

NATIONAL ASSEMBLY FOR WALES: EUROPEAN AFFAIRS COMMITTEE

1999-2000 REPORT

Plan

[Preface by the chair]

1. Background

2 a brief summary of the committee's activities to date

a. The assembly's relations with the institutions of the European union

- The assembly's liaison arrangements with UKRep and the UK Government

- The assembly's procedures for the scrutiny of European matters

- Monitoring the general impact and consequences for Wales of policies pursued by institutions of the European union

3 Forward look

Annexes

Annex A: European affairs committee - Terms of Reference

Annex B: Membership of the European Affairs Committee.

PREFACE BY THE CHAIR

[to follow]

1. BACKGROUND

1.1 The remit of the Committee on European Affairs is set out in Standing Order 15 (Annex A). A list of its members is at Annex B. This Report is made under Standing Order 15.5 and is intended to inform the Assembly's annual debate on matters related to the European Union under Standing Order 6.5.

1.2 In broad terms, the purpose of the European Affairs Committee is to ensure that a coherent strategic approach is adopted by the National Assembly in relation to Europe. The Committee is intended to ensure that there is a consistent approach to the Assembly's responsibilities in relation to the European Union in each of the subject committees. However, its role is not to take the place of subject committees but to support them and ensure they are not operating in isolation from each other.

1.3 In order to facilitate a free and continuous exchange of information between Assembly members and Welsh representatives in the various European institutions, members agreed that:

- Welsh MEPs;
- Welsh representatives on the Economic and Social Committee (ECOSOC);

- Welsh representatives on the Committee of the Regions;
- the European Commission Representation in Wales; and
- the Head of the Assembly's Office in Brussels

will routinely receive Committee papers and will be free to speak at any meetings of the Committee. These representatives have been asked to report regularly to the Committee on European developments of interest to the Assembly.

2. A BRIEF SUMMARY OF THE COMMITTEE'S ACTIVITIES TO DATE

2.1 The Committee's remit requires it to keep under review:

- (i) the Assembly's relations with the institutions of the European Union, and its methods for informing and advising those institutions of the needs of Wales;
- (ii) the Assembly's liaison arrangements with UKRep, and with United Kingdom government departments on European issues;
- (iii) the Assembly's methods and procedures for the consideration of documents, issues and questions emanating from European institutions, having particular regard to the need for liaison with Members of Parliament responsible for scrutiny of European matters of particular relevance to Wales.

The Committee is also required to monitor the general impact and consequences for Wales of policies pursued by institutions of the European Union.

2.2 The Committee's activities in each of these fields is considered below.

The Assembly's relations with the institutions of the European Union

2.3 The nature of the Assembly's **representation in Brussels** has been a priority for the Committee. Although there were lessons to be learned from the experiences of other regions in developing a presence in Brussels the Committee agreed that Wales had to have its own distinctive approach to meet Welsh circumstances.

2.4 Members recognised that an arrangement with the United Kingdom's Permanent Representation to the European Union (UKRep) was essential in order to guarantee diplomatic status and access to UK Government information. However, because the Assembly had a different role to that previously played by the Welsh Office, there was an opportunity to take advantage of working with the Wales European Centre (WEC) as well as with UKRep.

2.5 WEC's activities include assistance in policy monitoring, advocacy and lobbying, networking, study visits and providing information and seminars back in Wales. It could also work with the European

Commission, European Parliament and the European Economic and Social Committee (ECOSOC). However, it was not able to work with the Council of Ministers: Wales has to do this as part of the UK via UKRep.

2.6 The WEC could provide added value in enabling the Assembly to benefit from the contacts and profile that it had built up to date. By joining the other 76 WEC members, the Assembly could help to further the 'Team Wales' approach. Indeed, the WEC has recently moved to new premises, which had been secured with the possibility of an enhanced role under the Assembly in mind.

2.7 Members felt that it was essential that Wales was seen to be present in Brussels in its own right as well as being there as part of the UK. As a result, the Committee endorsed a complementary approach to the Assembly's representation in Brussels by setting up an Assembly Office in Brussels with officials acquiring diplomatic status giving them official access to the UK's Permanent Representation to the European Communities; and by becoming a partner in the Wales European Centre (WEC). The Assembly's office would provide specific services for the Assembly which it would not be appropriate for the WEC to offer, or which the WEC is unable to offer.

2.8 The Assembly voted in favour of joining the Wales European Centre during the plenary debate on the 29th February. The Assembly Office was opened in May 2000 and is headed by Des Clifford, supported by an Executive Officer. The two Assembly staff are based in the same building as the WEC and will also be able to 'hotdesk' at the offices of the UK's Permanent Representative (UKRep) as fully accredited diplomats. Members of the Committee had the opportunity to visit the Wales European Centre's new premises during their visit to Brussels on the 2nd and 3rd March.

2.9 Another Committee priority has been **secondments to European Union Institutions**. In the past, secondments of civil servants to Brussels from the Welsh Office had been primarily designed to assist individuals to gain wider experience and enhance their careers. In this respect, secondments to the EU had been seen in the same context as those to other organisations within Wales.

2.10 Members felt that it is now more appropriate to look at secondments to the EU in terms of actively promoting the interests of the Assembly and ensuring that, on returning to the Assembly, individuals were placed in posts which would benefit from their experience in Brussels. The possibility of secondments to the EU was advertised to staff on 19 November and considerable interest has already been shown.

2.11 The Committee has encouraged the Assembly to take a more strategic approach towards placing individuals in European institutions. The Scottish Office and the Irish Government have taken time to get their officials placed in key positions in Europe in a way in which Wales had not done in the past. Members believe that it is crucial to make as much of the talents of staff as possible within the relatively small pool of the Assembly. The Assembly has agreed a target of 6 secondments per year by 2003. Wales also has the advantage of also being able to second staff to the Assembly Office and the WEC.

2.12 A highlight of the year was the highly successful **Committee visit to Brussels** on 2 and 3 March 2000. All Members of the Committee participated in a full programme of meetings and events. The first day of the visit included meeting Welsh MEPs, a tour of the European Parliament, a visit to the new building, attending a reception arranged by the Wales European Centre and a dinner hosted by the United Kingdom's Permanent Representative. The second day of the visit included meetings with senior officials from the United Kingdom Permanent Representation, a reception hosted by Commissioner Kinnock, which included an opportunity to meet people from his Cabinet and other European Commission representatives, and presentations by a number of Welsh officials working for the Commission.

The visit also enabled the Committee to formally submit the Assembly's application for membership of the Wales European Centre (WEC) and to highlight the forthcoming opening of the Assembly Office in Brussels.

2.13 The all-party visit also had symbolic significance because it reflected the importance for all members of raising the profile of Wales and the National Assembly in Europe. The visit helped to emphasise Wales' much enhanced presence in Brussels and made a clear statement of the Assembly's collective determination to form and maintain good working relationships with the institutions in Europe.

2.14 Members also considered:

- a UK White Paper on Developments in the EU which is issued on a six-monthly basis.
- the representation of the European Commission in Wales. The European Commission's Wales office was established in 1973. It is a part of the EC Secretariat General and has responsibility for political reporting, political relations and press and communications. As well as sending a daily report to the EC on activities in Wales, the Representation also provides briefing for the EC on developments regarding devolution, provides information working through local providers, runs seminars and briefing sessions.
- how the Assembly is developing relations with regions overseas, and in particular its links with the "Four-Motor" regions of Baden-Wurttemberg (Germany), Catalunya (Spain), Lombardy (Italy), and Rhone-Alpes (France); and with Oita (Japan), New South Wales (Australia) and Ontario (Canada). Members recognised that the benefits which accrue from this type of programme are often intangible. However, any relationship which raises the profile of Wales could be important in the long term. Current activities to raise the profile of Wales, included developing a promotional package in collaboration with other agencies such as the WDA, the Wales Tourist Board and the WEC.
- the Assembly's participation in European organisations such as the Committee of the Regions, the Congress of Local and Regional Authorities, the Assembly of European Regions, and the Conference of the Peripheral Maritime Regions.

The Assembly's liaison arrangements with UKRep and the UK Government

2.15 The UK Government is the main formal vehicle for Wales' representation within the European Union (EU) institutions. Members acknowledged that it will be important for Assembly Secretaries to attend Council of Ministers meetings in Brussels not only because this is where decisions are made which affect Wales but also in order to raise the profile of Wales.

2.16 The Committee recognised that it is critical that the National Assembly establishes efficient channels to ensure that Wales' voice is heard within the UK prior to UK representations to EU institutions. Whereas federal constitutions such as Germany's allocate exclusive competence on particular issues to particular tiers of government, the National Assembly for Wales shares competence for all of the policy areas identified in the Transfer Order with the United Kingdom government. It is therefore vital that the Assembly maintains close links with lead Whitehall Departments in respect of both domestic and European policies, and arrangements for these are outlined in the Memorandum of Understanding and the Concordat on Co-ordination of European Union Policy Issues. The concordats are the most direct means of ensuring influence on the development of policy. Members considered in detail a Report on the Concordat between the Cabinet of the National Assembly for Wales and the UK Government on the Co-ordination of European Union Policy Issues

2.17 The Committee's views were made clear on the proposals for the current Inter-governmental Conference. Much of the agenda for the IGC was concerned with getting the European Union's institutions into a position where it can service properly potentially up to 27 members. The consequences for Wales are likely to be largely indirect. The mechanism for Welsh input into the Conference and for regional governments to be represented in national delegations is defined by the Concordat on EU policy issues which exists between the Assembly and the Foreign Office. This means that the Assembly receives information about the development of the UK's line and is able to influence it. . Members agreed that the Committee's views on the number of MEPs for Wales; the competence and efficiency of the European Court of Justice; and qualified majority voting on cultural issues should be communicated to the Foreign Office.

The Assembly's procedures for the scrutiny of European matters

2.18 The European Union's policy-making process is long and complicated, and has evolved over the years through changes to the Treaty and informal changes in procedures. In effect there are three stages in the European Union's policy-making process - pre-legislative (informal); legislative (formal); and implementation.

Pre-legislative Stage (Informal)

2.19 Ideas for Commission policy come from a variety of sources, though formally only the Commission can initiate the policy-making process. Commission officials welcome discussions with a wide range of people at this stage, and want to hear different opinions since this type of input improves the quality of the draft policy which emerges from the Commission. The Commission's Annual Work Programme, the Commission's Five-year strategy, Presidency priorities and conclusions from European Council

meetings provide a good indication of the main issues which are under consideration at any particular time.

2.20 The informal policy stage will become increasingly important as the European Union has recently moved away from legislation towards co-ordination of policy. Much of the Lisbon agenda will be implemented through voluntary co-ordination of policies by Member States via bench-marking, rather than through EU legislation. Most proposals at the pre-legislative stage relate to detailed and technical issues.

2.21 In the past, Policy Divisions within the Assembly have received details of Commission proposals in a number of ways:

- From the European Affairs Division, which acts as a co-ordination point for all information relating to the EU which the Assembly receives
- From lead departments in Whitehall, who are obliged to provide information as outlined in the Memorandum of Understanding and Concordats
- From personal contacts with Commission officials, UKRep or other sources.

The Office of the Counsel General also receives information via the Cabinet Office Legal Advisers and the Treasury Solicitor's European Division.

2.22 Members considered how the Assembly could most effectively receive information and influence policy at this stage. They agreed a process to enable the **Subject Committees** to take full account of the European dimension within their work programmes. Under current arrangements subject committees should consider policies relevant to their remit. However, a mechanism needed to be developed to alert subject committees to issues which are of interest to them. This would also help to emphasise the co-ordinating role of the European Affairs Committee and its capacity to support Subject Committees in their work.

2.23 In November 1999 the then First Secretary wrote to all Assembly Secretaries asking them to commission reviews of the impact of European Union policies on their areas of responsibility and to report to the relevant subject committees as appropriate. Five papers were commissioned:

- Economic Development
- Agriculture
- Education and Training
- Health
- Transport, Planning and the Environment.

All of these reports have been completed and sent to the relevant Assembly Secretary. These reports have been forwarded by Assembly Secretaries to Subject Committees.

Legislative Stage (Formal)

2.24 All EU policies are drafted by Commission officials, and the formal legislative stage of the policy-making process begins when the Commission publishes a proposal. The precise route that a proposal will take through the other institutions depends on its legal basis, and whether it is subject to co-decision or not. Most proposals are now considered by the Council of Ministers and the European Parliament, both of whom have a significant impact on the final decision. The Committee of the Regions and the Economic and Social Committee are both consulted, though their Opinions are less influential than those of the European Parliament.

2.25 The Committee has recognised the importance of establishing links with representatives on all of the relevant Institutions and committees which consider Commission proposals for legislation:

- **Council of Ministers** – The Concordat on Co-ordination of European Union Policy Issues states that Assembly Secretaries have the right to attend meetings of the Council of Ministers as part of the UK delegation where "...substantive discussion is expected on matters likely to have significant impact on their devolved responsibilities". Assembly Secretaries speaking at such meetings are expected to advance the single UK negotiating line.
- **COREPER** – attendance at the Committee of Permanent Representatives is restricted to officials from the official delegation of each Member State to the European Union. Wales' interests are represented by UKRep.
- **Working Groups** – there are a total of 190 Working Groups. These consist of subject specialists from official delegations (UKRep in Wales' case), supported by experts from the lead Whitehall department. Assembly officials are able to attend where there is reason for them to do so, though there are very few examples where this has happened.
- **European Parliament, Committee of the Regions and the Economic and Social Committee** – Welsh members of the European Parliament, Committee of the Regions and the Economic and Social Committee are invited to attend Committee meetings. Most of the representatives have taken advantage of this opportunity and attend when diary commitments permit. This has provided an opportunity for them to make an input into the work of the Committee, and for the Committee to benefit from their knowledge and experience.

2.26 There has been much discussion about the remit of the Committee and the fact that the equivalent Scottish Parliament Committee was originally attempting to consider all proposals for legislation by the European Council and other documents coming from the EU. In the light of the experience in the Scottish Parliament the Committee has accepted that neither it nor the subject committees will have the time or resources to formally scrutinise all draft European legislation affecting Wales. There is a vast array of legislation which applies to the UK as a whole and which it would not be productive to consider at the Wales level.. The Committee felt that a system of allowing individual Assembly Secretaries and the corresponding subject committees to deal with the legislation and any policy developments applying to their area, was a more effective means of approaching this. However, concerns have been raised about the possibility that some EU legislation might fall by the wayside because it didn't fit neatly within any Assembly Secretary's remit.

Implementation

2.27 There are two main types of European legislation – Regulations and Directives. Regulations are binding in their aim and specify precisely how they are to be implemented in a uniform manner throughout the EU. Directives specify the aim, but are implemented in each Member State through secondary legislation, which gives governments flexibility to implement according to their own circumstance, as long as the legislation keeps to the spirit of the Directive. Failure to implement secondary legislation may lead to infraction proceedings whereby the Commission will bring a case against the relevant Member State before the European Court of Justice.

2.28 The Assembly has to be designated under section 2(2) of the European Communities Act 1972 for it to have the legal power to implement European Directives through Statutory Instruments. The first Designation Order was made in October 1999, which gave the Assembly powers to implement Directives in relation to certain agriculture, forestry and health matters. A second Designation Order covering transport, planning and the environment will be made soon.

2.29 The Committee has approved arrangements to track Directives which need to be transposed into Statutory Instruments. Draft Orders intended to implement individual directives in Wales will be scrutinised in accordance with the procedures set out in Standing Order 22 in the same way as any other legislation which the Assembly proposes to make. European Affairs Division maintains a central monitoring system for implementing arrangements in Wales which is essential to ensure that European decisions are implemented on time and infraction proceedings are avoided. These arrangements have only recently been put into place and it is too early to review this procedure at this stage.

Monitoring the general impact and consequences for Wales of policies pursued by institutions of the European Union

2.30 The Committee agreed to establish a Wales Forum on European Affairs which would enable participants to receive and exchange information on European matters. The Forum should be exploratory and interactive in nature and have the opportunity to develop over time. The guest list would change to reflect the topic under discussion and to enable more grass roots 'practitioners' to give feedback on their experiences at first hand. A thematic approach would enable the Forum to explore the major themes in depth and allow officials to target invitations accordingly.

2.31 The first meeting of the **Wales European Forum** was held on 22 October at the Cardiff International Arena. It was attended by over 100 delegates from a wide range of public, private and voluntary sector organisations. The First Secretary gave a short opening address before introducing European Commission Vice President Neil Kinnock to deliver a speech about the new Commission's prospects and the implications for Wales. For the remainder of the day, delegates were divided into smaller working groups. The day was generally well received and the working groups and plenary sessions stimulated lively debate.

2.32 A half-day event on "Europe and business" took place in South Wales in May 2000 on the themes of the Single Currency and Expansion of the EU to Eastern Europe with Lord Brittan of Spennithorne as the Principal Speaker.

2.33 Members also considered:

- a Report on the INTERREG Conference, Dublin, 24 September 1999 which had demonstrated that the relationship between Wales and Ireland on the INTERREG project had been very successful for both countries. The project is now being rolled forward into a second Wales/Ireland INTERREG programme
- the European Commission's Forward Work Programme which outlined the work which the Commission would be aiming to achieve during the current year . One of the most important areas it would consider was promoting new forms of governance.
- the Priorities of the Portuguese Presidency
- the implications and opportunities for Wales of Enlargement of the European Union. Enlargement would not just bring economic changes. The proposed new members are mainly from Central and Eastern Europe, and this will have a profound effect on the politics, culture and evolution of the EU. The whole issue of enlargement is vast. It had been chosen as one topic to be considered at the European Forums and it would also feature on future agendas of the Committee.

Forward Look

3.1 At its last meeting the Committee agreed the following recommendations for a systematic programme of action designed to develop expertise in European matters within the Assembly and to encourage closer links with European institutions. The Committee will review progress throughout the next year.

Developing Expertise

- The Assembly's Office in Brussels and the European Affairs Division in Cardiff should develop closer links with Policy Divisions and the Office of the Counsel General and assist them to understand the strategic direction of the European Union.
- Policy Divisions (and the Office of the Counsel General) should increase their awareness of the European Union and its impact on their area of work. It may be necessary to identify lead officers at a relatively senior level in divisions or Groups to develop expertise and establish new contacts and procedures. Study visits to Brussels, and short placements in the Assembly's Office in

Brussels could be considered. Lead officers could develop a range of links in Whitehall, UKRep, in the Commission and with Welsh representatives on EU institutions. They could broaden the expertise within their Divisions by training others.

- Personnel Management should seek to broaden the pool of officials with experience of the European Union by identifying officials with relevant experience and linguistic skills, and encouraging others to gain such experience through secondments.

Developing Links

- Some Divisions should develop closer links with lead Whitehall Departments. Officials already attend meetings in London before Working Groups and Council of Ministers meetings in Brussels to ensure that Wales' views are considered in establishing the UK line.
- Closer links need to be developed with UKRep. The Committee on European Affairs established good links with UKRep during its visit to Brussels in March, and a senior diplomat visited the Assembly to meet Heads of Division at the end of May. Some Policy Divisions have excellent and long-established links with UKRep, whilst others have none.
- The Assembly has recently joined the Wales European Centre, and the Director gave a presentation to Heads of Division on the 14th April. Links now need to be established between Policy Divisions in the Assembly and Policy Advisers in WEC.
- Attendance at Working Groups is restricted to government officials or their appointed experts. Key Working Groups of relevance to Wales need to be identified, and good links established with the lead officers in UKRep and the supporting officers in lead Whitehall Departments. Assembly officials should be encouraged to attend when appropriate.

Committees

- The European Affairs Committee should bring relevant issues to the attention of subject committees, based on the Commission's Annual Work Programme, Five Year Programme, Presidency Priorities, the conclusions of European Councils and the WEC's analysis of EU policies and identified priorities. This will form a useful basis for the Assembly to focus on key issues. It would be very difficult for the Assembly to consider every proposal emanating from the European Union. Some proposals are not of direct interest to the Assembly, whilst others are outside its powers. The Assembly must focus on policies which will have a significant impact or provide opportunities for Wales. The presence of MEPs, ECOSOC and CoR members at Committee meetings will allow them to inform the discussion and bring members up to date with recent developments.
- The five Policy Review papers should be revisited, updated and resubmitted to subject committees, starting in the Autumn.

European Institutions

- Assembly Secretaries should attend meetings of the Council of Ministers whenever that is

appropriate. European Affairs Division should seek to obtain good notice of the dates of meetings, and policy Divisions likely agenda items, to enable Secretaries to decide whether pursue the question of attendance.

- Closer working relationships should be established with Welsh members of the European Parliament, Committee of the Regions and the Economic and Social Committee. The Assembly needs to develop the capacity to approach them to discuss detailed issues which they can raise on our behalf in Plenary meetings and Committees. The Assembly Office in Brussels will have a key role in setting up such arrangements.

Legislation

- European Affairs Division and the Office of the Counsel General should arrange a training course on European Directives, Designation Orders and Statutory Instruments for key officials in Policy Divisions.
- The arrangements for notifying the Subject, Business and Legislation Committees of Directives which need to be transposed into Statutory Instruments should be reviewed.

3.2 The effects of European Union Policies and legislation are central to many of the Assembly's responsibilities. It is essential that the Assembly is able to fully recognise and engage with the European dimension to its work. This report demonstrates that in its first year the European Affairs Committee has helped the National Assembly to begin to establish a distinctive and dynamic relationship with Europe. There is still much to do and the Committee will be looking to reinforce and enhance that relationship in every facet of its work in future.

STANDING ORDER 15 - Committee on European Affairs

Title and Terms of Reference

15.1 There shall be a Committee on European Affairs, which shall keep under review

- (i) the Assembly's relations with the institutions of the European Union, and its methods for informing and advising those institutions of the needs of Wales;
- (ii) the Assembly's liaison arrangements with UKRep, and with United Kingdom government departments on European issues;
- (iii) the Assembly's methods and procedures for the consideration of documents, issues and questions emanating from European institutions, having particular regard to the need for liaison with Members of Parliament responsible for scrutiny of European matters of particular relevance to Wales.

15.2. The Committee shall monitor the general impact and consequences for Wales of policies pursued by institutions of the European Union, and ensure that there is adequate liaison with the Members of the European Parliament representing Wales and Welsh representatives on the Committee of the Regions.

15.3. The Committee shall avoid duplicating the work of subject committees, but may draw particular

issues to the attention of relevant subject committees. The Committee may assess and where necessary report on the significance of proposed European legislation affecting Wales that falls within the remit of more than one subject committee.

Membership

15.4 The Assembly shall elect an Assembly Secretary to chair the Committee, together with other Members elected so far as practicable to reflect the balance of political groups in the Assembly and having regard to the desirability of each subject committee being represented on the Committee. Members of the European Parliament representing Wales, and Welsh representatives on the Committee of the Regions, may attend and, with the permission of the chair, speak at the Committee's meetings when these are in public, but they may not vote. Assembly Members who have specific constituency or regional interests to pursue in relation to the work of the Committee may in advance of any meeting seek the chair's permission to make representations to the Committee at that meeting, but they may not vote. Members may also write to the chair requesting that their observations on any aspect of the Committee's work be tabled for consideration by the Committee at its next meeting, and the chair shall arrange for such tabling to take place.

Reports

15.5 The Committee shall report to the Assembly from time to time.

Annex B

MEMBERSHIP OF COMMITTEE ON EUROPEAN AFFAIRS

The membership of the Committee as elected on 10 May 2000 is:

Rhodri Morgan (Chair) Labour Cardiff West

Nicholas Bourne Conservative Mid & West

Mick Bates Liberal Democrat Montgomeryshire

Delyth Evans Labour Mid & West

Val Feld Labour Swansea East

Christine Gwyther Labour Carmarthen West & S Pems

Jocelyn Davies Plaid Cymru South Wales East

Jonathan Morgan Conservative South Wales Central

Alun Pugh Labour Clwyd West

Rhodri Glyn Thomas Plaid Cymru Carmarthen East & Dinefwr

Phil Williams Plaid Cymru South Wales East

Alun Michael (Labour: Mid & West) chaired the Committee from 23 June 1999 until 29 February 2000 and was a member from 29 February 2000 until 30 April 2000.

Elin Jones (Labour: Ceredigion) was a member from 23 June 1999 until 31 January 2000