

EUROPEAN AND EXTERNAL AFFAIRS COMMITTEE

Date: 9 October 2003

Time: 09:00

Venue: Committee Rooms 3 & 4, National Assembly Building, Cardiff Bay

Title: Devolution and EU Co-ordination

Coverage

This paper gives an overview of the arrangements for involving the Welsh Assembly and Welsh Assembly Government in the co-ordination of EU business.

Overall co-ordination

The relationship between the UK Government and the Welsh Assembly Government on EU issues is governed by the Concordat on co-ordination of European Union Policy issues. Foreign policy issues are not devolved, so relations with the European Union remain the responsibility of the UK Government. However, EU policies have a significant impact in many areas devolved to the Welsh Assembly (see Annex 1 for list of Council formations touching on devolved matters). And the Assembly has significant responsibilities for implementing in Wales policies developed at the European level. The UK Government is therefore committed to involving the Assembly as directly and fully as possible in decision making on both devolved and non-devolved EU matters which will impact on Wales.

Co-operation is subject to mutual respect for the confidentiality of discussions and adherence by all parties to the agreed UK line. This line needs to reflect the interests of all the nations of the UK as a whole. Co-ordination has three objectives:

- To provide full involvement of Ministers and officials of the Assembly Government in policy formulation, negotiation and implementation for devolved issues;
- To ensure that UK can negotiate effectively with other Member States, the Commission and the European Parliament, in pursuit of a single UK policy line which reflects the diversity of the UK, but with the flexibility that fast-moving negotiations require; and
- To ensure EU obligations are implemented with consistency.

Many issues are dealt with by officials from the relevant Whitehall department and DA departments

working in close co-operation. Where wider inter-departmental consultation is needed, either through correspondence or at face-to-face meetings, DA Ministers and officials are also involved. As recognised in the concordat, EU business operates to an externally imposed timetable and there is always a premium on determining the UK negotiating position in good time. It is important to identify possible areas of interest or concern as early as possible.

DA senior officials also attend the weekly meeting between the head of the European Secretariat in the Cabinet Office, Stephen Wall, and the UK Permanent Representative in Brussels, John Grant. These meetings are the key regular official-level EU strategy forum.

The Joint Ministerial Committee in European format (JMC(E)) provides a Ministerial forum in which to discuss items of EU business which are of interest to DAs. It is chaired by the Foreign Secretary and its members include UK and DA Ministers. It met most recently on 6 October. Topics discussed in the last year include: prospects for the forthcoming Presidency; Europe and the regions; prospects for European Councils. It also provides a forum in which to resolve matters which it is not possible to agree at official level.

DA Ministerial participation

Ministers from the devolved administrations may and do attend EU Council of Ministers meetings. They may speak at those meetings, on behalf of the UK as a whole. Since March 2000, Welsh Assembly Ministers have attended 21 Council meetings; 8 of these have been during the last 12 months (including informal Councils); Jane Davidson has led for the UK at the Education, Youth and Culture Council.

Implementation of EU obligations

It is vital that legislation to which the UK has agreed is implemented properly and on time. DAs are fully involved in the implementation exercise, and the degree of their own responsibility for implementation varies with the particular measures being implemented. That may entail the administration of a part of the UK quota, where the obligation is a quantitative one. It also means the devolved administrations undertake to assist the UK Government in the event of proceedings before the European Court of Justice, and to pay any financial liabilities the UK may incur as a result of any failure by the devolved administrations to implement EU obligations properly.

Relationship with the Commission

As permitted under the Memorandum of Understanding, there are extensive informal links between the devolved administrations and the EU institutions, particularly the European Commission. Contact with key Commission officials is a vital way of influencing future policy development and ensuring the Commission is aware of Welsh interests and concerns. Secondment of WA staff to the Commission also helps in this process, as well as increasing the pool of WA officials with first-hand experience of the EU

scene. There are currently 3 Welsh Seconded National Experts (SNEs) in the Commission, one Assembly-sponsored secondment into UKRep and two current Commission stagiaires (11 stagiaires in total during last three years). There have been 3 Ministerial meetings with Commissioners in Brussels during last 12 months.

Relationship between the UK Permanent Representation (UKRep) and the Welsh Assembly Government EU Office (WAG-EUO)

Staff in the Welsh Assembly Government EU Office (WAG-EUO), like those of the Scottish Executive and the Northern Ireland Executive, have diplomatic status and are linked to UKRep. This puts them in a different position to the (unofficial) representative offices of many other member states' sub-national Governments. They can also attend Council working groups when appropriate.

Close co-operation and willingness to share information are central to the relationship between UKRep and Welsh Assembly Government EU Office. This happens in a variety of ways, for example through the Heads of the Devolved Offices attending the weekly meeting which the UK Permanent Representative holds with his senior staff to discuss key issues. There have also been Welsh Assembly Government secondees working in UKREP over the last two years.

The European Parliament

UK MEPs are provided with briefs on all dossiers going through the European Parliament, based on briefing which is sent to the UK Parliament (see below). Officials and Ministers also meet MEPs on specific dossiers.

Parliamentary scrutiny in the UK

Parliamentary scrutiny is the process by which the UK Parliament is given the opportunity to examine and express views on proposals for European Community legislation and other key documents. These are deposited in the UK Parliament and the Government is required to brief on its content and implications. This is done by an 'explanatory memorandum' (EM) which must be made available to Parliament within 10 working days of the document's deposit. The EM summarises the document, its legal, policy and financial implications and the likely timetable of its consideration by the Council of Ministers. EMs also record which proposals touch on the responsibilities of devolved Ministers. The lead Whitehall department liaises as necessary with the devolved administrations in the preparation of EMs, recognising that the implications of a proposal for them may be different for them.

Under the devolution arrangements the Government agreed that the devolved legislatures should have the opportunity to consider and express a view on all EU documents submitted to Westminster for scrutiny. All EU documents and Explanatory Memoranda are therefore copied to the devolved

administrations and legislatures.

Recent co-operation between the UK Government and the DAs

A recent example of co-operation is the agreement of a paper on 'Europe and the regions' which was submitted to the Convention on the Future of Europe and which played a large part in influencing the final Convention outcome in relation to the role of regions.

That paper originated as a joint proposal from the Assembly Government and the Scottish Executive on strengthening the regions' role in the EU. The UK Government and the DAs agreed that a submission by Peter Hain, the Government's Convention representative, on behalf of HMG, the SE and WAG would be the most effective vehicle. Cabinet Office chaired a series of meetings with the DAs and Whitehall Departments to agree the text, which Ministers approved at JMC(Europe).

The paper proposed a series of measure designed to strengthen the role of the regions in EU policy making. The intention was to shape the debate in the Convention by taking a strong UK lead. Peter Hain submitted the paper to the Convention on 7 February, where it attracted a great deal of support. In particular, the Convention text now includes:

- a reference to regions in Art 5 of the new Treaty, which deals with Member States' national identities;
- a new mechanism for national parliaments to monitor subsidiarity; and
- the right of the Committee of the Regions to challenge legislation before the European Court of Justice (ECJ) when it feels that the legislation breaches the principle of subsidiarity.

Not all of the points in the joint paper are reflected in the final convention text. In particular, there is no specific Treaty obligation on the Commission to consult regions directly before legislating. We hope, however, that the Commission's ongoing work on governance will lead to improved consultation, including of regions. Nevertheless, the joint paper provides a good example of the DA-UK Government relationship working to best effect and adding value in helping to shape the European debate.

Contact point:

Cabinet Office European Secretariat

Councils dealing with matters devolved to Welsh Assembly

Agriculture and Fisheries

Agriculture

Fisheries

Food standards

Forestry

Competitiveness

Economic Development

Industry

Education, Youth and Culture

Culture

Education

Training

Welsh Language

Employment, Social Policy, Health and Consumer Affairs

Economic Development

Health

Environment Council

Environment

Natural heritage

General Affairs and External Relations

Structural funds (economic development)

Transport, Telecommunications and Energy

Economic Development

Energy

Transport