

## EUROPEAN AND EXTERNAL AFFAIRS COMMITTEE

**Date:** 29 April 2004

**Time:** 09:00

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

**Title:** Monitoring EU legislation scrutiny in Assembly Committees

### PURPOSE

1. At its meeting on 9 October 2003, the European and External Affairs Committee agreed to scrutinise European Union (EU) documents deposited in the UK Parliament. The Panel of Chairs subsequently endorsed the Committee's proposals.
2. Since November 2003, all subject and standing committees in the Assembly have been receiving lists of European documents (draft legislation and others) that are relevant to each committee's policy area. The scrutiny process is still in the developmental stage and Members' Research and Committee Services (MRCS) are evaluating the resource implications as the system develops.
3. While it is still in its early stages, this paper gives an overview of how the system has worked in the last 5 months. Based on this information, the Committee is invited to agree a way for the process to be taken forward in future.

### ACTION

4. The Committee is invited to comment on the development of the EU scrutiny process so far, and on the basis of the analysis in this paper, to consider the recommendations set out in the advice section below.

### BACKGROUND

#### Why are Committees scrutinising EU legislation?

5. A significant proportion of the subordinate legislation made by the Assembly is brought forward to implement EU legislation. When EU legislation has reached the implementation stage, there is usually limited scope for interpretation. Also, certain types of EU legislation – EU Regulations – have direct effect. This means that they have the full force of the law as soon as they are agreed in the EU and do not need to be transposed into domestic legislation.
6. As a result, the key stages for influencing EU legislation occur while the proposal is still in draft. This can be done, in part, by scrutinising draft proposals as they are deposited in the UK Parliament.

#### How does the process work at the moment?

7. Members' Research and Committee Services (MRCS) have developed a system to enable more effective scrutiny of EU documents (including draft legislation):
  - MRCS receive copies of all EU documents laid in the UK Parliament, and the accompanying explanatory memoranda.
  - These documents are made available on the internet and intranet, via a list that is updated weekly.

- The list of documents is then classified by subject to match the areas covered by Assembly committees.
- MRCS subject teams receive a list of any relevant documents each week. At Committee Chairs' request, they also receive the weekly lists.
- Each MRCS team considers the documents falling within their area of expertise and identifying those of particular significance to Wales.
- A revised list, indicating documents of particular interest, is presented to each subject committee for consideration (the number of documents, and the frequency of the lists, will vary according to the committee – certain committees may have no documents for some meetings).
- The European and External Affairs Committee receives a full listing for all subject areas, to enable it to keep a strategic overview of all documents coming forward from the EU, and is able to scrutinise specific draft legislation under its existing powers.

8. In addition, MRCS have developed a checklist to assist in their consideration of the EU documents.

## **OUTCOMES OF EU SCRUTINY PROCESS**

9. In response to a letter from the Chair of the European and External Affairs Committee to all subject committees, EUR has received feedback from three subject committees on COM (2003) 843 final (a Commission communication on the re-examination of Directive 93/104/EC concerning certain aspects of the organisation of working time). These have fed into a Committee response which was sent to the European Commission.

10. EUR has also drawn the following documents to the attention of other committees:

- COM (2004) 133 final - Annual Policy Strategy for 2005 (marking the start of the Commission's policy cycle) was brought to the attention of all committees.
- The European and External Affairs Committee has identified that COM (2003) 770 final – Application of the Principles of Proportionality and Subsidiarity, was relevant to all Assembly Committees.
- The Chair of EUR wrote to the Economic Development and Transport committee (EDT) to highlight the Communication on a New Legal Framework for Payments in the Internal Market. The Chair of EDT replied that the committee had decided not to look at the document in more detail.
- The Communication from the Commission to the Council and the European Parliament (The World Summit on Sustainable Development one year on: implementing our commitments) was highlighted for consideration by EPC.
- The various proposals for a Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) were brought to the attention of EDT and EPC.

## **ANALYSIS BY COMMITTEE**

11. The table at Annex A details the number of documents that have been sent to each committee since the end of November 2003. This information is shown in a chart at Annex B. The data show that at 14 April 2004, subject and standing committees had received lists with a total of 178 EU documents relevant to their individual subject areas.

Members should note that these figures do not include documents that have been referred from other committees, or the full subject listing of documents that EUR receives for information at every meeting.

12. The information shows that some committees receive a significantly higher number of documents than others. It also shows inconsistency of approach in the way documents are considered across committees.

## CASE STUDIES

13. Annex C gives examples of how the scrutiny process works in two sample committees, to illustrate possible ways for the process to be taken forward.

## ADVICE

14. It is recommended that the Chair reports to the next Panel of Chairs meeting on 15 June 2004, and makes the following suggestions on how the system of EU scrutiny could be refined:

- Consideration of EU documents should be an agenda item, not a paper to note.
- EU documents should be considered at alternate meetings of subject committees. Should any documents of significance arise in the period between meetings, MRCS and the subject committee Chair should take appropriate action.
- A standard format should be adopted for presenting EU documents to committees. This should include a brief summary of each document, and an indication of whether or not it is a proposal for legislation.
- MRCS to consider options for other committees to provide regular feedback to the European and External Affairs Committee on their scrutiny of EU documents.
- MRCS to consider options for collecting regular feedback on the system from Members of Committees and Committee Chairs.
- The Committee should review this system again after the autumn term.

### Contact Point Members' Research and Committee Services

Annex A

## EU documents received by Assembly Subject Committees

<b>Culture, Welsh Language and Sport (CWLS)</b>	<p>The Chair of CWLS has received two documents referred from the Chair of EUR (the European Commission's Annual Work Programme and the paper on changes to the Working Time Directive). The committee did not discuss either of these documents.</p> <p>No other EU documents have been brought to the attention of the Committee.</p>
<b>Economic Development and Transport (EDT)</b>	<p>The Committee has received a list of EU documents from MRCS at every meeting since December 2003 (with the exception of meetings with focused agendas, such as the transport meeting on 1 April 2004). At some meetings this has been in the form of a paper to note and at others it has been an agenda item.</p> <p>EDT reported its views back to EUR on the Working Time Directive paper.</p> <p>In total, EDT has received 55 documents of interest in four meetings. With the exception of the Working Time paper (above), the Committee has decided not to discuss any of these in more detail.</p>

<b>Education and Lifelong Learning (ELL)</b>	<p>The ELL Committee received a paper (for an agenda item) from MRCS on 25 February 2004, covering three documents of interest.</p> <p>The Committee did not consider any of these documents to be relevant for further scrutiny. ELL will be receiving another paper from MRCS as an agenda item at its meeting on 28 April, covering seven documents of interest.</p>
<b>Environment, Planning and Countryside (EPC)</b>	<p>EPC has received lists from MRCS at two meetings so far. Both of these have been papers for agenda items.</p> <p>In total, the committee has seen a list of 55 documents; 28 of these have been identified by MRCS as 'legislative' and 27 as 'non-legislative'.</p> <p>EPC Members highlighted 3 of these documents as being relevant for further scrutiny. These are to be discussed in future meetings during the summer term.</p>

<b>Health and Social Services (HSS)</b>	<p>HSS received one MRCS paper at its meeting on 3 March 2004, (as an agenda item), outlining 11 documents in total (6 that MRCS believe 'could be significant', 5 as papers to note).</p> <p>The Committee identified two items as being of possible interest. On one of these (proposals for changes to the Working Time Directive), HSS has reported its views back to EUR.</p>
<b>Local Government and Public Services (LGPS)</b>	<p>LGPS has reported back its views to EUR on the paper outlining changes to the Working Time Directive.</p> <p>No other documents have been brought to the attention of Members of the LGPS Committee.</p>
<b>Social Justice and Regeneration (SJR)</b>	<p>SJR has received a total of 10 documents. Some of these have been incorporated in a current awareness briefing produced for Members by MRCS, and others have been sent as a paper to note.</p> <p>SJR has not discussed any of the documents it has received from MRCS.</p>

### EU documents received by Assembly Standing Committees

<b>Equality of Opportunity (EOC)</b>	<p>10 documents have been sent to the Committee by MRCS. Eight of these have been 'to note for information', and two have been highlighted as being of potential significance. Consideration of EU documents is an agenda item at each meeting.</p> <p>EOC has agreed to consider these two documents (the EQUAL annual report and the annual report on gender issues) at its next meeting on 20 May 2004.</p>
<b>European and External Affairs (EUR)</b>	<p>45 documents of specific relevance to EUR have been sent to the Committee by MRCS. Consideration of EU documents is an agenda item at every EUR meeting.</p> <p>EUR has referred a number of documents to other committees for consideration (details of these are in paragraph 10, above).</p> <p>EUR Members also receive complete lists of all deposited documents that have been highlighted for other committees, so that the Committee can keep a strategic view of the system.</p>

## Chart showing EU documents received by committees



## ANNEX C

### CASE STUDY 1

- MRCS divide documents into 3 categories:

‘Legislative’ documents – e.g. draft regulations, draft directives. Background information is provided on each document in an annex to the Committee paper, and items likely to be of interest are shaded.

‘Non-legislative’ documents – e.g. Commission communications, annual reports. Brief background information is provided in an annex and items likely to be of interest are shaded.

Documents that are considered to be not relevant – such as documents relating to matters between the EU and non-EU countries, the accession of new Member States etc. These are not listed, but the number of documents in this category is included as a footnote for the Committee.

- The covering paper to Committee Members suggests that they:

- a. Seek information from the Minister on the likely impact of the proposals in Wales;
- b. Seek information from the Minister on whether the Assembly Government has scope to influence the proposals and, if so, plans to make representations to the UK Government and/or European Commission;
- c. May wish to identify for future scrutiny those items where there is scope for influence.

- The Committee considers EU documents at the first meeting of each term and at alternate meetings after that. So far, two

meetings have scrutinised EU documents.

Note: in Case Study 1, it should be remembered some 'non-legislative' documents may ultimately lead to a major legislative proposal, and should not therefore be considered to be of less importance.

## **CASE STUDY 2**

- MRCS consider the weekly list of documents and divide them into two categories:

Documents that could be significant – e.g. documents which the Committee may have an interest in, such as a draft proposal on an issue which has been discussed/will be discussed in Committee, or those on which Members may have an opportunity to comment. Background information is provided on each document.

Documents to note for information – these would be documents on subjects which may interest Members, and are worth noting, but may not be of particular interest to the Committee. Examples have been Commission reports on a cross-cutting area such as finance, and minor amendments to significant draft legislative proposals.

Documents that are not relevant - these are not included in the list to Committee.

- The covering paper to Members suggests that they note the list of documents.
- The Committee considers the list of documents at every meeting.