

Wales and the EU and UN

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Galesen hautetsitako gobernuak dute 1999tik, baina ez zuten urte horretaraino itxaron, behar-erak, baloreak edo lehentasunak zituzten arloetan nazioarte mailan konprometitzeko. Artikuluak Galesek Europako Batasunean eta Nazio Batuen Erakundeetan parte hartzeko dituen aukerak deskribatzen ditu, baita berrikuntza- eta konpromiso-aukerak ere. Era berean, garapen iraunkorrean egindako lanaren aipamen berezia egiten du.

Giltza-Hitzak: Politika-zientziak. Eskualde-gobernuak. Gales. Itzultzea. Garapen iraunkorra. EB. NBE.

El país de Gales sólo ha tenido su propio gobierno elegido directamente desde 1999, si bien rápidamente ha establecido el potencial de las relaciones internacionales en aquellas áreas en las que tienen especiales necesidades, valores o prioridades. Este artículo describe las oportunidades con las que cuenta el país de Gales para participar en instituciones de la Unión Europea y de las Naciones Unidas así como el grado de innovación y participación, con especial referencia a su trabajo en el campo del desarrollo sostenible.

Palabras Clave: Ciencias políticas. Gobierno regional. Gales. Devolución. Desarrollo sostenible. UE. ONU.

Le Pays de Galles ne dispose d'un gouvernement élu que depuis 1999, mais n'a pas attendu cette date pour s'engager au niveau international dans les domaines où il a des besoins, des valeurs ou des priorités. L'article décrit les opportunités de participation du Pays de Galles à l'Union Européenne et aux institutions des Nations Unies, ainsi qu'à l'innovation et à l'engagement, avec une mention particulière pour le travail mené en matière de développement durable.

Mots Clé : Sciences politiques. Gouvernement régional. Pays de Galles. Restitution. Développement durable. UE. ONU.

INTRODUCTION: THE DEVOLUTION SETTLEMENT IN WALES

The National Assembly for Wales is a product of the devolution of power to the traditional constituent nations of the United Kingdom that came into effect in 1999. Each of the Acts that established the new devolved Assemblies and Parliaments in the UK were unique, giving an asymmetry to the settlement as a whole. Wales obtained an Assembly with the power to make secondary legislation in essentially all the specific areas previously assigned to the Secretary of State for Wales to exercise as part of the UK Cabinet. This leaves Wales with a wide range of specific powers – many of them extensive - but no general powers or fields of competency. Every action by the Assembly and its Executive – the Welsh Assembly Government - must be derived from a specific power assigned to the Assembly in UK law. The Government of Wales Act 1998 which created the Assembly set out the initial `transfer of functions` to the Assembly, and the list of functions grows with each new UK Bill that assigns powers to the Assembly.

There is no formal constitution to underpin the new system, rather there are presumptions that the Assembly should receive appropriate powers in those areas in which it operates. This means that each new Act of Parliament demands a negotiation to establish what powers may be conferred on the Assembly and equally that it is possible for the Assembly to gain significant powers and responsibilities by agreement with a UK department to transfer those powers. In 2004 for example, the Assembly has gained responsibility for the Fire Service in Wales, the Children and Family Court Advisory Service and the Animal Health Service by this route.

The Government of Wales Act provides the Assembly with no specific powers in relation to international action except in so far as these are legitimately in pursuit of its domestic powers or obligations. This means that the Assembly cannot at present provide overseas aid. However, as Wales is responsible for the implementation of a wide range of international obligations within its boundaries, this link to domestic powers is not in practice the restriction it might at first appear.

The Assembly also has autonomy over its budget. It receives its funding as three year rolling budget from the UK Treasury based on a formula (the Barnett Formula) that adjust spending according to the changes in spending by comparable UK government Departments.¹ Decisions on funding priorities are entirely the responsibility of the Assembly Government Cabinet.

As part of the devolution settlement, Memoranda of Understanding were signed with the UK Departments setting out the respective expectations of the Assembly Government and UK Department in respect of liaison and co-operation. These are intended to provide a climate in which the implications of policy

1. For more on the Barnett formula and related issues, see articles by David Heald, *Financing UK Devolution in Practice* (2001), also available in French (*La décentralisation dans certains pays non fédéraux : l'exemple du Royaume-Uni*) on the website of the Quebec Government's Commission sur le Déséquilibre Fiscal.

or spending initiatives by one of the signatories are shared with the other before decisions are final. These memoranda are not intended to be legally tested, rather they set out a mutual understanding and point of reference in relations.

The staff of the Welsh Assembly Government are part of the UK's common Home Civil Service and have a single senior appointments and recruitment system under the Civil Service Commission. Within this system, the Welsh Assembly Government is working to provide closer links across the differing parts of public service within Wales including establishing a single development initiative – *Public Sector Management Wales*.²

The current legal framework based on powers exercised in Wales prior to the Assembly's creation gives inconsistent responsibilities to the Assembly Government. For example, the Assembly has absolute authority over the school curriculum but not over teachers' terms and conditions of service. An independent Commission – the Richard Commission³ – was set up under the first Assembly term to advise on the future development of the Assembly's powers. Their 2004 report recommended that the Assembly should move to a position analogous to that in Scotland, with full primary powers over areas of competency. The report has been subject to debate within the governing Welsh Labour Party and the First Minister has put forward an alternative approach of giving the Assembly power to amend UK legislation in defined areas of competency. Any development of powers would require UK legislation.

Treaties making power and legal proceedings before international and supranational courts are other important aspects that ask for a more detailed description. Given the more specific juristical character, these are not included in this compact introduction to Flemish International Activity. Welsh representation at the EU-level.

The informal and co-operative nature of the UK settlement provides a range of opportunities for influence at the EU level. In formal terms, it is the Nation State – the UK – that is represented at the EU but within that basic understanding Wales has a number of formal and informal opportunities.

Council

A UK position usually has to be agreed through the UK representation – the Foreign and Commonwealth Office staff who co-ordinate the UK's representation at the EU. In fields where the devolved administrations exercise authority, such as agriculture, this means there has to be regular concertation of a position between the officials and Ministers of the administrations. In this case, the UK Minister will often be wearing two hats – as the England Minister representing

2. *Public Sector Management Wales – Learning for public service excellence*, Welsh Assembly Government, October 2004.

3. *Report of the Richard Commission, Commission on the Powers and Electoral Arrangements of the National Assembly for Wales*, Spring 2004.

English interest in any discussion (as there is as yet no devolution to the English regions) and as a Minister reflecting an agreed UK position. From time to time a Welsh Minister will be invited instead to represent the UK position in Council, usually in an area of particular interest or expertise that may provide an incidental opportunity to demonstrate initiatives within Wales.

Parliament

Wales elects four members to the European Parliament. The MEPs are kept informed of Welsh activity in the EU and may be informally engaged in particular events and initiatives.

UK Permanent Representation to the European Union

The Welsh Assembly Government operates Wales House, a dedicated office in Brussels shadowing EU business. Members of the office are formally accredited to the UK representation (UKREP) and receive all relevant UK communications on EU matters and have direct access to EU institutions. Wales was instrumental in preparing aspects of the UK's position in the intergovernmental conference.

Committee of the regions

Wales has two members and two alternates on the Committee of the Regions, one place occupied by an Assembly Member and the other by a local councillor. The Assembly Government has given briefings to the Committee on items of interest but the very diverse nature of this group has meant that to date it has not been able to provide a strong route for influencing the policy debate.

EU-interregional cooperation

Wales has been an active member of the network of regions with legislative powers (REGLEG) in the context of institutional reform and governance where it has joined in pressing the case for clearer recognition of the distinct role of the regional sphere of government as central to the EU's future well-being and competitiveness. Wales is also an active member of the Conference of Peripheral Maritime Regions - a long-standing regional lobby within the EU.

Participation in such regional groupings gives Wales an entry into EU policy formulation and especially access into structured dialogues that are not otherwise open to individual regions.

Tripartite or target-based agreements

EU law generally requires a uniform approach to implementation across the Nation State. Wales expressed interest in the proposed pilot tripartite agreements set out in the EU Governance White Paper under which regions could experiment with implementation of EU policy within the framework of the broader

directive. Wales proposed to undertake work on waste. This EU initiative however appears to have stalled at present.

INTERNATIONAL WORK

It is open to Wales to request to be part of UK delegations to international meetings and to pursue its own interest and links within the framework of the common UK or EU position. The UK government does not generally concert a position for these wider activities that it sees as the preserve of the UK government, but in cases where the action would have significant direct implications for devolved administrations, the position will generally be subject to discussion and prior agreement.

Wales does not have treaty-making powers but it can enter into informal agreements of various kinds with individual regions or states and can join and participate in networks and groups that may adopt policy positions. Under the Memorandum of Understanding with the Foreign and Commonwealth Office, Wales is required to notify them of any such international undertakings it enters in to.

Wales has participated in the work of a number of international bodies, including the World Health Organisation where it has been part of a pilot of health impact assessment.

ACTION ON SUSTAINABLE DEVELOPMENT

Wales has a specific duty in its founding legislation to promote sustainable development in the carrying out all its functions.⁴ This unique duty has given Wales an opportunity to act on the international and European stage to share its experience and to learn from best practice and promote the duty with others.

In October 2004, Wales published its action plan under its second sustainable development scheme (the legal document setting out how the duty to promote sustainable development will be implemented). This included commitments to develop Wales' international engagement, including action on the Millennium Development Goals, Fair Trade and global citizenship.⁵

Wales' international action in this area began with the World Summit in Johannesburg in 2002. The First Minister and supporting officials attended the summit as part of the UK delegation and were invited on a ceremonial basis briefly to occupy the UK seats in the main session of the summit (though not to speak). During the summit, the Wales delegation were otherwise free to set their own agenda for participation. The First Minister spoke about global ecological footprinting as part of the IUCN events and addressed a business and environ-

4. S.121 of the Government of Wales of Wales Act 1998.

5. The Sustainable Development Action Plan of the Welsh Assembly Government 2004-07, debated by the Assembly on 13 October 2004.

ment event organised by the Cambridge programme. The main initiative, however, was to co-sponsor the inaugural meeting of regions committed to sustainable development that has since become nrg4SD – the network of regional government's for sustainable development. The First Minister hosted a reception and dinner for delegates and chaired the session of the meeting that agreed the network's founding Gauteng declaration. Wales subsequently hosted the conference of the network in Cardiff in March 2004 in which over 40 regions from five continents took part. nrg4SD is now legally constituted as an independent international organisation under Belgian law, with a membership fee structure. It will hold its first formal General Assembly in Sumatra in February 2005.

Within the auspices of the network, Wales has participated in stakeholder events, side events and lobbying at the UN Commission for Sustainable Development, at the Conference of the Parties to the Kyoto Protocol and at the 2004 Bonn conference on renewables. It has also championed the development of a matrix of experience and needs for the members of the network to establish the scope for future co-operations.

At the EU level, Wales also took the opportunity in 2002 of the EU Regional Directorate initiatives on innovative actions to propose a network of EU regions on sustainable development to be funded as one of three thematic innovative actions networks. This network was focused on shared learning of what constituted a sustainable region, organised around three overarching themes of governance, spatial planning and monitoring and indicators and several topic areas where practitioners from the participating regions worked together to develop and share ideas. The network's first two years of funding conclude at the end of 2004. The report of this phase of the network was published in November 2004 and highlighted five recommendations:

- regions as key to delivering sustainable development;
- making sustainable development the overall aim of policy;
- enabling regional distinctiveness;
- building regional systems for sustainable development; and
- strengthening EU support.

The network has the prospect of participating in future structured dialogues on the development of the EU's Sustainable development strategy and submitted its own response to the consultation on the strategy's renewal.

Also at the EU level. Wales has been invited to participate on behalf of the UK in discussion of Spatial Planning, building on its experience of producing the first Wales Spatial Plan⁶ – a translation of the Government's overall programme

6. People, Places, Futures – the First Wales Spatial Plan, adopted by the Assembly on 17 November 2004

and its sustainable development duty into visions and actions for the different parts of Wales.

At the UK level, the UK government is currently preparing its new sustainable development strategy to follow up its Johannesburg commitments. For the first time, this strategy will formally reflect the devolved nature of action in this area, with the proposal being that the Wales Scheme and Action Plan would formally form part of a family of UK documents that will *together* constitute the UK strategy. At the time of writing officials were discussing the short statement of top-level principles and commitments that would cover the administrations as a whole. This would be the first time such an approach has been taken by the UK in the international field.

The UK Government is also preparing action on climate change and has invited the devolved administrations to participate in and contribute to this work. This ties in well with the commitment in the new Wales Sustainable Development Action Plan to promote a low-carbon economy but presents a potential resource issue for the relatively small number of specialist staff we have to deploy as an administration. In such cases, the devolved administrations inevitably have dependence on the larger resources available at the UK level.

CONCLUSION

Wales has considerable positive opportunities under the UK devolution settlement to participate in international and EU affairs and to make its views, initiatives and voice known. Provided Wales operates within the broad UK framework and its own express powers, there are no essential restrictions on its scope for action. The first few years of devolved power have already provided considerable evidence of Wales' ability to operate and influence on this wider stage.