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9 August 2010

Annwyl Dafydd

European & External Affairs Committee – Review of Assembly Standing Orders

On 6 July the European and External Affairs Committee considered a paper on developments in relation to the Subsidiarity Protocol in the Lisbon Treaty, including the approaches being adopted by other regional parliaments. The paper is attached for information. It was agreed that I would write to you to request that, as part of its Review of Standing Orders, the Business Committee consider:

- i) 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.

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As noted in our previous discussions on this matter, Protocol no. 2 of the Lisbon Treaty provides for a limited 8-week timeframe for consultation on draft EU legislative proposals, within which the UK national parliament can submit a 'Reasoned Opinion' concerning any breach of the subsidiarity principle. Evidence suggests that such a situation is likely to arise rarely, but nevertheless it is important that the National Assembly for Wales has swift, robust and pragmatic procedures in place to feed its own views, where relevant, on subsidiarity matters into the UK Parliament's scrutiny process.

The European and External Affairs Committee currently has the main oversight function for scrutiny of draft EU legislative proposals by the National Assembly for Wales. It has no formal role in relation to other Assembly Committees, but may also refer EU matters of significance to Wales to other Committees for consideration.

Whilst it would be ideal for 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, may need to be formally recognised in Standing Orders as having plenary-type powers to submit formal views to the UK parliament on subsidiarity matters on behalf of the National Assembly for Wales.

Where possible the European and External Affairs 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 would therefore suggest that if I, as Chair, endorse 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 be communicated to other Committee Members in advance of the next formal meeting of the Committee.

I would be grateful if the proposals outlined above could be taken forward as part of the Review of Standing Orders for the Fourth Assembly.

I have also noted the consultation letter dated 29 June from the Head of Assembly Committees. The European and External Affairs Committee has a broad remit under Standing Order 18.1, and aside from the points raised in this letter, I do not feel that its activities are in any way restricted by Standing Orders.

Before closing I can also report positive developments regarding the Committee's requests for the Welsh Government to provide information to facilitate EU legislative scrutiny. 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. Following very constructive discussions between officials, it is anticipated that the Welsh Government will forward final explanatory memoranda that include its views on subsidiarity matters to the Members' Research Service, at the same time that these are provided to the UK Parliament. This system will be put in place following the roll-out of the UNO IT network in August, and will greatly assist the EU scrutiny process in Wales.

Yn ddiffiant

A handwritten signature in black ink that reads "Rhodri". The script is cursive and fluid.

**Rt Hon Rhodri Morgan AM
Committee Chair**

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