Dear Pete,

I welcome this opportunity to provide written evidence to the Scottish Affairs Committee’s (SAC) inquiry into the relationship between the UK and Scottish Governments. From the previous evidence sessions and the written evidence provided by the Chancellor of the Duchy of Lancaster in his letter of the 17th January 2019, the Committee is, I am sure, well versed on the formal intergovernmental relations (IGR) structures. I will therefore not go into further detail on this but rather will take the opportunity to set out my view of the current state of IGR, the future IGR landscape as we leave the European Union (EU) and to provide further information on other issues the Committee has covered in previous evidence sessions, including the role of the Office of the Secretary of State for Scotland (OSSS).

Our IGR architecture is key to the effective interaction of the UK Government and devolved administrations. Some of the evidence to your Committee’s inquiry has sought to paint the current IGR architecture as being broken. However, as I said in my speech marking twenty years of devolution in Edinburgh on 21st February (transcript at Annex A)\(^1\), I do not agree with those who claim that relations between the UK and Scottish Governments are at their lowest ebb. The 2014 Independence Referendum, for example, saw relations between the UK and Scottish Government particularly strained and tested and there has been significant effort on both sides to improve relations and cooperation since then.

For example, the Scottish Government has had clear engagement and input at a ministerial and official level throughout the EU Exit process. Notably, the First Ministers of Scotland and Wales are invited to attend the UK Government cabinet committee for EU Exit Preparedness (EUXT(P)), in order to prepare the whole of the UK for the next steps of EU Exit. We also continue to strengthen relationships and information sharing through our regular ministerial engagement, for example through the Joint Ministerial Committee on EU Negotiations (JMC(EN)) and the Ministerial Forum (EU Negotiations) (MF(EN)). In addition, Scottish and UK Government officials have worked together to ensure that EU Exit public information campaigns and websites work in tandem, reflecting areas of devolution and signposting audiences towards relevant content.

I would however agree with some of the views that the Committee has previously heard that, while there are clear structures in place and good official level joint working, political differences can damage relations. I was disappointed to hear that the Scottish Government had decided to opt out of jointly publishing our recent

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\(^1\) Speech: ‘Devolution after Brexit’ The Secretary of State for Scotland, the Rt Hon David Mundell MP – 21 February 2019

analysis of common frameworks despite working closely with us on the publication and the analysis itself showing clear progress in developing frameworks and a reduction in the areas of disputed competency. Then there is the stated policy of the Scottish Government that it will not seek consent from the Scottish Parliament for UK legislation related to withdrawal from the EU. IGR, especially at a time when we are leaving the EU, require compromise from both the UK Government and the devolved administrations to be viable and therefore are going to be undermined when one side takes a polarised position.

As we leave the EU, our IGR architecture will face further questions and challenges. We will need to build on existing relationships and work more closely together than ever. We will need to manage our new UK regulatory frameworks and we will need structures that work, which respect devolution and encourage collaboration. This will represent a new era of IGR and I am pleased to say that the joint UK Government and devolved administrations IGR review currently underway is considering these questions. It is looking at the principles which should underpin our working relationships, the machinery of devolution, whether we need new IGR forums and how we should resolve disputes in the future.

I note that in addition to covering IGR, the Committee has also been considering the role of the OSSS. Previous witnesses to the Committee have questioned the role of the Secretary of State for Scotland and of the Territorial Offices more generally. Some witnesses suggested a Department for the Nations would be better placed to represent Scottish interests, instead of a dedicated Territorial Office. I strongly disagree with this.

The Territorial Offices for Scotland, Wales and Northern Ireland each play a key role at the heart of the UK Government to ensure the respective constitutional settlements function properly. While it is crucial that we work closely together, the constitutional issues in each part of the United Kingdom are complex and distinct. The OSSS has extensive specialist knowledge and expertise which comes from being at the heart of the development and maintenance of Scotland’s constitutional settlement. In recent years the Office has been central to the transfer of further powers to the Scottish Parliament through the Scotland Act 2016, as well as ensuring the interests of Scotland and the devolution settlement are fully considered as we leave the EU.

In addition to ensuring that Scotland’s unique constitutional settlement continues to function and be understood, the OSSS generally ensures that Scotland’s interests are reflected in the policy work of the UK Government. As the Committee’s evidence sessions show, there was a very different relationship between the UK Government and the Scottish Government in the early years of devolution, based on personal relationships within the Labour Party. When the SNP came into power in 2007 that political alignment ended and there was a clear desire for the relationship between the two governments to become more formalised. This has ensured the continuing importance of the OSSS in representing Scotland’s interests within the UK Government at both an official and political level. As part of this, I believe that Scotland’s interests are best served by having its own separate representation in the Cabinet, rather than being represented by a collective ‘Secretary of State for the Nations’. This is not in the least part due to Scotland’s economy having a very different composition to Wales or Northern Ireland.

The Office also works to engage and represent Scottish stakeholders in the work of the UK Government and to communicate the work of the UK Government in
Scotland. It has a direct role in growing the Scottish economy through delivering the Scottish City and Growth Deals programme, to which we have committed over £1.3 billion to date. This programme is a strong example of Scotland's two governments working constructively and collaboratively together to deliver for the people of Scotland. The signing of the Heads of Terms for the Ayrshire Growth Deal and the announcement for the Quantum by the Chancellor for the innovative Borderlands Deal are just the latest milestones in this collaborative programme between the UK Government, Scottish Government and local partners. Both the Borderlands Deal which understands the shared economic challenges of the south of Scotland and the north of England alongside the Ayrshire Deal will create jobs through shared investment in the local, regional and national economy.

Our policy and constitutional expertise, and extensive stakeholder networks, mean that we are uniquely placed to be at the heart of strengthening devolution and demonstrating the vital role of the UK Government as one of two governments serving people in Scotland. I firmly believe that as we leave the EU and embark on a new and more complex era of IGR, the role that the OSSS plays in promoting Scottish interests within a stronger United Kingdom and giving voice to Scottish interests around the Cabinet table will be more critical than ever.

IGR is a crucial part of the fabric of devolution and as we leave the EU, I believe having the right structures and ways of working can strengthen devolution further. That is why I welcome the Committee’s interest in IGR and I am grateful to the Committee for the opportunity to provide evidence. I know the Committee has taken evidence from a wide range of interested parties, including former Ministers, civil servants, academics and experts on IGR from other countries and I look forward to the Committee’s report.

Rt Hon DAVID MUNDELL MP
SECRETARY OF STATE FOR SCOTLAND

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