

European and External Affairs Committee

Date: 11 November 2004
Time: 9.00 – 12.20
Venue: National Assembly for Wales, Cardiff Bay
Title: EU legislation scrutiny in Assembly Committees

Purpose

1. At its meeting on 9 October 2003, the European and External Affairs Committee agreed an approach to scrutinising European Union (EU) documents deposited in the UK Parliament. The Panel of Chairs subsequently endorsed the Committee's proposals.
2. A progress report on the process was discussed by this Committee on 29 April 2004 and following this, the Panel of Chairs on 15 June 2004 agreed to some changes to the way in which EU legislation scrutiny is being handled by the Assembly's Committees. This Committee agreed to review the process again after the autumn term and this is the purpose of this paper.
3. Some further work has been done to consider the best way of refining the system to make it more effective, to take on board the experience gained in the first 12 months of operation and the feedback received from Members and Committees. This paper suggests a way forward, built around the Commission's Annual Work Programme.

Action

4. The Committee is invited to comment on the suggested way forward for the EU scrutiny process, and on to consider the recommendation set out in the advice section below.

Background

Why are Committees scrutinising EU documents?

5. A significant proportion of the subordinate legislation made by the Assembly is brought forward to implement EU legislation. However, when EU legislation has reached the implementation stage, there is usually limited scope for interpretation or variation locally. Also, certain types of EU legislation – EU Regulations – come into immediate 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. Other proposals for EU legislation, if they become laws, have a direct impact on Wales, even if they do not require Assembly subordinate legislation to be implemented.
7. As a result, the key stages for influencing EU policy and legislation occurs while the proposals are still in draft. This can be done by scrutinising EU documents as they are deposited in the UK Parliament.
8. This regular scrutiny of EU documents also helps the Assembly's Committees to be kept aware of emerging issues and progress through documents such as Working Papers and Annual Reports.

Issues raised about the current system

9. Annex A is a reminder of how the system works at present.
10. Some Members and Committees have raised concerns about the difficulty in understanding the language that is associated with the lists that they receive. There is also a concern that it is not always clear as to what action if any the Committee can take in response to a particular EU document. As a result a standard template for EU legislation Committee reports has been introduced to try and address these concerns (see Annex B). The template sets out, as best we can, for each item, the implications for Wales and possible action that could be taken in response.
11. Another concern is how to identify the items of real significance to Wales from the large number of documents received. This is a particular issue for those Committees whose portfolios are most affected by EU legislation (the Environment, Planning & Countryside and Economic Development & Transport Committees). On average, about 20 new documents from the Commission are received each week. There remains a resource problem in identifying from all of the documents received, those which are significant and as such justify further scrutiny by Assembly Committees. There is also a concern that this process still picks up legislative proposals at a late stage and one at which the scope to influence them is limited.

Suggested new approach

12. It is proposed that the European Commission's Annual Work Programme should in future be the starting point for identifying which documents are important. Each Committee could be presented with an analysis of the Work Programme for the coming calendar year in the form of a report from the Clerk that suggests the key areas of proposed legislation and emerging policy in their subject areas that they could consider monitoring and scrutinising. The European and External Affairs Committee could also continue to consider the entire work programme and suggest topics for scrutiny by other Committees. The work programme for 2005 is expected to be available in December 2004.
13. The agreed priorities from the Annual Work Programme could then be used by Members and MRCS to identify relevant documents during the year that might lead on to legislative proposals and that Committees may wish to examine further. Most of these would likely to be in the form of Commission consultations, UK Government consultations on Commission proposals, Green Papers or White Papers.
14. A complete list of all documents 'deposited in the UK Parliament' could still be produced for information purposes, divided into broad subject areas and made available to this Committee and

other Committee Chairs. This would allow a smooth transition to the new system – and provide a check that nothing is being missed.

15. When documents are received that relate to the agreed priorities, MRCS would produce a short paper for the relevant Committee(s), providing further background information using the standard format that has been developed. This would include the type of document, whether it is draft legislation or not, its potential significance to Wales, the current position and the scope for action. The frequency of such papers to Committee would depend on the number of priority areas identified and the volume of documents received from the Commission. The largest volumes are likely to continue to be for the Environment, Planning & Countryside and Economic Development & Transport Committees.
16. On receipt of such a report, the Committee could be asked as now to consider which items if any it wishes to consider further. Depending on the status of the document, the Committee could either: agree to respond directly to the Commission or the UK Government department if it is a consultation; or ask the Minister to provide further information on the implications for Wales and the position of the Welsh Assembly Government on the proposals; or take such other action as seems appropriate in the circumstances.
17. The appointment of an MRCS European Officer based in Brussels provides further opportunities to develop an ‘early warning system’ for emerging proposals of significance to Wales. The post-holder will be able to assist with the analysis of the annual work programme to help Committees identify their priorities. She will also provide another potential outlet for Committees to influence these proposals through the post-holder’s contacts in Brussels.
18. The European and External Affairs Committee would continue to oversee the process and receive information about how other Assembly Committees are dealing with scrutiny.

Recommendations

19. It is recommended that the Chair reports to the next Panel of Chairs meeting on the 7 December proposing that after the publication of the European Commission’s Annual Work Programme, Committees should adopt the revised approach to the scrutiny of EU documents that is outlined in this paper. This would begin with each Committee receiving a report from their Clerk on the Annual Work Programme, probably in January 2005, and being asked to agree its priorities for scrutiny for the next calendar year.

Members’ Research and Committee Services

Annex A

How does the process work at the moment?

The Members’ Research and Committee Services (MRCS) have developed a system to assist with scrutiny of EU documents (including draft legislation):

- MRCS receive copies of all EU documents laid in the UK Parliament, and where they exist, the accompanying explanatory memoranda.
- These documents are made available on the internet 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 documents that appear from an initial sift to be relevant 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 identifies those of particular significance to Wales.
- A reduced list, indicating documents of particular interest, is presented to each 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). A standard template for these reports is now used, that identifies legislative and non-legislative documents separately and also provides information on their significance to Wales and possible action that that the Committee could take (see Annex B).
- 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. The Chairs of other Committees are invited in turn to talk to EEA Committee about European Issues, including how they are handling the scrutiny process.

Annex B

Legislative proposals of interest to the xxx committee, deposited in the UK Parliament (from ... [date] to ... [date])

MRCS Ref.	Title	Link	Commentary and relevance to Wales	Opportunity and timescale for action
from database	EU Ref: e.g. COM(2004) 672 Title:			

Non-legislative documents of interest to the xxx committee, deposited in the UK Parliament (from [date] to [date])

MRCS Ref.	Title	Link	Commentary and relevance to Wales	Opportunity and timescale for action

Remaining legislative and non-legislative documents deposited in this subject area and not considered of interest

MRCS Ref.	Title
	EU Ref: e.g. COM(2004) 672 Title: