



William Cash MP
Chairman
European Scrutiny Committee
7 Millbank
House of Commons
London SW1P 3JA

25 October 2010

Dear Bill

European & External Affairs Committee – Subsidiarity Monitoring

Firstly may I congratulate you on your appointment as Chair of the European Scrutiny Committee of the House of Commons.

On 6 July the European and External Affairs Committee, which I continue to chair, considered a paper on developments in relation to the Subsidiarity Protocol in the Lisbon Treaty and the approaches being adopted by other regional parliaments (attached for information). In discussion it was agreed that I would write to you, and your opposite number in the House of Lords, to seek confirmation that previous undertakings to take account of views of the National Assembly for Wales on subsidiarity issues would continue in this Parliament, in the absence of any formal protocol with the devolved legislatures.

Following the re-establishment of your European Scrutiny Committee, I welcome continued good relations between the staff of our Committees in exchanging information on scrutiny matters.

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I can also report positive developments in Wales regarding this Committee's requests for our Government to provide information to facilitate the EU legislative scrutiny process. On 4 May the First Minister for Wales undertook to provide details of explanatory memoranda for EU legislative proposals on which the Welsh Government has been consulted by the UK Government. A process is now in place whereby it will forward final explanatory memoranda that include its views on subsidiarity matters to the National Assembly for Wales, at the same time that these are provided to the UK Parliament.

You may also be interested to know that, as part of a current review of the Assembly's Standing Orders, the Committee is seeking the following:

- i) a recognition of powers for the European and External Affairs Committee to submit formal views to the UK Parliament on subsidiarity matters on behalf of the National Assembly for Wales, and
- ii) a recognised emergency or exceptional circumstances procedure to be adopted to cover those occasions when the 8-week consultation timeframe coincides with Assembly recess periods, thereby preventing normal consideration.

The rationale for the first point is that whilst it would be ideal for the whole of the National Assembly for Wales to be able to consider and endorse reports on subsidiarity matters in plenary session, this would inevitably delay the process of submitting Welsh concerns to the UK Parliament within the tight timeframe available. The European and External Affairs Committee, or its equivalent in the Fourth Assembly starting from May 2011, may therefore need to be formally recognised in Standing Orders as having plenary-type powers to make its case within the eight weeks.

Where possible the responsible Committee will consider proposals which raise subsidiarity concerns in formal session, but point ii) above recognises that where Assembly recess periods prevent such normal consideration, it would also be helpful to recognise a procedure that allows views to be put forward prior to formal endorsement by the Committee.

The Parliamentary Committees of the House of Lords and Commons have previously given undertakings to consult with officials in Wales and to take account of views, however informally they may be presented. I have therefore suggested that if the responsible Committee Chair at this end endorses the submission of a view based on legal advice from the Assembly's Legal Services, it could be presented to the UK Parliament for consideration in a timely manner within its scrutiny process. That view would then be communicated to other Committee Members in advance of the next formal Committee meeting.

These matters are still under consideration by the Assembly's Business Committee, which will be meeting in public this autumn to consider how Standing Orders may be revised in advance of the Assembly elections next year.

I note that the Chair of the Scottish Parliament's European and External Relations Committee has also written to you regarding its approach to subsidiarity issues, and I look forward to discussing this and other matters of common interest at the next meeting of the EC-UK Forum in the New Year, which I understand you are due to host.

Yours

A handwritten signature in black ink that reads "Rhodri". The signature is written in a cursive, slightly slanted style.

**Rt Hon Rhodri Morgan AM
Committee Chair**

Enc: EUR(3)-11-10: Paper 2 – Subsidiarity Protocol