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EUROPEAN COMMITTEES WESTMINSTER & THE DEVOLVED LEGISLATURES

This paper provides a description of the role, remit, and activities of a range of committees in the House of Commons, House of Lords, Scottish Parliament, National Assembly for Wales, and the Northern Ireland Assembly, which have a specific focus on European affairs.

Library Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

SUMMARY OF KEY POINTS

- The parliamentary procedures for handling EU business in Westminster involve both Houses of Parliament and have been described as strong when compared to those of other Member States. In each House, specialised committees form an important element of scrutiny procedures.
- The House of Commons method (close textual examination of documents) has been contrasted with the House of Lords method (policy examination). It has been noted, however, that *'the Commons and Lords Committees complement one another and there is close co-ordination between the two'*.
- Underpinning the work of the House of Commons and House of Lords European Committees is the European Scrutiny Reserve. Described in simple terms the European Scrutiny reserve is an agreement that *'Ministers will not normally agree to EU legislative or other proposals until Parliamentary Scrutiny is completed'*.
- The role of national parliaments in the development of policy in the European Union was strengthened in the Treaty of Amsterdam, which added a Protocol on the role of National Parliaments to the EU Treaty and to the three Community Treaties.
- In 1999, devolution arrangements within the UK became operational with the establishment of the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly. Devolution it has been argued provided *'a clear opportunity to create the necessary institutional setting and procedures to conduct effective sub-Member State parliamentary influence over EU affairs'*. However, as all foreign policy issues are non-devolved, relations with the European Union remain the responsibility of the Parliament and Government of the United Kingdom, as Member State.
- A Memorandum of Understanding (MoU) between the United Kingdom Government, Scottish Ministers, the Cabinet of the National Assembly for Wales, and the Northern Ireland Executive Committee indicates, nevertheless, the UK Government's wish to involve the devolved administrations:

...as directly and fully as possible in decision making on EU matters which touch on devolved areas (including non-devolved matters which impact on devolved areas and non-devolved matters which will have a distinctive impact of importance in Scotland [Wales and Northern Ireland]).
- The Scottish Parliament and the National Assembly for Wales have established specialised committees to deal with European Affairs. The Scottish Parliament European Committee, in addition to the activities undertaken as part of its scrutiny function, has also been active in investigating a range of European-related issues 'of interest to organisations and the people of Scotland as a whole'. The European Committee of the National Assembly for Wales has developed as a forum for co-ordination on European issues rather than focusing on scrutiny of EU documents and the Executive.

- 'European Affairs and International Matters' is one of the twelve specific functions of the Office of the First Minister and Deputy First Minister which Standing Orders indicate the Northern Ireland Assembly's Committee of the Centre may scrutinise. In April 2002, the Committee of the Centre presented the report of its *'Inquiry into the Approach of the Northern Ireland Assembly and the Devolved Government on European Union Issues'* to the Assembly. In this report, the Committee recommended the establishment of a Standing Committee on EU Affairs.
- A forum has been established to encourage closer working between European Committees in the Houses of Commons and the Lords, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

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1. INTRODUCTION

The parliamentary procedures in Westminster for handling EU business involve both Houses of Parliament and have been described as strong when compared to those of other Member States.¹ In each House specialised committees form an important element of scrutiny procedures.

The United Kingdom became a member of the European Community on 1 January 1973. Following this development both the House of Commons and the House of Lords established committees to advise them on how to respond. Both committees recommended the establishment of permanent committees to scrutinise proposals from the Commission. In line with these recommendations, in 1974, Committees were established in the House of Commons and House of Lords to facilitate scrutiny of the executive in European matters. Since 1974, the number and remit of 'European' Committees in Westminster have developed reflecting modernisation of Parliament and development of the European Union.

The Treaty of Amsterdam,² which came into force in May 1999, added a protocol to the EU Treaty and to the three Community Treaties on the role of National Parliaments. This protocol focused in particular on two aspects: (i) information for National Parliaments and (ii) the role of the Conference of European Affairs Committees, known as COSAC,³ which was established in 1989.

In providing for improved information for national parliaments, the protocol stipulates that all Commission consultation documents (Green and White Papers and communications) are to be promptly forwarded to national parliaments; that Commission proposals for legislation are to be made available in good time so that each Government may ensure that its own national parliament receives them as appropriate; and that a six week period should elapse between the date a proposal is made available in all languages by the Commission to the European Parliament and the Council and the date when it is placed on the Council agenda for decision, subject to exceptions for cases of urgency.

Underpinning the scrutiny arrangements in the UK parliament⁴, is the European Scrutiny Reserve (see Appendix 1). Described in simple terms the European Scrutiny Reserve is an agreement that '*Ministers will not normally agree to EU legislative or other proposals until Parliamentary Scrutiny is completed*'.⁵ Parliamentary scrutiny includes consideration by the European Committees in both Houses. There are certain circumstances in which agreement is permitted before Parliamentary Scrutiny is completed. In such cases, however, the relevant European Committee or the House must be informed as soon as possible.⁶ It has been argued that, whilst European Scrutiny Reserves are not unique to the UK, the UK along with the Netherlands, and Denmark are seen as having the 'heaviest' scrutiny reserves in the European Union.⁷

Devolution

In 1999, devolution arrangements within the UK became operational with the establishment of the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly. It has been argued⁸ that one of the objectives of devolution was 'to complete the chain of democratic accountability (from local level to EU)'. It has also been suggested⁹ that devolution provided '*a clear opportunity to*

create the necessary institutional setting and procedures to conduct effective sub-Member State parliamentary influence over EU affairs'.

Following devolution, all foreign policy issues remain non-devolved, and relations with the European Union are the sole responsibility of the Parliament and Government of the United Kingdom, as Member State. However, the devolution legislation provides for concurrent power (i.e. at UK and devolved level) to observe and implement community law. In this context, it has been noted¹⁰ that co-ordination between the United Kingdom Government and the devolved legislatures is essential when developing the UK position in negotiations and ensuring that European obligations are met.

In order to facilitate and manage such co-ordination, a Memorandum of Understanding (MoU)¹¹ between the United Kingdom Government, Scottish Ministers, the Cabinet of the National Assembly for Wales, and the Northern Ireland Executive Committee has been published. The MoU, which is not legally binding, is consistent with the devolution legislation in that it leaves European policy co-ordination 'firmly in the hands of the United Kingdom government'.¹² Nevertheless, the MoU, does highlight the UK Government's intention to involve the devolved administrations:

...as directly and fully as possible in decision making on EU matters which touch on devolved areas (including non-devolved matters which impact on devolved areas and non-devolved matters which will have a distinctive impact of importance in Scotland [Wales and Northern Ireland]).

The MoU underlines that 'participation will be subject to mutual respect for the confidentiality of discussions and adherence by [the devolved administrations] to the resulting UK line without which it would be impossible to maintain such close working relations.' Under the 'Scrutiny of EU Legislation' heading, the MoU, in reference to the devolved legislatures, states that:

The devolved legislatures may wish to set up a procedure to allow them to scrutinise EU issues relating to devolved matters to ensure its interests are properly reflected.

The lead Whitehall Department will liaise as necessary with the devolved administrations in the preparation of Explanatory Memoranda relating to such matters, and will keep them informed. The UK Department will send the finalised Explanatory Memorandum to the devolved administrations at the same time that it is submitted to the UK Parliament.

Officials of the devolved administrations will pass on to their Whitehall counterparts the views of the devolved legislatures as soon as these are known. Where timing allows, the UK Government undertakes to take account of these views in formulating the UK's negotiating position, which will continue to balance the interests of all parts of the UK.

Both the Scottish Parliament and the National Assembly for Wales have established European Committees. This paper describes the operation of these committees and the European and the European Committees in Westminster. Currently no European Committee exists in the NIA but this paper considers the role of the Committee of the Centre in relation to European Affairs.

2. HOUSE OF COMMONS - EUROPEAN SCRUTINY COMMITTEE

In 1974, one year after the UK joined the EC, a *Committee on European Secondary Legislation Etc* was established in the House of Commons. Since 1974, the title and terms of reference of the Committee have changed on a number of occasions. The most recent changes to both name and terms of reference taking place in 1999, following publication of a report by the Modernisation Committee of the House of Commons.¹³ In December 1999, the name of the Committee was changed to the European Scrutiny Committee. Standing Order 143 of the House of Commons¹⁴ states that the role of the European Scrutiny Committee is to examine European Union documents and to:

- (a) report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;*
- (b) make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Standing Committees); and*
- (c) consider any issue arising upon any such document or group of documents, or related matters.*

Standing Orders specify that the European Scrutiny Committee shall consist of sixteen members with a quorum of five. Like other House of Commons Select Committees, the European Scrutiny Committee is empowered to appoint specialist advisers and to send for persons, papers and records.

The European Scrutiny Committee is also empowered to appoint sub-committees and to refer to such sub-committees any of the matters referred to the Committee. The quorum for every sub-committee is two. Whilst The European Scrutiny Committee has not used this power, it has been observed that at least one of its predecessors has done so, albeit only occasionally.¹⁵

The methodology employed by the European Scrutiny Committee to meet its remit is described in a House of Commons Fact Sheet in the following way:¹⁶

[The Committee] receives copies of Commission proposals, together with an Explanatory Memorandum prepared by the relevant Government Department, which provides information about the general effect of the document, its financial, legal and policy implications, and any further relevant information, such as whether the document is awaiting further consideration by other European Community bodies. In the case of fast-moving proposals for which a formal Commission proposal to the Council is not yet available, Departments often produce an un-numbered Explanatory Memorandum forecasting the likely contents, in order to keep Parliament informed. These documents provide the backbone of the arrangements for influencing forthcoming developments. These are considered by the Select Committee which generally meets once a week whilst the House is sitting. Following such meetings the Committee publishes a report on the documents considered, highlighting any which it considers raise questions of legal and/or political importance, with any recommendations for further consideration by the House.

It has been noted that, whilst there are no definitive guidelines for the European Scrutiny Committee on what constitutes political or legal importance, the principle criteria are: the effect on UK law; contentiousness; and financial implications.¹⁷

The European Scrutiny Committee receives approximately 1000 documents each year and it has been estimated¹⁸ that about two thirds are deemed not to raise issues of political or legal importance.¹⁹ In relation to the remaining third of the documents, for which the European Scrutiny Committee decides a substantive response is warranted, it may:

- set out its position on aspects of proposal in a report and clear a document;
- withhold clearance whilst further information on a document is sought; or
- recommend that a document be debated.

Should the European Scrutiny Committee recommend that a document be debated, this debate may take place within one of the House of Commons European Standing Committees (see Section 3 below) or on the Floor of the House

The clearing of a document is important in the context of the European Scrutiny Reserve, which is an agreement that *'Ministers will not normally agree to EU legislative or other proposals until Parliamentary Scrutiny is completed'*. However, in October 2001, a hearing of the European Scrutiny Committee focused on *'problems relating to parliamentary scrutiny arising from the Justice and Home Affairs Council on 28th and 29th May 2001.'* It was noted by the European Scrutiny Committee that the UK's parliamentary scrutiny reserve was set aside for five documents and virtually set aside for nine others, on none of which parliamentary scrutiny had been completed.²⁰

Under Standing Orders, the activity of the European Scrutiny Committee is not restricted to consideration of documents. Rather, it is empowered *'to consider any issue arising upon any such document or group of documents, or related matter.'* In meeting this broad remit, the Committee on occasions conducts inquiries. In July 2001, for example, the European Scrutiny Committee announced it had decided to conduct an inquiry into democracy and accountability in the EU and the role of national parliaments. The inquiry aims to examine ways in which the EU could be made more democratic and accountable and citizens could feel more in touch with and able to influence political developments in the EU. The inquiry is intended to contribute to the debate within the EU on 'the Future of Europe', especially the parts of that debate concerned with the role of national parliaments and the 'delimitation of competencies' (i.e. allocation of powers to different layers of government).

In meeting its remit, it has been noted that the European Scrutiny Committee makes use of informal channels which exist for 'intelligence gathering, crucial to the conduct of effective scrutiny of the government's policy position.'²¹

3. HOUSE OF COMMONS - EUROPEAN STANDING COMMITTEES

As has been observed, one option open to the European Scrutiny Committee, following its assessment of a document, is to recommend that it be debated by one of

the House of Commons - European Standing Committees²². The role of these Standing Committees being to '*deliberate the political and legal importance of documents*.'²³ Before these standing committees were establishment in 1991, documents recommended for debate were either referred to standing committees appointed on an ad-hoc basis or debated on the Floor of the House.

Three European Standing Committees, established under the House of Commons Standing Order, 119²⁴ consider documents referred by the European Scrutiny Committee. The European Scrutiny Committee will indicate, when making a recommendation, to which committee a document should be referred. The principal subject matter of the European Documents to be referred to each Committee is, however, set out under Standing Order 119.

Table 1 – Standing Committees principal subject matter

<i>European Standing Committees</i>	<i>Principal subject matter</i>
	Matters within the responsibility of the following Departments:
A	Environment, Food and Rural Affairs; Transport, Local Government and the Regions; Forestry Commission; and analogous responsibilities of Scotland, Wales and Northern Ireland Offices.
B	HM Treasury (including HM Customs and Excise); Work and Pensions; Foreign and Commonwealth Office; International Development; Home Office; Lord Chancellor's Department; together with any matters not otherwise allocated by this Order.
C	Trade and Industry; Education and Skills; Culture, Media and Sport; Health.

Each European Standing Committee consists of thirteen Members with a quorum of three, excluding the Chair. Nominations to the Committee are made with regard both to the qualifications of Members and the composition of the House.

Standing Orders allow any Member of the House of Commons to take part in the proceedings of a European Standing Committee. However, those who are not Members of the Committee cannot vote or be counted in the quorum.

It has been observed²⁵ that a distinctive feature of the European Standing Committees is that, prior to the usual standing committee debate, the Chair of a European Standing Committee may allow a Government Minister to make a statement and to answer questions from Members for up to an hour. After that period the Chair may allow questions to be taken for up to half an hour more. Following debate, the Chair reports to the House any resolution to which the committee has come, or that it has come to no resolution.

In the 2001 debates in the House of Commons Standing Committees covered:

European Standing Committee A

- European Aviation Safety Agency
- Olive Oil
- Animal By-Products
- Transmissible Spongiform Encephalopathies
- Fisheries: total allowable catches and quotas

European Standing Committee B

- European Arrest Warrant and Surrender Procedures
- Asylum
- Immigration Policy
- European Financial Interest
- European Parliament

European Standing Committee C

- Community Postal Services
- Waste Electrical and Electronic Equipment
- Informing and consulting employees
- Sport

It has noted that, in the past, the European Standing Committees '*have suffered very low attendance and are considered a weak aspect of the scrutiny system.*¹²⁶

4. HOUSE OF LORDS – THE EUROPEAN UNION COMMITTEE

As occurred in the House of Commons, in 1974, one year after the UK joined the European Community, a European Communities Committee was established in the House of Lords. In 1999, in order to reflect the changes in the Treaties of Maastricht and Amsterdam, the name of this committee was changed to the European Union Committee. Under Standing Order 64 of the House of Lords²⁷, the Committee is appointed at the beginning of every parliamentary session. The terms of reference of the Committee are:

To consider European Union documents and other matters relating to the European Union.

The Committee is chaired by a Lord who is a salaried officer of the House. Each week the Chair, assisted by members of staff (including the Clerk to the Committee and a legal adviser) undertakes a sift of documents. The purpose of this sift is for the Chair to decide which documents are of sufficient importance as to warrant reference for further consideration to one of the six sub-committees.

Sub-committees

- (A) Economic and Financial Affairs, Trade and External Relations
- (B) Energy, Industry and Transport
- (C) Common Foreign and Security Policy
- (D) Environment, Agriculture, Public Health and Consumer Protection
- (E) Law and Institutions
- (F) Social Affairs, Education and Home Affairs

A sub-committee may simply take note of a document or decide to conduct a substantial enquiry and make a report. A House of Commons fact sheet²⁸ notes that it is the general practice of the House of Lords Select Committee, working through its sub-committees, to:

conduct detailed enquiries based on particular proposals or subject areas (e.g. fraud, EMU, third pillar matters), selected because of their general importance, and to report either for information or with recommendations for debate in the House of Lords

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Reflecting their different methods of working, it has been noted that *'The nature and scope of the Lords' reports are quite distinct from the [European Scrutiny Committee] reports, being detailed in-depth examinations of substantive and political issues raised by a series of documents.'*²⁹ Furthermore, it has been argued that these reports are *'informed, usually extensive and regarded by some MEPs as superior to reports produced by European Parliament committees'*.³⁰

In 2001, the House of Lords Select Committee published reports on, amongst other things:

- The legal status of long-term resident third country nationals
- Counter Terrorism: The European Arrest Warrant
- Reducing Air Traffic Delays: Civil and Military Management of Airspace in Europe
- A Community Immigration Policy
- The European Court of Auditors: the case for reform
- Minimum standards in Asylum Procedures
- The Common Mediterranean Strategy
- The European Food Authority: Legislative Proposal
- Access to documents: the Council decision of 14 August 2000
- The EU Framework Directive on Discrimination

Whilst the House of Commons method (close textual examination of documents) has been contrasted with the House of Lords method (policy examination), it has also been argued that *'the Commons and Lords Committees complement one another and there is close co-ordination between the two'*.³¹ Indeed, they have powers to confer and to meet concurrently in certain circumstances, but these powers are rarely exercised formally.

The House of Lords has its own (albeit similarly worded) Scrutiny Reserve and this underpins the work of the European Committees. A special report published in December 1999 highlighted the importance to the work of the House of Lords European committee of the scrutiny reserve resolution and explained that:

The Commons Scrutiny Reserve Resolution has always been held to apply to the House of Lords and there has been no equivalent Lords resolution. However, procedures in the two Houses are now sufficiently different to make it desirable for the House of Lords to have its own Scrutiny Reserve Resolution, and such a Resolution was agreed on Monday 6th December 1999...The practical effect of the Resolution is to continue the Committee's present powers, but with clearer authority.

In recent years it has been the practice of the European Union Committee to take evidence after the six-monthly meetings of the European Council, from a Minister of State at the Foreign and Commonwealth Office. The European Union Committee also hears oral evidence from Secretaries of State for Foreign Affairs for Member States as they take up the presidency of the EU.

5. SCOTTISH PARLIAMENT – EUROPEAN COMMITTEE

Whilst the Scotland Act 1998³² provides that relationships with the European Communities (and their institutions) are reserved matters, it does not reserve observing and implementing obligations under community law.³³

The role and remit of committees within the Scottish Parliament are set out in four key documents: the Scotland Act 1998;³⁴ the Consultative Steering Groups' proposals for Committees;³⁵ the Scottish Parliament's Standing Orders;³⁶ and the document entitled Guidance for the Operation of Committees.³⁷ The Scottish Parliament committee system has been described as:

'...one of the innovative aspects of the new devolution settlement... intended to merge the functions of the standing and Select Committees at Westminster and operate as the Scottish Parliament's revising chamber: to consider and revise government legislative proposals in the absence of a second chamber'.³⁸

The Consultative Steering Group on the Scottish Parliament (CSG), which was set up by the Secretary of State for Scotland in November 1997, following the positive outcome of the Scottish devolution referendum, was tasked with:

- bringing together views on and considering the operational needs and working methods of the Scottish Parliament;
- developing proposals for the rules of procedure and Standing Orders which the Parliament might be invited to adopt; and
- preparing a report to the Secretary of State by the end of 1998, to inform the preparation of Standing Orders.

The CSG recommended³⁹ that the Parliament should establish a separate European Committee whose membership should be drawn from members of other relevant Committees (e.g. covering agriculture, fisheries, the environment, transport). The Committee should, the CSG indicated, have two main roles:

- firstly, to act as a sifting mechanism on EU documents and other material; and
- secondly, to debate issues which either do not fall to any subject Committee, or which fall to several and where it would be helpful to hold a single debate.

The CSG added that the Committee should be prepared to take a proactive role in the development of key areas of EU policy. In assessing subjects for debate, the Committee should, the CSG suggested, take into account, *inter alia*:

- the importance to Scotland of the issue involved, the relative importance of Scottish activity to the UK as a whole or to the EU;
- the time available for debate before the relevant Council of Ministers takes place;

- the time available for debate before the UK view is formulated; and more generally
- the political importance or sensitivity of the subject.

The CSG indicated that, as membership of the Committee would necessarily be limited, any Member of the Parliament should be able to speak at Committee meetings, though they would not count towards the quorum, make formal proposals or vote.⁴⁰

In relation to the scrutiny of implementation of EU legislation, the CSG was of the view that '...much of the assessment of implementation arrangements will fall to individual subject committees, rather than primarily to the European Committee. The latter may, however, wish to retain a broad overview of how successfully the Executive was implementing EU requirements.'⁴¹

The rules of procedure which govern the proceedings of the Scottish Parliament were first set out in a UK statutory instrument (SI 1999 no. 1095). Following a review, the Scottish Parliament itself agreed a new set of Standing Orders, which came into force on 17 December 1999. These have been further adjusted by the Parliament in relation to specific issues.

At present, Standing Orders of the Scottish Parliament⁴² prescribe the establishment of nine mandatory committees,⁴³ one of which is the European Committee. In addition, however, Standing Orders⁴⁴ state that all committees of the Scottish Parliament may consider 'any European Communities legislation or any international conventions or agreements or any drafts which relate to or affect any competent matter'.

A briefing paper⁴⁵ issued to Members at the first meeting of the Scottish European Committee, held in June 1999, stated that the remit of the Committee was to consider and report on:

- proposals for European Communities legislation;
- the implementation of European Communities legislation; and
- any European Communities or European Union issue.⁴⁶

In line with the CSG recommendation, Standing Orders⁴⁷ of the Scottish Parliament state that:

- The convener of the Committee shall not be the convener of any other committee whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.
- The Parliamentary Bureau shall normally propose a person to be a member of the Committee only if he or she is a member of another committee⁴⁸ whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.

It has been observed, however, that, in the past, notable EU policy areas were not represented on the Committee and that this was 'hard to fathom in a context where cross-committee membership is expressly stated as conducive to effective performance in the shared policy area'.⁴⁹

Hugh Henry MSP, who was originally appointed Convenor of the Committee, stated at its first meeting that:

*This committee should not become bogged down in the details of obscure European legislation. It should reflect European policy and seek to influence it, both directly and through the United Kingdom channels in which we operate...If we choose to concentrate on the minutiae, I fear that we will achieve little. If we are prepared to set our sights on the bigger picture and to seek to influence debate, there is much that we can achieve.*⁵⁰

Reflecting this position, the latest Annual Report⁵¹ of the Committee, May 2000-May 2001, states that it has 'striven to focus its main activities on a limited number of substantial inquiries'. The second priority of the Committee being 'the ongoing task of scrutinising proposals for EC/EU legislation and to provide an insight into the workings of the Scottish Executive in relation to activities in this area'.

Under its own initiative, the Committee has been active in investigating a broad range of European-related issues of interest to organisations and the people of Scotland as a whole. The early focus of the Committee, in this regard, was a series of inquiries on the past and future management of European Structural Funds. The Committee has also undertaken inquiries into the following issues:

- Mainstreaming environmental issues into government policy in Scotland: a contribution to the debate on the European Commission's 6th Environmental Action Programme
- Football transfer fees – emergency inquiry into proposed changes to the football transfer fee system being driven by the debate between the European Commission on the one hand and football's governing bodies on the other
- Fisheries – Reform of EC's Common Fisheries Policy
- Diseases (ISA and VHS) affecting fish farming⁵²
- EU charter on Fundamental Rights
- Preparation for, and policy implications of, the single currency: a contribution to the Euro Debate in Scotland
- Governance of the European Union and the Future of Europe: What Role for Scotland?

The methodology through which it was proposed the Scottish European Committee could undertake its consideration of and reporting on proposals for European Community Legislation and its implementation was considered at its second meeting, held in August 1999. At this meeting, the Clerk indicated that the Committee could expect to receive 1,200 documents every year. The key issue for the Committee, therefore, was selectivity. The challenge to the Committee being to establish which documents could be scrutinised and to what depth, given the timing restraints imposed by a desire to feed the Committee view into the decision-making processes at Westminster and in Brussels.

Until recently, the European Committee met fortnightly during parliamentary sessions and fulfilled its scrutiny of proposals by employing a methodology based upon an initial sift (conducted by the Convenor of the Committee in consultation with

Committee officials) of all documents. The sift was based on consideration of the document itself and any accompanying explanatory memorandum. The outcome of the sift being a recommendation that one of the following six options be taken:

- Issue, as priority matter, to be dealt with by the European Committee itself
- Defer whilst further information is sought
- Refer to Chamber for debate
- Refer to another Committee for scrutiny (not interest only)
- Copy to another committee for interest
- No action to be taken

Where a priority matter is dealt with by the European Committee itself, the Committee may request a Scottish European Brief (SEB) from the Executive. The SEB should provide information on: subject matter; legal and procedural issues; a clear account of the principal policy implications from a Scottish viewpoint (or alternatively an explanation of why there are no policy implications); financial implications; and comment upon the implications for environmental and equality of opportunities.

Where a European document is referred to another Committee for scrutiny (not for interest only) it is for that Committee to report back to the European Committee at a later date, consistent with the overall timetable for the European document in question (e.g. debate at the Council of Ministers). The European Committee then reports to the Scottish Parliament.

This procedure describe above was designed principally to enable the Committee to feed its view into the decision-making processes at Westminster⁵³ or Brussels and to express a 'view' to the Scottish Executive. In this respect, the Scottish scrutiny system differed considerably from the Westminster system, as it was not designed to enable the Scottish government to be held to account by its parliament in respect of its policy negotiating position.⁵⁴ However, the European Committee in a recent inquiry report⁵⁵ noted four 'stumbling blocks' or impediments to achieving the objective of informing discussions undertaken by officials and/or Ministers of the Scottish Executive in advance of decisions being taken:

1. Concordats between administrations in the UK, in which "complete confidentiality" is deemed necessary in terms of the inter-institutional discussions.
2. The lack of a Scottish Scrutiny Reserve, which would restrain an Executive Minister from agreeing its own final position with their UK counterpart in advance of a relevant Joint Ministerial Council or Council meeting, if the European Committee (or another committee) had previously identified a wish to provide its view and had not yet done so.
3. The limited number of Joint Ministerial Council meetings, which provide a forum for exchange of views on EC/EU matters.
4. The lack of resources available to the European Committee, to other committees and to parliament as a whole in terms of staffing, research capability and access to transcription.

Towards the end of 2001 and early in 2002, the European Committee undertook a review of *'implementation of EC legislation and the role of the European Committee and impact on the scrutiny of draft EC/EU legislation'*.⁵⁶ Briefing papers provided for the Committee noted that the activity of the Committee had been focused on *'consideration of draft proposals for EC/EU legislation, with a view to seeking changes to such legislation and/or rendering the decision making system in the EU and in Scotland more transparent'*.⁵⁷ This focus meant, however, that the Committee had not yet been actively engaged with consideration of implementation of EC legislation, which was another aspect of its remit. In this context it was highlighted to the Committee⁵⁸ that under the Scotland Act 1998 observing and implementing Community obligations is not reserved and accordingly EC obligations which concern devolved matters are the responsibility of Scottish Ministers.

Committee briefing papers noted that, although scrutiny of the implementation of EC legislation was already occurring in the Scottish Parliament (through the Subordinate Legislation Committee (SLC) and through lead committees considering Scottish Statutory Instruments (SSIs), a role remained for the European Committee.

In a shift of focus, The European Committee, therefore, agreed that it would develop its scrutiny of implementation of European obligations in two ways:

1. Inquiry into late or delayed implementation of European obligations;
and
2. Oversight of operation of Section 57 (1) of the Scotland Act 1998, which provides that UK Ministers have the power to implement EC obligations in a devolved area on a UK wide basis.

In carrying out the latter task, the Committee, it was suggested, could 'consider on a case-by-case basis, whether it sees scope for a differential approach in Scotland (within the bounds of the overall scope for flexibility under the parent Directive or Regulation) or whether it is content for a UK wide provision'.⁵⁹

Committee agreement to focus on the two specified roles in relation to scrutiny of the Scottish Executives activities had implications for the 'modus operandi' of the Committee. The Committee agreed that it would no longer carry out a sift of documents and take a definitive decision on all EC/EU documents received. Rather, it was agreed to establish a database of all EC/EU documents received. This database would be used to produce a fortnightly report which would be published as part of Committee's meeting papers and sent to the Convenor/Clerk of all other Scottish Parliamentary committees.

6. NATIONAL ASSEMBLY FOR WALES – COMMITTEE ON EUROPEAN AFFAIRS

The National Assembly for Wales does not have the power to make primary legislation and in broad terms its responsibilities are narrower than those of the other devolved legislatures.

The National Assembly Advisory Group (NAAG), which was established by the Secretary of State for Wales (NAAG) in December 1997 to assist him in the preparation of guidance to the Standing Orders Commission, highlighted the importance of the Assembly's relations with the EU. The NAAG, therefore, recommended that a European Issues committee should be established as a 'standing programme committee'.

Standing Order 15 of the National Assembly for Wales,⁶⁰ entitled Committee on European Affairs, states that:

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.*

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.

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 which falls within the remit of more than one subject committee.

In relation to membership of the committee, Standing Orders state that:

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.

The Committee on European Affairs held its first meeting in July 1999 and a review of its early activity⁶¹ stated that:

The initial focus of the Committee has been on the mechanisms by which Wales relates to Europe and thereby ensuring that adequate procedures exist by which Wales' interests can be pursued within European fora. Accordingly the committee has promoted initiatives to strengthen the links between Wales and Europe, such as establishing an Assembly Office in Brussels, the Assembly joining the Wales European Centre, establishing the Wales European Forum and developing links with UKRep.

The paper added that with such mechanisms now in place, it would be reasonable to ask how the committee can now further promote Wales' interests in Europe.

At a number of meetings held between December 2000 and April 2001, the Committee on European Affairs undertook an evaluation of its performance and considered what its future role might be. Setting out options for the future, a paper⁶² prepared for the European Affairs Committee noted that:

While interest has also been expressed in the Committee calling the executive to account for its handling of European affairs, it is acknowledged that the structure of the Committee, with the First Minister as Chair, makes it better suited to a forum for co-ordination rather than executive scrutiny. The Committee has also acknowledged that the volume of legislation and other information coming from Europe is too great for systematic scrutiny by the Committee, particularly in light of the lack of relevance of much of that material to Wales.

The paper added that there appeared to be a broad consensus within the Committee that it should focus its attention on:

- monitoring the mechanisms by which Wales pursues its interests in Europe and promoting new initiatives as required;
- contributing to a Welsh position on strategic European issues; and
- ensuring that relevant European issues are addressed in Wales by alerting subject committees, raising concerns with the executive and fostering engagement with Europe by the various sectors of Wales' community.

At a meeting in May 2001,⁶³ the Committee agreed a number of actions to facilitate a focus as set out above. These included:

- circulating information on the activity of other UK EU Committees;
- establishing a rapporteur on the European Affairs Committee for each subject committee;
- allocating time at each meeting for a brief report from those regularly attending from the European Parliament, the Committee of the Regions, the Economic and Social Committee, and the European Commission Representation in Wales;

- requesting that the First Minister provide the Committee with a report on each work programme of the European Commission noting issues of potential significance falling within the responsibility of each Assembly Minister;
- requesting that subject committees include a report on European issues within their progress reports;
- inviting each subject committee chair to attend the Committee each year to discuss the co-ordination of European issues with the subject committee;
- recommending to the Business Committee that standing orders be amended to:
 - allow the European Affairs Committee to consider a matter within the remit of a single subject committee with the permission of that committee; and
 - increase the Committee's remit to include external affairs.⁶⁴

The Committee also agreed to ensure that at least one meeting a year is held at a time and place which is convenient for the attendance of Wales' representatives in the European Parliament

The Committee on European Affairs has recently focused its attention on issues of governance and enlargement of the European Unions. A working group being established in relation to the issue of enlargement.

7. NORTHERN IRELAND ASSEMBLY – COMMITTEE OF THE CENTRE

Mirroring the distribution of power in the Scotland Act 1998, the Northern Ireland Act 1998 provides that, whilst relations with the European Communities (and their institutions) are excepted matters, observing and implementing obligations under Community law are not.⁶⁵ However, whilst the Scotland Act 1998 prescribes the establishment by the Scottish Parliament of a European Committee, there is no such provision in the Northern Ireland Act 1998.⁶⁶

Following the first Assembly election in June 1998, until the transfer of devolved powers in December 1999, the Assembly operated in shadow mode. During this period the New Northern Ireland Assembly, as it was then known, established an ad hoc committee to consider the relationships between a devolved Northern Ireland Assembly and the United Kingdom Parliament.⁶⁷ Terms of reference for the Ad Hoc Committee on the Procedural Consequences of Devolution stated that it should 'consider the procedural consequences of devolution as they are likely to affect the relationship between, and working of, the Northern Ireland Assembly and...to submit a report to the Assembly, which, if approved will be forwarded to the Procedure Committee of the House of Commons'.⁶⁸

In its report, which was presented to the Assembly on 9th November 1999, the Ad Hoc Committee examined the implications for the Assembly of its consideration of the work undertaken by the 'Westminster Select Committee on European Legislation'.⁶⁹ The report concluded that 'the Assembly should establish a mechanism which, based on an initial sift by the Westminster Select Committee,

would provide a Northern Ireland input to the work of the Select Committee on EU Legislation'. The committee recommended, therefore, that 'The Assembly should seek arrangements to provide access to information from the [House of Commons] Select Committee on EU legislation as a basis for comments on EU proposals from the Northern Ireland Assembly'.

Whilst in shadow mode, the Assembly also established a Committee on Standing Orders.⁷⁰ The Standing Orders contained in the report of the Committee, published in February 1999⁷¹, contained no reference to a European standing committee. European Affairs was one of the 26 functions allocated to the Office of First Minister and Deputy First Minister (OFMDFM). But, initially the Standing Orders Committee proposed only that a standing Committee be established to scrutinise the OFMDFM on equality matters.

It has been suggested that the Standing Orders Committee was unhappy about this 'partial accountability' and in December 1999 motions facilitating the establishment of two standing committees which would examine a wider range of functions of OFMDFM were carried.⁷² The remit of one Committee covered equality, human rights and community relations. The motion which provided for establishment of the second committee, the Standing Committee on European Affairs, read:

Standing Committee on European Affairs

1. There shall be a Standing Committee of the Assembly to be known as the Standing Committee on European Affairs.
2. It shall consider and review on an ongoing basis:
 - (a) matters referred to it in relation to European Union issues; and
 - (b) any other related matter or matters determined by the Assembly.
3. The Committee shall have powers to call for persons and papers.
4. The procedures of the Committee shall be such as the Committee shall determine.

A week after this motion was passed, however, a motion (see appendix 2) which amended Standing Orders in a way which provided for establishment of the Committee of the Centre, to replace the Standing Committees on European Affairs and Equality, Human Rights and Community Relations was proposed. It has been suggested that this motion was designed to counter the establishment of a third committee which would examine and report on the remaining functions of OFMDFM.⁷³ This motion was carried with the result that European Affairs and International Matters constitute one of the twelve specific functions of the Office of OFMDFM which the Committee of the Centre is entitled to scrutinise.

In September 2001 the Committee of the Centre agreed the following terms of reference for a European Affairs inquiry:

*An evaluation of the effectiveness of the current approach of the Northern Ireland Assembly and the Devolved Government in the engagement of Northern Ireland within the institutions of the European Union.*⁷⁴

Presenting the report of the inquiry to the Assembly in April 2002, the Chair of the Committee of the Centre recognised that, as a result of its broad remit the

'Committee had not found it possible to devote sufficient time to this area [European Affairs]'.⁷⁵ Underlining the importance which it attached to European issues, however, the Committee recommended the establishment of a Standing Committee on EU Affairs. The Committee, however, acknowledged that 'further work is needed on its remit, workload, membership and quorum etc'.⁷⁶ In the interim the report indicated that a sub-committee of the Committee of the Centre would be established 'to develop details of this recommendation (and to oversee implementation of its report recommendations)'.⁷⁶

The report contained a total of 43 recommendations, many of which focused on the 'shortcomings' of the approach to European Affairs being developed by OFMDFM. In the view of the Committee, as expressed by the Chair, when presenting the report to the Assembly, OFMDFM had failed to engage effectively with key stakeholders and was slow in developing an EU strategy which itself was focused on the needs of the Executive rather than the region of Northern Ireland.⁷⁷

8. COOPERATION BETWEEN EUROPEAN COMMITTEES

It has been noted in this paper that the Commons and Lords Committees complement one another and there is close co-ordination between the two. Indeed, the Committees have powers to confer and to meet concurrently in certain circumstances, but these powers are rarely exercised formally.⁷⁸

The House of Commons Procedure Select Committee noted in its fourth report, published in 1999, that 'The Government has suggested that although the United Kingdom Parliament will remain the primary body for the scrutiny of European legislation, the European Scrutiny Committee could develop relationships with Committees of the devolved legislatures'.⁷⁹ The report also noted that the Chairman of the European Scrutiny Committee had indicated that 'substantial progress was already being made at a staff level, and that further progress depended on the views of the Committees of the devolved legislatures themselves', which at the time the report was published could not yet be determined.

The Procedures Select Committee supported the European Scrutiny Committee's readiness 'to work with our colleagues in devolved legislatures' and expressed its belief that 'it is appropriate for the arrangements for such co-operation to be made by the committees concerned'. The Committee added, however, that it would keep a watching brief on the development of these relationships as the devolution process evolves. The UK Government in its response welcomed the conclusion reached by the Procedure Select Committee.⁸⁰

A forum has been now been established to encourage closer links between European Committees in the Houses of Commons and the Lords, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. The inaugural meeting of the European Chairs-UK group (EC-UK) took place at the offices of Strathclyde European Partnership in Glasgow on 3 November 2000. Since then further meetings have taken place.

Whilst COSAC provides a forum for exchange of information between European Committees of national parliaments, no similar forum exists at the regional level within the European Union. However, a number of interregional organisations exist for cooperation between European regions. Examples of such organisations being

the Assembly of European Regions (AER); the Congress of Local and Regional Authorities (CLRAE); the Conference of Presidents of Regions with Legislative Power; Conference of Peripheral Maritime Regions of Europe (CPMR).

Appendix 1 – House of Commons Scrutiny Reserve Resolution

Resolution of the House of 17 November 1998³

That

(1) No Minister of the Crown should give agreement in the Council or in the European Council to any proposal for European Community legislation or for a common strategy, joint action or common position under Title V or a common position, framework decision, decision or convention under Title VI of the Treaty on European Union—

(a) which is still subject to scrutiny (that is, on which the European Scrutiny Committee has not completed its scrutiny) or

(b) which is awaiting consideration by the House (that is, which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No. 119 (European Standing Committees) but in respect of which the House has not come to a Resolution).

(2) In this Resolution, any reference to agreement to a proposal includes—

(a) agreement to a programme, plan or recommendation for European Community legislation;

(b) political agreement;

(c) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 251 of the Treaty of Rome (co-decision), agreement to a common position, to an act in the form of a common position incorporating amendments proposed by the European Parliament, and to a joint text; and

(d) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 252 of the Treaty of Rome (co-operation), agreement to a common position.

(3) The Minister concerned may, however, give agreement—

(a) to a proposal which is still subject to scrutiny if he considers that it is confidential, routine or trivial or is substantially the same as a proposal on which scrutiny has been completed;

(b) to a proposal which is awaiting consideration by the House if the European Scrutiny Committee has indicated that agreement need not be withheld pending consideration.

(4) The Minister concerned may also give agreement to a proposal which is still subject to scrutiny or awaiting consideration by the House if he decides that for special reasons agreement should be given; but he should explain his reasons—

(a) in every such case, to the European Scrutiny Committee at the first opportunity after reaching his decision; and

(b) in the case of a proposal awaiting consideration by the House, to the House at the first opportunity after giving agreement.

(5) In relation to any proposal which requires adoption by unanimity, abstention shall, for the purposes of paragraph (4), be treated as giving agreement.

Votes and Proceedings, 17 November 1998, p 1250

<http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmselect/cmeuleg/152vi/15211.htm>

Appendix 2 –Motion re: Standing Committee on European Affairs

Minutes of Proceedings - Monday 6th December 2000.

Motion

Proposed: After Standing Order 57 insert a new Standing Order:

() **Committee of the Centre**

(1) There shall be a Standing Committee of the Assembly to be known as the Committee of the Centre, to examine and report on the exercise of the executive functions carried out in the Office of the First Minister and the deputy First Minister, other than those addressed by the Standing Committee on European Affairs, and the Committee on Equality, Human Rights and Community Relations and on any other related matters determined by the Assembly.

(2) The Committee shall have the power to send for persons and papers.

(3) The procedures of the Committee shall be such as the Committee shall determine.

[Mr D Ford][Mr Peter Robinson]

Proposed: At line 3, delete from "Committee of the" to end of line 8 and insert

"Centre to examine and report on the following functions carried out in the Office of the First Minister and the deputy First Minister, and on any other related matters determined by the Assembly:

(a) Economic Policy Unit (other than the Programme of Government);

(b) Equality Unit;

(c) Civic Forum;

(d) European Affairs and International Matters;

(e) Community Relations;

(f) Public Appointments Policy;

(g) Freedom of Information;

(h) Victims;

(i) Nolan Standards;

(j) Public Service Office;

(k) Emergency Planning; and

(l) Women's Issues.

(2) This Committee shall replace the Standing Committees on European Affairs and Equality, Human Rights and Community Relations. Standing Orders "Standing Committee on European Affairs" and "Committee on Equality, Human Rights and Community Relations" are, accordingly, revoked.

(3) The Committee shall consist of 17 Members."

[Rt Hon David Trimble MP]

[Mr Séamus Mallon MP]

After debate, the Question being put, the Amendment was **made** on a cross-community basis (Division 3).

After debate, the Question being put, the Motion, as amended, was **carried** on a cross-community basis (Division 4).

As a result of these divisions two Motions standing in the name of Mr C Murphy were not moved.

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- ¹ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.77)
- ² Treaty of the European Union – Protocol 9 - *Official Journal C 340, 10.11.1997, pp. 145-172*
- ³ http://www.europarl.eu.int/natparl/cosac/history_en.htm
- ⁴ House of Commons Factsheet Series L No 11 – European Communities Legislation available online @ www.parliament.uk/commons/lib/fs56.pdf
- ⁵ House of Commons Factsheet Series L No 11 – European Communities Legislation available online @ www.parliament.uk/commons/lib/fs56.pdf
- ⁶ (<http://www.parliament.uk/commons/selcom/eurpnt04.htm>)
- ⁷ Comment by Angela Eagle MP giving evidence to European Scrutiny Committee - Wednesday 31 October 2001 <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmeuleg/325/1103102.htm> Angela Eagle
- ⁸ Burrows, N (2000) Devolution. London: Sweet & Maxwell p.23
- ⁹ S.Bulmer et al. (2001) 'European Policy-Making under Devolution: Britain's New Multi-Level Governance', Manchester Papers in Politics?EPRU Series no.1/01 (p.77)
- ¹⁰ Burrows, N (2000) Devolution. London: Sweet & Maxwell p.136
- ¹¹ Memorandum of Understanding and Supplementary Agreements Cm 4806 HMSO available online @ <http://www.cabinet-office.gov.uk/constitution/devolution/MoU/mou.htm>
- ¹² Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p.138
- ¹³ <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmselect/cmmodern/cmmodern.htm>
- ¹⁴ House of Commons Standing Orders available online @ <http://www.publications.parliament.uk/pa/cm200001/cmstords/1mpubbs.htm>
- ¹⁵ Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p.97
- ¹⁶ House of Commons Fact sheet Series L No 11 – European Communities Legislation available online @ www.parliament.uk/commons/lib/fs56.pdf
- ¹⁷ Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p.96
- ¹⁸ ibid
- ¹⁹ <http://www.parliament.uk/commons/selcom/eurohome.htm> for reports providing ESC assessment.
- ²⁰ European Scrutiny Committee Press Notice No. 2 of Session 2001-2002, dated 24 October 2001.
- ²¹ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.77)
- ²² Details of the progress of EU documents which the European Scrutiny Committee has recommended for further consideration are available in the 'vote bundle' which is also available online @ <http://www.publications.parliament.uk/pa/cm/cmeudoc/cmeudoc.htm>
- ²³ Ibid
- ²⁴ House of Commons Standing Orders available online @ <http://www.publications.parliament.uk/pa/cm200001/cmstords/1mpubbs.htm>
- ²⁵ Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p.97
- ²⁶ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester.
- ²⁷ House of Lords Standing Orders available online @ <http://www.parliament.the-stationery-office.co.uk/pa/ld/ldestords/ldestords.htm>
- ²⁸ House of Commons Factsheet Series L No 11 – European Communities Legislation available online @ www.parliament.uk/commons/lib/fs56.pdf
- ²⁹ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.78)
- ³⁰ Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p.107
- ³¹ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.78)
- ³² <http://www.hmsso.gov.uk/acts/acts1998/19980046.htm>
- ³³ Burrows, N (2000) Devolution. London: Sweet and Maxwell
- ³⁴ <http://www.hmsso.gov.uk/acts/acts1998/19980046.htm>
- ³⁵ The Consultative Steering Group on the Scottish Parliament (CSG) was set up by the Secretary of State for Scotland in November 1997, following the positive outcome of the Scottish devolution referendum, and met for the first time in January 1998. Its membership included representatives of all

four major Scottish political parties, as well as of a wide range of civic groups and interests. The remit of the group was:

- to bring together views on and consider the operational needs and working methods of the Scottish Parliament;
- to develop proposals for the rules of procedure and Standing Orders which the Parliament might be invited to adopt; and
- to prepare a report to the Secretary of State by the end of 1998, to inform the preparation of Standing Orders.

³⁶ http://www.scottish.parliament.uk/parl_bus/sto-c.htm

³⁷ http://www.scottish.parliament.uk/whats_happening/docs/cg-c.htm

³⁸ Hassan, G. (2000) The new Scottish politics: the first year of the Scottish Parliament and beyond. London: TSO, 2000

³⁹ Report of the CSG Section 3.4 Accountability paragraph 30

⁴⁰ This proposal reflects practice in the House of Commons European Standing Committees.

⁴¹ (section 31)

⁴² http://www.scottish.parliament.uk/parl_bus/sto-c.htm

⁴³ (Rule 6.1 paragraph 5)

⁴⁴ (Rule 6.2)

⁴⁵ Scottish Parliament European Committee Official Report available online @

http://www.scottish.parliament.uk/official_report/cttee/europe99-00/eu081802.htm#Col19

⁴⁶ Following a change by the Scottish Executive to extend the remit of the minister who has responsibility for Europe to cover external affairs as well, the European Committee requested that the Procedures Committee of the Scottish Parliament, likewise, extend its remit to enable the European Committee to scrutinise the minister. At its meeting held 29th May 2001, the Procedures Committee agreed (by division; For 4, Against 2, Abstentions 0) to the principle set out in Paper PR/01/5/10 and to receive a further issues paper which would include the relevant draft standing orders changes.

⁴⁷ (Rule 6.8) para 3-4

⁴⁸ Subject Committees of the Scottish Parliament are: Education, Culture and Sport; Enterprise and Lifelong Learning; Health and Community Care; Justice 1; Justice 2; Local Government; Rural Development; Social Justice; Transport and the Environment

⁴⁹ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.91)

⁵⁰ http://www.scottish.parliament.uk/official_report/cttee/europe99-00/euc01003.htm#Col3

⁵¹ Annual Report of the European Committee for the Parliamentary Year 12 May 2000 to 11 May 2001 http://www.scottish.parliament.uk/official_report/cttee/europe-01/eur01-07-01.htm

⁵² After considering evidence gathered by Committee Reporter, Maureen Macmillan, a Committee Report on this important topic for the economy of rural Scotland was published. The use of reporters is a distinctive element of the workings of the committee system in the Scottish Parliament. There is no formal process for the appointment of reporters set out in Standing Orders. However, guidance for the operation of committees in the Scottish Parliament states that:

A committee may consider the appointment of one or more of its members as reporters. A reporter may report to a committee on any competent matter, within a time limit set by the committee.

Reporters might fulfil a number of roles, including taking responsibility for researching, investigating an issue, or the drafting of a committee report on a particular subject over a set period of time. This does not necessarily mean that the reporter will carry out these duties but he or she may be responsible for commissioning and monitoring the work to the committee's instruction. Alternatively, a reporter may act as a link person with another committee (e.g. the European Committee) or outside body. It will be for the committee to decide the role of each reporter. The remit of each reporter should normally be agreed at the time of their appointment.

⁵³ http://www.scottish.parliament.uk/official_report/cttee/europe99-00/eu081802.htm#Col19

⁵⁴ Bulmer et al (2001) European Policy-Making Under Devolution: Britain's New Multi-Level Governance. European Policy Research Unit Paper No: 1/01. University of Manchester. (p.95)

⁵⁵ 11 Dec 2001 9th Report 2001: Report on the Governance of the European Union and the Future of Europe: What Role for Scotland? available online @

http://www.scottish.parliament.uk/official_report/cttee/europe.htm#rep

⁵⁶ See http://www.scottish.parliament.uk/official_report/cttee/europe.htm#pap for details of Committee papers and minutes of proceedings.

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- ⁵⁷ Briefing Paper EU/02/2/1 available online at http://www.scottish.parliament.uk/official_report/cttee/europe.htm#pap
- ⁵⁸ Scottish Parliament Briefing Paper EU/02/2/1 "Implementation of EC legislation and the role of the European Committee
- ⁵⁹ Scottish Parliament Briefing Paper EU/02/2/1 "Implementation of EC legislation and the role of the European Committee
- ⁶⁰ <http://www.wales.gov.uk/keypubstandingorders/index.htm>
- ⁶¹ Committee on European Affairs paper EUR-01-01(p.2) available online at <http://www.wales.gov.uk/newsite.dbs?37D6B0F100072F6F0000125D00000000>
- ⁶² EUR-02-01(p.4) available online at <http://www.wales.gov.uk/show.dbs?3AC20740000996D30000526D00000000>
- ⁶³ EUR-03-01 (p.2) available online at <http://www.wales.gov.uk/show.dbs?3B0517EC000F2E80000061A700000000>
- ⁶⁴ Minutes of the Business Committee meeting held on July 3rd 2001 state that 'The Deputy Presiding Officer said that he had received a letter from the First Minister which sought changes to the membership and remit of the European Affairs Committee. The proposals were for a formal rapporteur system to establish effective links with subject committees, to extend the Committee's remit to include external affairs and to enable it to consider issues falling within the remit of subject committees in certain circumstances. He said that the proposals had already been considered by the Panel of Chairs who were content. The Committee agreed to approve the proposals and asked officials to bring forward the necessary changes to Standing Orders. Action: Committee Secretariat
- ⁶⁵ Burrows, N (2000) Devolution. London: Sweet and Maxwell
- ⁶⁶ In this context it is also worth highlighting that Stand Two of the Agreement NORTH/SOUTH MINISTERIAL COUNCIL which states that:
17. The Council to consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework. Arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.
- ⁶⁷ Committee homepage <http://www.ni-assembly.gov.uk/11.htm>
- ⁶⁸ <http://www.ni-assembly.gov.uk/11.htm>
- ⁶⁹ Report of the Ad Hoc Committee on the Procedural Consequences of Devolution NNIA 5 (November 1998) Annex 3
- ⁷⁰ The Initial Standing Orders of the New Northern Ireland Assembly were notified to the Initial Presiding Officer by the Secretary of State for Northern Ireland in accordance with paragraph 10(1) of the Schedule to the Northern Ireland (Elections) Act 1998, and dealt inter alia with the Business of the Assembly and the election of a Presiding Officer and of the First and Deputy First Ministers.
- ⁷¹ NNIA 9ii Report of the Committee on Standing Orders Feb 1999
- ⁷² Wilson, R (ed) 2001 Agreeing to Disagree?: a guide to the Northern Ireland Assembly London TSO p.66
- ⁷³ Wilson, R (ed) 2001 Agreeing to Disagree?: a guide to the Northern Ireland Assembly London TSO p.66
- ⁷⁴ Minutes of meeting Wednesday 5th September 2001 <http://www.ni-assembly.gov.uk/centre/010905.htm>
- ⁷⁵ <http://www.niassembly.gov.uk/record/020408.htm#9>
- ⁷⁶ NIA Committee of the Centre (2002) Inquiry into the approach of the Northern Ireland Assembly and the Devolved Government on European Issues. Belfast TSO
- ⁷⁷ <http://www.ni-assembly.gov.uk/record/020408.htm#9>
- ⁷⁸ Norton, P (ed.) (1996) National parliaments and the European Union London: Frank Cass. p102
- ⁷⁹ HC 185 (1999) Fourth Report of the Procedure Select Committee – The Procedural Consequences of Devolution. HC 185
- ⁸⁰ HC 814 (1999) Procedural Consequences of Devolution: Government Response to the Fourth Report from the Committee