if you're only an EEA member).

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If Scotland is in the EUCU then all its import quotas and tariffs (how much of a specific good is allowed to be imported, what 'tax' on that import is imposed) would be decided by the EU. In addition, Scotland would be bound to accept all EU imports as part of the single market (EEA membership excludes agriculture and fishing from free trade as these are heavily subsidised in the EU – Norway is an EEA member but not an EUCU member and so is able to impose tariffs on imported EU fishing and agricultural products).

It is important to be clear that, either way, the process of becoming a full member of the WTO is an onerous process involving four stages. Very briefly, you indicate you want to join (or 'accede'). Then a working party would be set up to which Scotland would need to submit its broad trade positions. This is an enormous amount of work – every part of the economy, every category of goods and services, must be counted and its treatment explicitly stated (will quotas be applied, with tariffs be applied and so on).

This is effectively a draft WTO 'schedule' – the legally binding list of trade commitments Scotland would make.

Once the working party was sufficiently satisfied with Scotland's general position, it is followed by a lengthy series of bilateral negotiations.

In theory, any nation anywhere in the world could challenge any aspect of Scotland's proposed position and this would have to be negotiated until everyone was happy. In practice the principle of 'most favourable nation'

clause makes this easier – every country gets access to the most favourable terms available to any country so there is no discrimination.

For the vast majority of Scotland's economy this would almost certainly

be straightforward. The difficulties come in aspects of the economy which are particularly strategically important to a given country. For example, how the import of general consumer goods is treated is probably straightforward but the treatment of Scotland's whisky exports would be an economic priority for Scotland – and might clash with the economic priorities of another country.

Bilateral negotiations continue until everyone is happy. At that point the draft schedule becomes a 'protocol of accession', a legally binding set of agreements. Two thirds of WTO members must then approve these terms and Scotland must formally adopt them. No part of this process is particularly technically difficult – it's just that there's an awful lot of it to do.

There are two situations which would act as mitigating factors. The first is that, if Scotland chose to do this on its own (i.e. not become part of the EUCU), it would be following in the footsteps of the UK. The UK will have had to do an enormous amount of 'heavy lifting' to create a schedule for itself and if Scotland then became independent (since its economy is very similar to the rUK's), a lot of that work would be used as a template for Scotland, leaving us to focus on a smaller number of priority or specialist areas.

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The other is that if Scotland was in the EUCU it would be the EU which carried out these negotiations. This would not actually make the process any easier (it means reopening the EU's own schedule) but much of the work would be done by the EU. The trade-off is that many of the decisions would be made by the EU as well. If all the above had been achieved – EFTA, EEA and WTO membership (potentially with EUCU membership as well), Scotland would have most of its international trade arrangements in place. However, it is important also to consider arguably Scotland's more important trading relationship – with the UK.

Much has been made of how the UK is Scotland's main export destination. This is true, but it's worth being clear what is being exported.

For example, a full third of those exports are electricity exported over the national grid. Another substantial proportion is from English homeowners

who happen to have a mortgage with a bank (or subsidiary of a bank) which is headquartered in Scotland. More again will be internal supply chains –

supermarkets moving goods across the border.

None of these would be likely to be affected by independence. But

achieving a positive trading relationship with rUK is crucial. There are

two ways this could be defined if no other action was taken. The first is

undesirable if workable – that trade reverted to WTO rules. The other is

more likely – that Scotland would inherit the trade relationship rUK agreed with the EEA.

However, one of the advantages of EEA membership (whether

transitory or permanent) over EU membership is the ability to agree

bilateral trade deals without full EU agreement. This is more limited in

practice than it might sound since no bilateral deal could undermine the

principles and practices of the EEA, but there is a specific application of this which could be crucial.

If there were aspects of cross-border trade between Scotland and rUK

which identified as a ‘special case’ a slightly different trading relationship could be negotiated. This is already done in a few instances inside the EU

such as the treatment of Gibraltar (the EU allows for special bilateral deals among its members, but only with the ratification of all other members).

This means that Scotland might be able to negotiate a mutually-beneficial

‘UK trade zone deal’ while still being inside the EEA. This would ultimately depend on how all the other aspects of trade played out.

And it should be noted that there are some incredibly complicated

issues which revolve around regulatory compliance, supply chain and

onwards exporting which make this a fraught and complicated business.

This is discussed in more depth in the longer book; here it is suffice to reiterate once again that when it comes to international trade issues, nothing is simple.

If the proposal of confirming Scotland's position in relation to the EU

was adopted and this delivered a vote in favour, the final step would be

to apply to join the EU. This is a three-stage process, but a chunk of the work would have been completed during the process of applying for EEA

membership.

First, Scotland would need to get itself into a position where it was

broadly ready to join (that is to say it was broadly in line with all relevant EU

policies). Scotland would be in this position anyway unless there is substantial legal and regulatory divergence after Brexit. That would be doubly the case if we were in or close to joining the EEA. However, there are some policy areas (fishing and agriculture, foreign policy) where more might need to be done, and the EU may wish to see a number of national indicators met. Once this is achieved to the EU Commission's satisfaction, a formal application for membership can be made.

Once this is accepted, Scotland would go into formal membership

negotiations. There would be a more rigorous screening of every policy field to assess how well Scotland is aligned. A 'screening report' would then go to all Member States – along with a recommendation from the Commission

either to move straight into full negotiations or whether further conditions should be set. Only once all agree will Scotland put forward a full negotiating position on terms and conditions of membership – with the EU doing the

same. Negotiations will then continue until every point is agreed.

There is not set timescale for this process, but once completed the

only remaining step is for it to be ratified individually by every EU Member State (some of whom may have constitutional requirements about how

ratification is achieved) and Scotland as the candidate. Once this is agreed by the Commission, the European Parliament and the Council of Ministers, a

final treaty would be signed. Once this is done, Scotland would become an

'acceding country' until the date of accession specified in that treaty.

It would be great if it was possible to have certainty on this process

(and indeed on all these issues of international relationships) – but it isn't.

All Scotland can do is have a clear plan, be transparent about its intentions and work towards these outcomes in good faith. That being the case, there is no reason at all why all of this should not be

achieved.

With this Scotland's trade relationships would be in place and its

relationship to key international institutions would be resolved through a number of treaties. But at the moment Scotland (through the UK) is signatory to a large number of international treaties. These range from being legally binding contracts to being loose statements of intent or principle. Some are crucial, some basically cosmetic.

Early in the transition process the National Commission (working with

the nascent Foreign Office) should go through these treaties systematically and produce recommendations on how they should be dealt with (ranging

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from detailed negotiation as in the case of EU or WTO membership to simply not doing anything with those considered redundant or unnecessary). It

would then be for future Scottish Governments to go through the process of signing and negotiating these treaties.

This leaves one final element of Scotland's relationship with the world;

a Foreign Office and consular network. While a Foreign Office (whether

it integrated international development or whether that was a separate

department) involves a lot of specialised knowledge, it does not require much by way of specialist infrastructure. Setting it up is very much a recruitment issue.

But it should be seen as a priority because the one aspect of Foreign

policy which does involve substantial work and time is setting up a consular network. Having consulates or embassies in foreign countries is an assumed aspect of a modern democracy. A consular network would both support

Scots when travelling abroad, act as a contact point between Scotland and other nations and provide specific advice to Scotland's Foreign Office on issues relating to the host country.

There are really only two elements of setting up a consulate. First, you

must identify the 'real estate' (a building in which to set up a consulate or embassy) and then you must achieve recognition from the host government.

Achieving recognition would be straightforward in most cases so long as

Scotland was a member of the United Nations.

In terms of the cost of setting up such a network, looking at the UK

example may not be particularly instructive. The total running costs of the UK consular network is around £7.5 million per diplomatic post per year. In contrast, the Government of Ireland spends around €76 million across its 69

diplomatic posts - €1.1 million per post. The cost of UK consular 'real estate'

is particularly high reflecting the UK's desire to project itself as a major world power. Scotland would be expected to spend much more in line with Ireland than with the UK.

There are other ways that costs can be contained. If Scotland is a

member of the EU, a Scottish citizen can go into any other EU member's

embassy if there isn't a Scottish embassy in a given country. In addition, sharing deals are becoming more common with more than one country

co-locating in a single building (particularly with Canada, the UK and

Ireland). So even within the envelope of what Scotland already pays for

consular presence (as a proportion of UK expenditure) it would be capable of sustaining a fairly extensive presence.

In terms of targeting of consulates, factors like travel and work

destinations for Scottish citizens, countries with close links to Scotland, key international partners, 'great power' nations, countries with high volumes of trade and ensuring a broad geographic spread would probably be the

guiding factors.

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This might mean a consular presence in all EU member states and

probably in most European countries, major countries like the US (where

we will want presence in more than one place), Japan, China, Russia and

so on, a spread of presence in a range of regions (at least some presence in South America, South East Asia, the Middle East, North Africa and so on) and countries with close links (such as Australia, Canada, New Zealand and Malawi). The National Commission should consult on a list of key target

countries. Some transitional agreements with the UK should be put in place while this work is being completed.

And with this, Scotland would have normalised its status as a modern, independent, internationally-minded nation state.

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Negotiations

This leaves one final major task to be discussed – negotiating with the rUK

over the terms of separation. Everyone has seen, over the course of the Brexit negotiations, that there is no substitute for being properly prepared and having a strong negotiating strategy. Scotland must be properly equipped

with these. To get this right we must observe some important lessons.

First, negotiation is a specific skill, not a generic one. A bright, capable politicians may well be very good at their job; this does not mean they have the skills of a seasoned negotiator. It is widely accepted that Scotland was out-negotiated during the Smith Commission review in 2015. A negotiating

team will be set a remit and given broad instruction by the National

Commission (as agreed with all parties). But a first rate team of negotiators must be assembled and given the freedom to devise their own detailed

strategy. This is a crucial recruitment issue.

Second, preparation is essential. Knowing the ‘big ticket’ items you

want is not enough. We must be prepared not only to deal with the big

things that we want but the little things – and the big and little things that the other side wants. If we are not prepared on the full range of issues, we will fail effective to trade off one issue against another to be able to get to the best possible outcome. There should be no surprises and no ‘ambushes’

which have not been fully considered in advance.

And this preparation means you should also have all the research in

place to back up your claims and requests – impact assessments, legal

precedent and advice, benchmarking of international norms and so on.

Every argument should be considered and prepared for and what Scotland

wants to achieve should be carefully backed up with supporting evidence to strengthen every aspect of

the case.

Finally, the more Scotland wants, the weaker its position, the less

Scotland wants, the stronger its position. The party which goes into a

negotiation wanting more is generally in the weaker position and is forced to make more concessions. If Scotland had voted for independence in 2014, the absolute requirement to secure an agreement over Sterling would have

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meant Scotland almost certainly having to make painful concessions. This

book is almost entirely predicated on trying to find the most self-sufficient possible way to achieve independence and therefore to require as little as possible from negotiations.

It is briefly worth considering the key aims either side will have in

these negotiations. The main issue for Scotland is recognition – Scotland will want rUK to recognise Scotland as an independent nation state to help us

quickly normalise all our international relations, including with international money markets. There is some chance the rUK might take an unreasonably

aggressive position – that unless Scotland concedes everything the rUK asks for it will withhold recognition. One of the problems for the UK in the Brexit negotiations is that it had no ‘zero option’, no specific plan for walking away if the other side was unreasonable. Scotland needs to consider a ‘zero plan’

in the event of unreasonable UK intransigence.

The second biggest issue for Scotland is cooperation and fair asset and

debt division. Scotland has to come out with control over key infrastructure and assets which enable us to function as an effective nation state but

without unreasonable debt burdens. We also need effective cooperation

with the rUK on a number of transitional matters – setting up of statutory regulators, border arrangements, collaboration with the Bank of England

and so on. These are mainly of mutual interest to both sides but may be held as negotiating tactics by rUK.

Identifying the rUK’s main aims from negotiations is more difficult – its primary aim is not to need them. In the event that they happen, the first thing the UK will want is territorial access – particularly

for military reasons.

The UK has nowhere to move its Trident nuclear capacity, perhaps for as

long as 20 years, and so will want to maintain its presence in Scotland. This is almost certainly non-negotiable for many in Scotland and so we must

have a strategy for remaining resolute but seeking to be as reasonable as possible.

The rUK's interest in the border issues are somewhat conflicted.

Rationally, the rUK should want as frictionless a border as possible for

economic and social reasons. However, the UK and its media are not rational about borders because of immigration issues. Illogical fears of Scotland as a

'back door' immigration option are bound to be raised. The extent to which the rUK would follow its rational or irrational instincts is difficult to tell. Most of the remaining rUK interests are around conceding the minimum amount

of assets while getting Scotland to accept the maximum amount of debt.

So to consider how these things might be handled, what legal or

historical precedents help to govern the division of nation states? The answer is that there are two 'Vienna Conventions' which cover the division of states, but neither has been ratified by any of the major world governments. They set out two basic options. The first is that a state divides into a 'continuing'

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state and a 'new' state. The continuing state maintains all the rights,

responsibilities, assets and debts it did before, the same name, the same membership of international organisations while the new state has no

automatic right to anything other than immobile assets based in its territory.

The other option is that a state dissolves, no longer exists and is replaced by two 'successor' states. Each of these states would then have negotiated rights to a fair share of assets and debts and of rights and responsibilities. It is likely that both would have to renegotiate their position with international organisations. Historically, the succession of countries from colonial powers has followed the first model and the dissolution of nations states has followed the second (for example the separation of Czechoslovakia). However, while there is a strong case that there should have been some discussion about

which approach was taken in the case of Scotland separating from rUK, it

was universally assumed that a ‘continuing/new’ state solution would be followed.

In this case, the position is fairly clear; the UK would continue to be

the UK, member of the UN, owner of all its military assets and so on, and Scotland would become a new state starting from scratch. In this context it was correct that the UK claimed Scotland had no automatic right to assets including Sterling – but the corollary was that Scotland would have no

automatic liability for any debt whatsoever. This is supported legally by the fact that all the assets of the UK are owned by the UK and all the debts are the UK’s debts alone. Just as there is no mechanism via which Scotland

could ‘seize’ UK assets (other than immobile in-country assets), there is no mechanism by which the UK could ‘impose’ any debt on Scotland. (And, in

any case, the UK’s creditors would not countenance the transfer of the UK’s debts to a new third party).

So other than in-country assets (schools, hospitals, roads and so

on), everything must be negotiated. In the longer book there is a fuller

examination of precedent of how this might be done. Here it is sufficient to point out that there is a wide range, from ‘historical contribution’ models (based on historical tax take and spending in each nation) to asset-based models (calculated in terms of who has what assets) to size-of-economy

based models to geographical or population size-based models – as well

as a number of hybrid approaches. And each can result in a significantly

different outcome.

There are three broad approaches Scotland might take. First, a

‘subtractive’ model (the one usually assumed). Here Scotland calculates a share of assets and a share of debts and then ‘subtracts’ from debts for

any assets not transferred. There are a number of difficulties here, not least calculating an accurate value for the UK’s assets.

But there are other approaches. One is an ‘additive’ model in which

Scotland simply adds up the value of the assets it wants and then take on 80

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a level of liabilities proportionate to the assets it seeks. Another is a ‘zero’

approach, which would take the continuing state/new state split at face value with Scotland leaving with no assets (other than in-country) but no debts either. It would then need to negotiate with the rUK to 'buy' any other assets it really wants.

There is a question which is left open here – which is not the legal or technical case for Scotland accepting a proportion of debt but the moral case.

It seems like a strong argument to say that Scotland was part of running up the UK's debt so morally should not walk away from it (dumping that debt

on taxpayers in England, Wales and Northern Ireland). However it is equally fair to argue that Scotland did not benefit proportionately from how that debt was accrued (for example, an enormous amount of it was spent in

London and the South East of England with Scotland not receiving anything like its fair share of the economic impact).

The reverse is also true – over the last century Scotland has contributed more to UK finances proportionately than it has received in public spending.

So Scotland is responsible for debts that were not incurred for the benefit of Scotland. Another argument is that the UK has incurred debt in creating and building all the systems and institutions of the state and Scotland will not be getting access to the assets the debt paid for so should not be liable for the debt. The UK position is that debt is a 'current fact' but how it was derived and for whose benefit is 'ancient history'. This position is easy to challenge.

Finally, not all 'debt' should be considered debt. A chunk of the UK

debt is the result of 'quantitative easing' which is not real debt but central bank 'money creation'. This debt is a UK debt to itself and should not be part of negotiations. What all this means for Scotland's negotiating position needs very serious consideration. A principle might well be that the rUK is not incurring any cost for having to create the 'institutions of state' (because it is keeping them) so any cost incurred by Scotland in replicating them

should be subtracted from any debt agreed.

The outcomes of this are therefore hard to predict – a rough modelling

of various of these options results in difference in Scotland's debt on

independence from about £135 billion to well under £50 billion if Scotland was simply to accept no debt and pay for the creation of all its new

infrastructure itself. In any event, Scotland would want to refinance its debt.

The UK has a lower borrowing cost than a newly independent Scotland will

have – but the UK built up much of its debt at a time when interest rates were much higher. For this

reason, Scotland would be able to refinance its own debt at a cheaper rate, even at slightly higher borrowing costs.

There is an enormous amount that can be said about negotiations,

but little that can be said for certain. The key is to know your strategy well, prepare rigorously and stick to it during negotiations. If Scotland designs its transition to independence carefully (as has been attempted in this book) 81

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there is no reason it cannot expect to go into negotiations with rUK in a strong position – and achieve a favourable outcome.

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Conclusion

If you add up all the costs involved in setting up a Scottish state which are estimated throughout this book, it suggests that in total it would cost about

£25 billion to get Scotland properly ready for the future as an independent nation. However, at least £15 billion of this would come in the form of assets inherited from the UK, and much of the other £10 billion would be offset

against any debt liabilities Scotland was to incur.

As well as this, many of the areas of expenditure either create valuable

assets (for example, the largest single part of the costs is for building up a foreign currency reserve which is a large cash fund the nation would own) or would create systems which would substantially increase revenue. In any case, whatever the start-up cost turn out to be, they are likely to be dwarfed by whatever share of UK debt Scotland accepts. And given that we have

seen how wide a range of numbers that could be, it just isn't possible to say anything certain about the size of Scotland's national debt after independence

– other than that there is no reason at all it should be proportionately higher than the UK's current debt and many reasons to believe it could either be lower or at least could be serviced at less cost.

Then we should stop and think about what the power to spend that

much money during the set-up phase of a new country means; a conservative estimate would suggest that if procurement is handled effectively, something more than (and potentially substantially more than) three billion pounds

would be injected into the Scottish economy, buying goods and services.

More again would be injected into the economy via wages paid. This

economic stimulus will be invaluable in preparing Scotland and its economy to become independent.

This project has been a wide-ranging attempt to explain in some detail what would be involved in establishing Scotland as an independent country.

Where there are difficulties it has not sought to avoid or minimise them.

Where there are unknowns it has not tried to pretend there aren't. It has sought to take an optimistic approach, but always tempered by realism.

What it has not sought to do is make a case for Scottish independence.

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By confining its scope to the three years that would be needed to create an independent state it has not ventured much into the question of why we would want to bother, of what benefit it would bring to the people of Scotland. That argument is for elsewhere.

However that does not mean that it is not possible to see opportunity

in the work that would need to be done. Indeed, it is hard to miss just how big an opportunity this is. To create a fit-for-purpose tax system, to have a defence system which efficiently focuses on defence rather than power

projection, the chance to fundamentally fix public sector IT, the impact of having a proper Customs and Excise system, the chance to build a humane

system of social security, the enormous injection of investment into the

Scottish economy that would result, the thousands upon thousands of jobs it would create, the expertise it would bring to Scotland, the way it would effect how we see ourselves... In so many ways it is possible to see in this technical attempt to understand a transition to independence the very reasons so many people want that independence in the first place.

Those three transitional years will be very hard work. Success is never

guaranteed and must be fought for at all times. Some will find it daunting, others exciting and inspiring. There will be a period of rapid change. These will be three years which demand much industry and energy on the part of

the Scottish nation.

But they are also three years of unprecedented opportunity – a genuinely once-in-a-lifetime chance to transform the lives of an entire nation of people.