SECOND ASSEMBLY

PANEL OF CHAIRS MEETING

TUESDAY 19 APRIL 2005

AGENDA ITEM SIX - PROTOCOL FOR COMMITTEE SCRUTINY AND ACTION ON EU POLICY

Purpose of Paper

1. Following the Committees' consideration of the European Commission's work programme, several have identified priority issues that they wish to consider further. At the Panel of Chairs' last meeting, the secretariat was asked to draft a protocol setting out the action Committees could take to influence EU proposals.

2. This paper therefore briefly explains the main channels of influence for the committees[1] and suggests guidance on how they may wish to take forward items.

3. The Panel is invited to agree a protocol for the consideration of EU issues in Committees.

Background – the decision-making process

4. There are three key players in the EU decision-making process: the Commission, Council of Ministers and European Parliament. Each institution has a varying degree of influence according to the decision-making process which depends on the policy area under consideration and the type of proposal.

5. Although it is the European Commission which proposes legislation, it is the Council of Ministers (Ministerial representatives of Member States) and the European Parliament that pass the law. The Council of Ministers is the most powerful institution, and has to approve the majority of the EU's laws.

6. Where legislative proposals are concerned, there are three main types of procedure in the EU: co-decision, consultation and assent. The main difference between them is the way in which Parliament interacts with the Council. Under the consultation procedure, Parliament gives its opinion; under co-decision it has equal power with the Council of Ministers and the proposal is subject to at least two readings. Co-decision is used to legislate in a number of the Assembly's policy areas, such as the environment, education, consumer affairs and health, transport, therefore the Parliament provides an important complementary channel of influence alongside UK representation at the Council. Assent is used in a limited number of cases before Council takes certain major decisions, e.g. the

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[1] For further detail on the EU's institutions, and influencing the decision-making process, Members are referred to the Members Research Services research papers: "EU Institutions and policy-making procedures" (ref: 05/014) and "Assembly Committees: scrutinising and engaging with the European Union's decision-making process" (ref: 05/015). They can be accessed on the intranet: http://assembly/presidingoffic/mrs/briefings/european-affairs-e.htm

accession of new Member States, the European Parliament must either accept or reject its view.

The main channels of influence

7. The time frame for influencing proposals varies according to a number of factors, including the decision-making process used and how controversial an issue it is. The earlier the Assembly's committees can comment, the better, although in practice this will normally mean after publication of the Commission's proposal as indicated in its work programme.[2]

8. There are three main channels of influence, the most immediate is through UK representation at the Council of Ministers; the others are through Welsh Members of the European Parliament and the European Commission.

9. The Welsh Assembly Government's input into the UK negotiating line is conducted in accordance with the Memorandum of Understanding and the Concordat on the Co-ordination of European Policy (the Concordat)[3] and through meetings of the Joint Ministerial Committee (Europe). The Concordat aims to ensure the full involvement of Ministers and officials in policy formulation, negotiation and implementation of devolved issues; and that the UK can negotiate effectively in pursuit of a single UK policy line. The Joint Ministerial Committee on EU matters is where Ministers of the UK government and the devolved administrations meet to cohere policy. The Welsh Assembly Government is usually represented by the First Minister.

10. Committees should consider therefore questioning WAG, on the one hand on general policy matters, how their policies contribute towards achieving the EU's policy objectives in any given area; and on the other hand on specific proposals:
    - the potential implications for Wales, how it would be implemented and whether work is being done to prepare for this;
    - what is their view of the proposal;
    - the UK government's position and their input into it (the Committee may wish to invite UK government representatives to present their views directly).
    - to agree that WAG keeps the Committee informed of the outcome of Council meetings which relate to the Committee's remit, not only where decisions are taken, but also on the progress of negotiations. This would aid in the transparency of Council deliberations and their implications for Wales.

11. A second channel of influence is via the European Parliament, this is particularly important where a proposal is subject to co-decision. There will be greatest scope for influence before the first reading. At this point, it is possible for all Members of the European Parliament to put table any amendment they wish. By the second reading, Members may only work with their first reading text or amend new elements introduced by the Council.

12. Committees may wish to invite MEPs to have an exchange of views on a particular proposal, preferably at an early stage in the discussions (before first

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[2] It is often argued that most impact can be had at a much earlier stage, by taking a pro-active approach in the pre-publication phase. This is particularly the case in order to influence the Commission's thinking but it is also useful to raise the matter with the WAG at this point.

[3] The Concordat can be seen at:
http://www.wales.gov.uk/keypubstandingorders/content/moupt2b_e.htm

reading, if it subject to co-decision)[4]. At the second reading stage, the Committee may wish to re-assess its view and consider at this point whether the Council's or the European Parliament's view would be most favourable to Wales, and whether any compromises would improve the text.

13. The MEPs can also be used in a more proactive way to raise any issue of concern during question time with the representatives of the Council or Commission.

14. It is the European Commission which drafts and proposes legislation and policy, therefore the most effective time to engage with the Commission and seek to influence its position is prior to the publication of the proposal. The Commission is committed to better law-making, therefore most legislative proposals will normally be preceded by a Commission consultation process.

Engaging with EU issues outside the Commission's work programme

15. There is a significant amount of EU policy work which does not feature directly in the Commission's annual work programme, which is on-going but nonetheless should shape policy making in Wales as well as offering opportunities for Wales to lead the way with examples of good practice. This is often through what's known as the open method of co-ordination, whereby Member States are required to draw up National Action Plans in accordance with EU objectives, exchange experiences and learn from each other to improve national policy. This will be the case with the implementation of the revised Lisbon Strategy, and is already the case in respect of employment, social inclusion, pensions and social security, education.

16. This is an area that Committees' could also consider subjecting to scrutiny, in particular the WAG input into the UK National Action Plans which are required by the EU.

Suggested protocol for committee scrutiny and action on EU policy

17. The key to influencing proposals is to engage with the right players at the right time. Annex A sets out an outline of the decision-making process, where it is subject to co-decision, together with an indication of the potential for Committee Action. This is a suggested general approach to European issues, Committees may wish to consider some or all of the following in order to maximise their effectiveness:

   i. Inviting the Welsh Assembly Government to explain the impact of a proposal on Wales, to give its response to the proposal and explain how it is making its views known to the UK government and Commission.

   ii. Inviting a Commission representative, UK government officials or MEPs for a direct exchange of views.

   iii. Inviting Welsh or UK organisations to the committee or expert witnesses to give their views on any particular issue, (e.g. business representatives,

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[4] In practice, the Assembly's committee meetings often clash with the European Parliament's sessions, making it difficult for MEPs to attend committee meetings in Cardiff.

ASPBs, Welsh Local Government Association, social and environmental NGOs, universities).

iv.   EU proposals may sometimes cut across several committees remit and will therefore require co-ordination of views and perspectives. In such a case, it may be appropriate for one committee to take the lead.

v.   Having agreed its position on an issue, Committees may wish to promote this to the key institutions in the decision-making process, and other relevant players, as follows:

vi.   The European Parliament: for example, by communicating this to Wales MEPs and inviting them to pursue the issue in the European Parliament. Channels open to MEPs to do so include:

- influencing relevant EP committee rapporteurs;
- tabling amendments;
- tabling questions to the Commission and representatives of the Council of Ministers;
- influencing the position of their EP political grouping.

vii. The European Commission:

- by responding to Commission consultations;
- inviting the Commission to Committee meetings or engaging in dialogue with the Commission through other opportunities, such as European conferences;
- write to the relevant Commissioner responsible for the policy to promote the Committee's view.

viii. In addition to scrutinising the WAG's position, the Committee may wish to write to the relevant UK government Minister to make its view known.

ix.   Other potential players include:

- the European committees of the Houses of Parliament, for example, submitting evidence to House of Lords' enquiries;
- Assembly Members of the Committee of the Regions may table amendments to the CoR's reports;
- European associations on which the Assembly is represented and other networks of like-minded regions and organisations. Forming a pan-European coalition on an issue is important for having a wider impact and takes the debate beyond national boundaries.

x.   Monitoring the progress of the proposal through the decision-making process, either through updates from the Welsh Assembly Government in particular on the outcome of Council meetings (Minister's report, for example), or through European update briefings from the Members' Research Service.

xi.   In the interest of transparency, the Committee Chair should request that WAG systematically brief committees on the outcome of Council of Ministers meetings which are relevant to the committee's remit.

xii. It may be necessary for the committee to re-assess its view in light of the evolving negotiations and to issue a further response at a later stage.

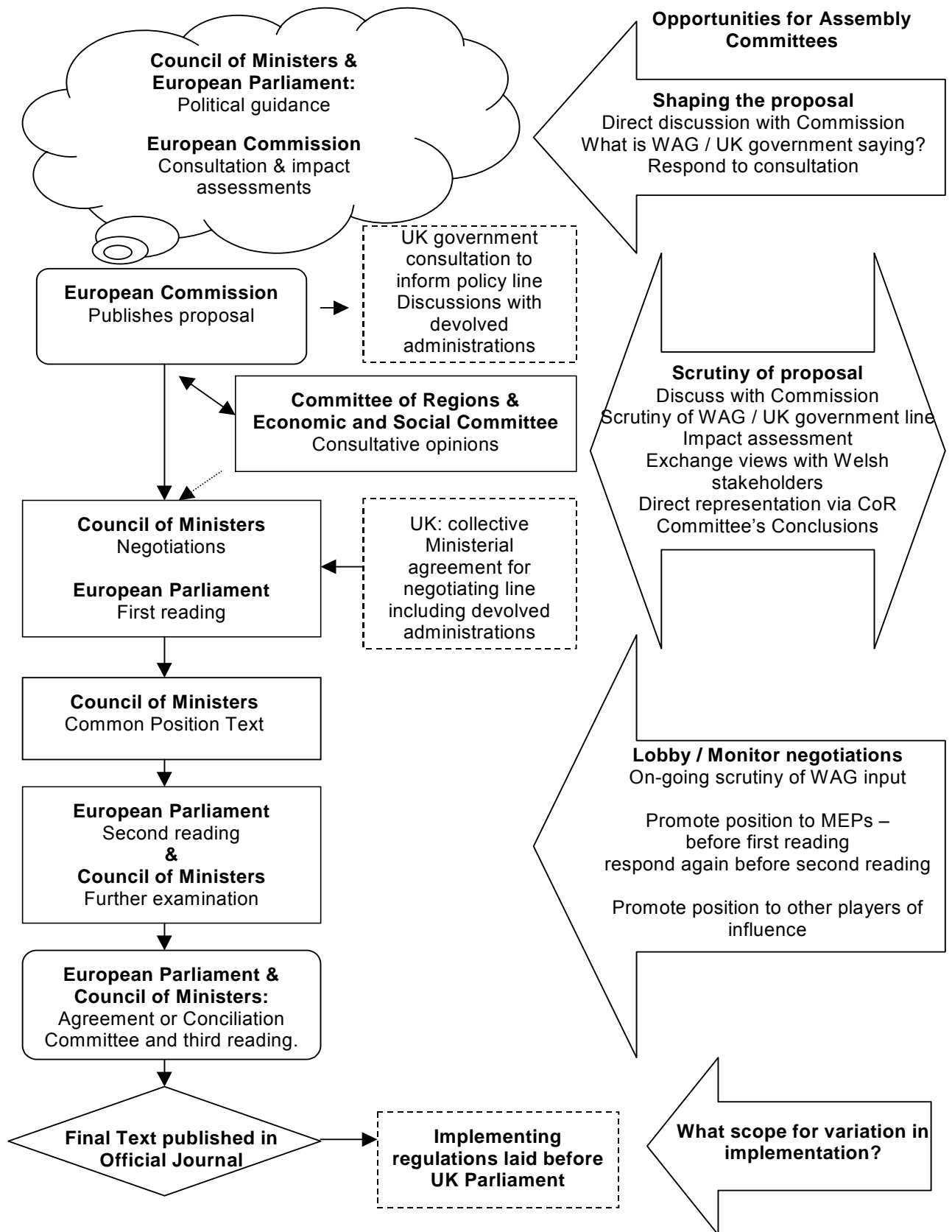18. Annex B sets out how the Assembly's committees relate to the EU's structures.

Action Required

19. Members are invited to give their views on the approach set out in paragraph 17 above and agree a protocol for Committee scrutiny and action on European Union policy.

Members Research and Committee Services
April 2005

Annex A: The EU decision-making process: scrutiny and influence
−   (*the process shown is that of a directive subject to co-decision)*

Council of Ministers & European Parliament:
Political guidance

European Commission
Consultation & impact assessments

European Commission
Publishes proposal

UK government consultation to inform policy line Discussions with devolved administrations

Committee of Regions & Economic and Social Committee
Consultative opinions

Council of Ministers
Negotiations

European Parliament
First reading

UK: collective Ministerial agreement for negotiating line including devolved administrations

Council of Ministers
Common Position Text

European Parliament
Second reading
&
Council of Ministers
Further examination

European Parliament & Council of Ministers:
Agreement or Conciliation Committee and third reading.

Final Text published in Official Journal

Implementing regulations laid before UK Parliament

Opportunities for Assembly Committees

Shaping the proposal
Direct discussion with Commission
What is WAG / UK government saying?
Respond to consultation

Scrutiny of proposal
Discuss with Commission
Scrutiny of WAG / UK government line
Impact assessment
Exchange views with Welsh stakeholders
Direct representation via CoR
Committee's Conclusions

Lobby / Monitor negotiations
On-going scrutiny of WAG input

Promote position to MEPs –
before first reading
respond again before second reading

Promote position to other players of influence

What scope for variation in implementation?

Annex B: How do Assembly's Subject Committees relate to the EU institutions?

Culture, Welsh Language and Sport

European Commission	European Parliament	Council of Ministers
DG Education and Culture (EAC) Commissioner: Ján Figel	Committee on Culture and Education (CULT) Chair: Nikolaos SIFUNAKIS (PES – Greece)	Education, Youth and Culture (EYC)

Economic Development and Transport

European Commission	European Parliament	Council of Ministers
DG Regional Policy Commissioner: Danuta Hubner DG Energy and Transport – Transport Commissioner: Jacques Barrot Energy Commissioner: Andris Piebalgs DG Competition Commissioner: Neelie Kroes DG Economic and Financial Affairs Commissioner: Joaquin Almunia DG Employment and Social Affairs Commissioner: Vladimir Špidla	Committee on Regional Development (REGI) Chair: Gerardo Galeote Quecedo (EPP – Spain) Committee on Transport and Tourism (TRAN) Chair: Paolo Costa (ALDE – Italy) **Committee on Economic and Monetary Affairs (ECON)** Chair: Pervenche Beres (PES – France) Committee on Employment and Social Affairs (EMPL) Chair: Ottaviano del Turco (PES – Italy)	Economic and Financial Affairs Council (ECOFIN) Competitiveness Council Transport Telecommunications and Energy Council (TTE) Employment, Social Policy, Health and Consumer Affairs Council (EPSCO)

Economic Development and Transport continued

European Commission	European Parliament	Council of Ministers
DG Enterprise and Industry Commissioner: Günter Verheugen DG Internal Market and Services Commissioner: Charlie McCreevy DG Research Commissioner: Janez Potočnik (Science and Research)	Committee on Industry, Research and Energy (ITRE) Chair: Giles Chichester (EPP – UK) Committee on Internal market and consumer protection (IMCO) Chair: Philip Whitehead (PES – UK)	

Education and Lifelong Learning

European Commission	European Parliament	Council of Ministers
DG Education and Culture (EAC) Commissioner: Ján Figel	Committee on Culture and Education (CULT) Chair: Nikolaos SIFUNAKIS (PES – Greece) Committee on Employment and Social Affairs (EMPL) Chair: Ottaviano del Turco (PES – Italy)	Education, Youth and Culture (EYC) Employment, Social Policy, Health and Consumer Affairs Council (EPSCO)

Environment Planning and Countryside

European Commission	European Parliament	Council of Ministers
DG Environment Commissioner: Stavros Dimas DG Agriculture and Rural Development Commissioner: Mariann Fischer Boel DG Fisheries and Maritime Affairs Commissioner: Joe Borg	Committee on the Environment (ENVI) Chair: Karl-Heinz Florenz (EPP-ED - Germany) Committee on Agriculture and Rural Development (AGRI) Chair: Joseph Daul (EPP-ED – France) Committee on Fisheries (PECH) Chair: Philippe Morillon (ALDE – France)	Agriculture and Fisheries Council Environment Council

Health and Social Services

European Commission	European Parliament	Council of Ministers
DG Health and Consumer Protection Commissioner: Markos Kyprianou	Committee on the Environment, Public Health and Food Safety (ENVI) Chair: Karl-Heinz Florenz (EPP-ED - Germany)	Employment, Social Policy, Health and Consumer Affairs Council (EPSCO)

Local Government and Public Services

European Commission	European Parliament	Council of Ministers
DG Internal Market and Services Commissioner: Charlie McCreevy	Committee on Internal market and consumer protection (IMCO) Chair: Philip Whitehead (PES – UK)	Competitiveness Council

Social Justice and Regeneration

European Commission	European Parliament	Council of Ministers
DG Justice Freedom and Security Commissioner: Franco Frattini DG Employment and Social Affairs Commissioner: Vladimir Špidla DG Health and Consumer Protection Commissioner: Markos Kyprianou	Committee on Civil Liberties, Justice and Home Affairs Chair: Jean-Louis Bourlanges (ALDE – France) Committee on Employment and Social Affairs (EMPL) Chair: Ottaviano del Turco (PES – Italy) Committee on the Environment, Public Health and Food Safety (ENVI) Chair: Karl-Heinz Florenz (EPP-ED - Germany)	Justice and Home Affairs Council Employment, Social Policy, Health and Consumer Affairs Council (EPSCO)