

Inquiry into Wales' Role in the EU Decision Making Process
EU 3 - Einion Dafydd, PhD Candidate
Department of International Politics
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Dear Sir / Madam,

Please find enclosed a submission to the 'Inquiry into Wales' role in the EU decision-making process' undertaken by The Constitutional and Legislative Affairs Committee. I am a PhD Candidate at the Department of International Politics, Aberystwyth University and I make the submission in a personal capacity.

Yours sincerely,

Einion Dafydd

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1. This submission is made by Einion Dafydd, a PhD Candidate at the Department of International Politics, Aberystwyth University. In 2010 and 2012 Einion Dafydd carried out research into the strategy employed by the Welsh Government (WG) to promote its policy interests within EU policy-making processes between 1999 and 2012. The aim was to identify how the WG pursues its EU interests and to explain why it pursues its interests in this manner. The researcher conducted 23 semi-structured interviews in Brussels and in various locations in Wales. Interviewees included two former WG Ministers, EU-specialist WG civil servants, Welsh MEPs, European Commission officials, and officials from the Brussels representation offices of several state and sub-state actors. The final study will be published in the academic journal *Contemporary Wales* in coming weeks.

2. Summary: There are two main dimensions to the WG's EU interest-representation strategy: firstly, co-operation with the UK Government and secondly, activity that is conducted largely independently of the UK Government where the WG explores alternative channels through the work of its representatives in Brussels. Working with the UK Government in the formulation and promotion of UK-EU policy forms the centrepiece of the strategy. As access to these processes are dependent on the goodwill of UK Government Ministers and officials, the WG makes a conscious effort to refrain from acting in ways which might jeopardize its relationship with London, displaying caution both in its engagement with the UK Government, and in its interest-promotion activity in Brussels. The WG also works with a multiplicity of political actors with which it does not have a formal relationship, such as the European Commission, MEPs, other sub-state administrations, and regional networks. The requirement stipulated in the Concordat (MoU) to maintain the positions of the UK Government in public limits the degree to which the WG is able to promote distantly Welsh interests. However, the WG believes that the current arrangements enable it to promote Welsh interests at EU level in a more effective manner than if it were to operate outside of the Concordat's terms.

3. The starting point for understanding the WG's EU interest-representation strategy is that it signed the Concordat on the Co-ordination of EU Issues with the UK Government in October 1999 of its own volition, that it has consented to minor revisions being made to the Concordat in subsequent years, and that it has not

exercised its right to terminate the non-legally binding agreement. The Concordat provides the WG with rights and privileges (outlined below) that are shared by few other sub-state administrations across Europe. In exchange, the WG is required to refrain from criticizing UK Government policy on EU-related issues and to ensure that the information received from the UK Government remains confidential. The fact that the WG has not exercised its right to terminate the Concordat suggests that the WG believes that the current arrangements enable it to promote Welsh interests at EU level in a more effective manner than if it were to operate outside of the Concordat's terms.

4. The Concordat specifies that devolved Ministers and officials are to be 'fully involved' in discussions relating to UK-EU policy-making on all devolved issues. The WG views its ability to work with the UK Government as it defines UK-EU policy as representing its best opportunity for influencing EU policy. Once UK-EU policy has been formulated the devolved administrations must adhere to it, limiting the scope for promoting distinctive Welsh interests.

5. The WG's right to be consulted on devolved issues is operationalized in the form of loosely institutionalized working practices, mainly based on informal communication between WG officials and their counterparts in the Whitehall department which takes the lead on policy-formulation. Substantive input into UK-EU policy-formulation essentially depends on the goodwill of Whitehall officials. While the UK Government is obliged to consult Welsh views, UK Ministers and officials are free to disregard these views, and this outcome is far more likely where there is a lack of sympathy towards the Welsh administration. For WG officials, developing good working relationships with their Whitehall counterparts is seen as essential for maximizing influence within UK-EU policy-formulation processes. WG officials strive to avoid conflict, and are ready to sacrifice short-term victories for long-term access to policy-making forums.

6. According to Welsh officials, the quality of personal relationships between WG officials and their Whitehall counterparts greatly influences the effectiveness of the WG's input into UK-EU policy-making processes. There is evidence of substantial variation in the extent and quality of WG-Whitehall contacts. Where there is a long tradition of interaction between officials in Whitehall and Wales, as in the case of

agriculture, contacts between officials are far better developed than in other cases.

7. WG officials emphasize the need to engage in the discussions led by the UK Government at an early stage, as they believe that their views are more likely to be taken into account during official-level discussions. Once a policy is presented to the political level for final discussions, greater effort is required to make any substantial revisions as most policy details have already been resolved.

8. That the WG prioritizes the maintenance of good relations with the UK Government is further underlined by the methods that it refrains from employing. It has refrained from leaking confidential information and (until December 2011) from publicizing conflicts with the UK Government on EU-related issues. Party political congruence minimized the incentive to openly challenge the UK Government between 1999 and 2007. While the WG did publicly object to some of the policies announced by the Conservative-LibDem Coalition Government in the period immediately following that Government's formation in 2010, it did not criticize the UK Government on issues relating to EU policy-making until December 2011, when David Cameron vetoed a proposed new EU treaty.

9. The Concordat gives devolved administrations the right to send Ministers and officials to EU Council meetings (with the permission of the lead UK Minister). WG Ministers attended EU Council of Minister meetings 19 times during the 1999–2003 term, 6 times during the 2003–2007 term, and 14 times during the 2007–2011 term. When Welsh Ministers attend meetings they seldom address Council. Instead, they take turns with Ministers from other devolved administrations to sit in the second row of the UK delegation. Ministers addressed Council meetings five times on behalf of the UK during the first three Assembly terms and they tended to speak at meetings of Councils which have a lower profile, such as the Culture Council. Welsh Ministers appear to value the opportunity to address Council primarily for its symbolic value. According to a former WG Minister 'in my opinion everything is symbolic . . . when you get to that seat. Trying to influence policy before that stage is far more important'.

10. Ministers and officials recognize that attending Council of Ministers meetings offers little scope for influencing policy for several reasons. Firstly, opportunities to promote exclusively Welsh interests are rare, as Ministers must support the UK

negotiating position. Secondly, the majority of decisions are reached long before Council meetings take place, namely at working group and Committee of the Permanent Representation (COREPER) meetings, which are part of the Council's institutional structure. Thirdly, substantive negotiating does not take place in the formal sessions of Council meetings. The 'real work' is done behind closed doors, and devolved Ministers seldom have access to these meetings. A former Minister recalled having to return to Wales without taking part in any discussions because the informal meetings took so long. Nevertheless, benefits of Council attendance include the opportunity to develop relationships with UK Ministers and officials, and the possibility that the UK Minister might be less likely to sacrifice Welsh preferences where negotiations change unexpectedly during a Council meeting.

11. Far greater value is placed on the relationship between the WG's officials and the UK's Permanent Representation to the EU (UKRep). Representatives of devolved administrations are accredited to UKRep's mission and are issued with diplomatic passports. This arrangement gives devolved officials a degree of access to the Member State's diplomats which is very rare for sub-state administrations. Their accreditation to UKRep enables WG officials to attend Council working groups, a privilege which most Brussels-based policy officers take advantage of on an almost weekly basis. Working groups provide a setting which is more congenial to input by WG officials, as unlike ministerial-level meetings, comprehensive negotiating takes place at this level. While the UK's negotiation position is again agreed beforehand there is significant scope for devolved officials to emphasize their territorial preferences within the UK delegation. Attendance enables WG officials to give simultaneous feedback to the lead negotiator regarding the effect that different policy wordings may have on Wales. Broader benefits include intelligence gathering. By gaining a sense of how Member States are positioning themselves, officials are able to identify potential lobbying partners at the sub-state level.

12. The importance of maintaining a harmonious relationship with UKRep for the WG's broader strategy of engaging with EU affairs should not be underestimated. The privileges bestowed on the WG by UKRep are not anchored in legislation, and great care is taken to ensure that no reason is given for these privileges to be rescinded. As one official explained, 'we don't own the power. The power is given to us by

Whitehall, so we have it but it's not ours. It can be taken away. So we need to play by the rules'. The most important of these rules is to maintain the UK position at all times.

13. While the WG's strategy in engaging with EU policy processes is centered on cooperating with the UK Government in the formulation and promotion of UK-EU policy, it pursues additional strategies simultaneously. It targets all institutions which play a significant role in EU policy-making process, such as the European Commission and the European Parliament, and works with sub-state administrations from across Europe, as well as with regional networks.

14. The European Commission does not have a formal relationship with the WG, however it is very open to consultation with sub-state administrations. WG officials are in regular contact with Commission officials and while Commission officials are under no obligation to accommodate requests made by the WG, evidence suggests that the Commission responds well to informed input. The WG's office in Brussels secures meetings between Welsh Ministers and senior Commission personnel, and Commissioners are regularly invited to visit Wales. The WG encourages its officials to be seconded to the Commission, and 36 WG officials had taken advantage of this opportunity prior to June 2010.

15. The European Commission initiates all EU proposals. The requirement for the WG to maintain the UK position does not apply when the Commission is drafting a proposal, as UK-EU policy is formulated at a later stage. WG officials are therefore free to openly promote specifically Welsh interests at this stage, and interaction with the Commission during the drafting period plays a central part in the WG's wider EU interest-promotion strategy.

16. The European Parliament plays a leading role in EU policy-making processes and Welsh MEPs are free to promote any agenda they wish, including interests that conflict with the UK Government's preferences. WG officials are in regular contact with MEPs from Wales and from outside Wales, including those from other Member States. The visit of Deputy Minister for Agriculture, Food, Fisheries and European Programmes, Alun Davies, to Strasbourg for meetings with leading MEPs in December 2011 represented a new development. It is likely that WG Ministers will

travel to Brussels and Strasbourg to hold meetings with MEPs regularly in future.

17. The WG is a member of several regional networks, including the Conference of European Regions with Legislative Power (REGLEG), the Conference of Peripheral Maritime Regions (CPMR), and the Network to Promote Linguistic Diversity (NPLD). Regional networks are seen as a good source of information, and as outlets through which the WG is able to make statements which reflect its interests when they diverge with those of the UK Government. With approximately 300 sub-state administrations represented in Brussels, the WG appreciates that the lobbying efforts of sub-state administrations sharing common interests will be more effective if they present their case with a single voice. Regional networks also provide access to senior policy-makers. The First Minister, Carwyn Jones, and the then Deputy First Minister, Ieuan Wyn Jones, met Commission President Barroso to discuss Cohesion Policy as part of a CPMR delegation in July 2010. A WG official admitted that it would have been ‘very difficult’ to secure such a meeting under other circumstances.