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## Between intergovernmental relations and paradiplomacy:

### Wales and the Brexit of the Regions

Jo Hunt and Rachel Minto, 17 July 2017

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#### *Abstract:*

*The UK's withdrawal from the European Union (EU) is an assertion of UK nation-state sovereignty. Notwithstanding this state-centrism, Wales, Scotland and Northern Ireland have distinct interests to protect as part of the Brexit negotiations. This article explores how the interests of one regional case, Wales, were accommodated in the pre-negotiation phase, at a domestic level - through intergovernmental structures - and an EU-level through paradiplomacy. We explore the structures for sub-state influence, Wales' engagement with these structures and what has informed its approach. We argue that Wales' behaviour reflects its positioning as a 'Good Unionist' and a 'Good European'. Despite the weakness of intra-UK structures, Wales has preferred to pursue policy influence at a UK (not an EU) level. In Brussels, regional interests inform the context for Brexit. Here, Wales has focused on awareness-raising, highlighting that the UK Government does not command the 'monopoly on perspectives' towards Brexit in the UK.*

#### **Introduction**

International law and politics and their associated structures were created by and for states.

Acting within a global arena, states seek economic and political advantage through foreign

outposts, trade missions, bilateral and multilateral agreements, participation in international organisations and, in more extreme cases, military force. This foreign policy realm is one in which the primacy of the state is long established. However, primacy does not imply exclusivity. Indeed, sub-state actors now assert themselves more forcefully on the international scene; a scene that has become increasingly hospitable to them.

Though certain states have stood firm against any challenge to exclusive centrality, others have transferred administrative and political powers from the centre through models of federalism or processes of devolution (Hooghe et al 2016). However, even where considerable powers are held by the constituent sub-unit of the state, competence over the internal dimension of a policy rarely results in a parallel competence over the external dimension. This lack of legal capacity has not deterred sub-states from themselves engaging in international activity – in the pursuit of various economic, cultural and political ends – whilst seeking to influence state foreign policy through intra-state channels. The final result is a complex foreign policy arena, both within and beyond the state (Duchacek 1990, Aldecoa 2009).

In this article, we use the process of the UK's withdrawal from the EU to expose and explore this multi-layered complexity and gain a better understanding of the ways in which sub-states are constrained and enabled in the promotion of their own foreign policy preferences, both inside and outside the state. We are particularly interested in the structures available for sub-states to advance their policy preferences, the ways in which sub-states use these structures, and why. Our particular focus is Wales. Unlike Scotland, Wales' electorate voted on 23 June 2016 to leave the EU, though Wales' governing parties

are staunchly pro-remain. Again unlike Scotland, Wales' governing parties are in favour of the continuation of the union of the United Kingdom.

Withdrawal from the EU involves the enactment of British state foreign policy that will have profoundly differentiated implications across its sub-states. The arena of this foreign policy activity, the institutional environment of the EU, is one in which sub-states (as EU 'Regions') have an established presence, legal recognition, and some level of influence. Wales, Scotland and Northern Ireland have developed their own independent relationships with the EU and each devolved nation has its own set of interests and priorities to protect and promote. In particular, Wales has been a net beneficiary of EU funding (Wyn Jones et al 2016) through the Common Agricultural Policy and the Structural Funds, incorporating as it does 'less developed' areas attracting a higher level of EU support. Its Government also emphasises the significance of membership of the Customs Union and Single Market as rendering Wales an attractive location for major international companies and for foreign direct investment (Minto *et al* 2016). As with the other sub-state nations in the UK, the Welsh Government's priorities for withdrawal from the EU are markedly different from those of the UK Government. However, unlike the other sub-state nations in the UK, Wales' bargaining hand within the UK is particularly weak. Compounded by the relatively weak structures for intergovernmental relations in the UK (House of Lords Select Committee on the Constitution 2015), the European arena would appear as a potentially attractive site for advocacy activity, advancing Wales' distinctive priorities.

### **Methodology and Hypothesis**

Our hypothesis is that, if the structures for intergovernmental relations within the UK state are weak, Wales would seek to make significant strategic use of external channels to represent its interests distinct from those of the UK Government. Our original empirical research draws on 19 semi-structured interviews with Welsh and European policy actors, based in Wales and Brussels, complemented with documentary analysis of policy texts.<sup>1</sup> The period under examination runs for a little under 12 months, from the date of the referendum vote on 23 June 2016 and finishing before the 2017 General Election.

Interviews were conducted in April and May 2017. With formal withdrawal negotiations between the UK and EU opening on 19 June 2017, this period captures the pre-negotiation phase, recognised in diplomacy theory as a period and a process which 'defines the boundaries, shapes the agenda, and affects the outcome of negotiation' (Stein 1989, 232).

We open the article with a presentation of the existing structures for internal UK intergovernmental relations through the Joint Ministerial Committees and provide an account of the structures developed following the referendum vote. We demonstrate the existing limitations inherent in the system, before going on to present the first set of empirical findings from our fieldwork. These findings demonstrate the ways in which, since June 23 2016, Wales has used the available opportunity structures internal to the UK to advance its interests and seek to influence UK foreign policy with respect to the UK's withdrawal from the EU. The findings confirm the limited opportunities for, and receptiveness to the advancement of devolved interests, though see Wales as an engaged and committed participant in the process.

We turn next to the external dimension, highlighting first the generally receptive arena presented by the EU institutions for regional (sub-state) interests, and the external activities on the part of the regions these encourage. The overlapping of competences involved in the day to day governance of EU affairs may result in it being considered as qualitatively different from 'normal' foreign policy (Palmer, 2003). However, the high politics involved in withdrawing from a treaty arguably removes it from the realm of established practices of multilevel governance, albeit not completely. We adopt the concept of paradiplomacy, which refers to the direct participation of the sub-state in foreign policy – activities 'parallel to, often coordinated with, complementary to, and sometimes in conflict with centre-to-centre macro-diplomacy' (Mitchell 1995, 287). Protodiplomacy meanwhile 'graft[s] a more or less separatist message' onto external sub-state activity (Duchacek 1990, 27). We then explore what steps have been taken by Wales directly to use EU-level opportunity structures during the period under examination.

We argue that the Welsh Government's engagement with both intra and extra-UK channels of influence has been characterised by its ongoing commitment to the continuation of the UK state. The character of Wales as the 'Good Unionist' complements its desire to secure a continued position as a 'Good European'. Wales has preferred a cooperative as opposed to combative or disruptive approach towards the UK Government, in a bid to secure a Welsh Brexit as part of a 'one UK Brexit'. It has primarily focused advocacy activity at the UK-level, seeking to influence aspects both of how the negotiations take place, and who participates, as well as the substance of those negotiations and the UK's preferences. The Welsh Government's EU-level activity has instead favoured awareness-raising of Wales' particular position through private channels, as opposed to more protodiplomatic, public declarations

of their distinctiveness from the UK Government as advanced by Scotland (McHarg and Mitchell 2017). Beyond this activity, a large part of its Brussels-based work is centred on maximising the benefits of its current EU membership and preparing Wales for its European future post-Brexit.

### **UK intergovernmental relations: Brexit and the union of four nations**

Following an initial outlining and assessment of the existing intergovernmental structures within the UK, we detail the dedicated structures put in place in the wake of the referendum vote to bring together the different governments to forge a UK position on withdrawal going into negotiations. Drawing on interview data, we then present evidence about how these structures have been used.

The concepts of self and shared rule are well known from the literature on federalism and other forms of multileveled state governance (Elazar 1987; Hooghe *et al* 2016). The first relates to the powers held by the sub-state constituent unit, and its ability to exercise those powers independently from the central state. Shared rule meanwhile relates to the structures in place for influence over decision-making for the whole state. Federalism, in Elazar's famous equation, is 'self-rule plus shared rule' (Elazar 1987, 12). While different states adopt different divisions of tasks, certain policy fields are more likely to be reserved to the central state – including foreign policy and matters of security and defence. There are distinctions too as to the structures for the exercise of self and shared rule that may be in place. States differ in the way they protect the sphere of self-rule from incursion from the central state, as well as the structures for shared rule, and the degree of voice they give the sub-state. Some orders may see the position of the sub-state underpinned by strongly

institutionalised structures, protected by constitutional guarantees and backed up by the courts. Others, of which the UK is a signal example, see the position of the sub-state rather less deeply entrenched in the structures of intergovernmental relations (let alone interparliamentary relations), with little in the way of effective legal protections to protect areas of self-rule, or to effect joint decision making in areas of common interest.

As the process of devolution in the UK has unfolded, intergovernmental structures have been created to facilitate communication and coordination between the UK Government and the three devolved nations. The formalised structure for intergovernmental relations is the Joint Ministerial Committee (JMC), a multilateral forum in which Government ministers from Scotland, Wales and Northern Ireland meet with, and seek to influence the position of, their equivalent UK Government Minister. Over the years, the JMC has met with varying levels of regularity and, as an effective governance mechanism, appraisals have at best been mixed (see for example Gallagher 2012, and Paun and Miller 2016). The operation of the JMC across its different formations is based on a Memorandum of Understanding and Supplementary Agreements, which set out the procedures and principles for intergovernmental relations (these being communication and consultation, co-operation, the exchange of information, and confidentiality). Without statutory underpinning or the power to take formally binding decisions, the effectiveness of the JMC is very much open to question. There is no obligation on the UK Government to hold these inter-governmental meetings, such that the JMC has fallen into extended periods of dormancy.

The European Union JMC (JMC (E)) is considered as the most effective of the three original configurations (the other two being JMC Plenary or JMC (P) and JMC (D), dealing with

domestic issues). JMC(E) meets on a regular basis, in advance of European Council meetings. Notably, embedded within this structure is also the possibility for a minister from a devolved nation to represent the UK at the EU Council. This development was welcomed as a particularly progressive innovation when it was introduced, especially against the statutory background which sees relations with the EU as an area of international relations, and thus reserved to the central government.

The identification of all EU related activity as reserved to the central government is distinctly problematic from a devolved perspective, given the range of policy issues dealt with by the EU. Many areas falling within categories where policy competence has been devolved are also ones which see extensive EU activity. These include agriculture, the environment, fisheries and regional policy. The JMC (E) provides a structure to put into effect the commitment in the Concordat on Coordination of European Union Policy Issues (2013) to involve devolved administrations 'as directly and fully as possible in decision making on EU matters'. This commitment goes beyond that found in the Concordat on International Relations (2013), which is limited to ensuring 'close cooperation' between the UK Government and ministers from the devolved governments in the conduct of international relations, reflecting the stronger claims for devolved participation in EU governance matters.

The relative success of the JMC (E) may have given the devolved nations some cause for optimism that the structures for them to feed into the UK government line on the Article 50 negotiations would be receptive to their concerns. A new forum – the JMC European Negotiations, or JMC (EN) – was convened to deal explicitly with the withdrawal process, for

the determination of the whole UK position which the Prime Minister, Theresa May, said she sought. The establishment of the JMC (EN) was announced by the Prime Minister on 24 October, at a JMC (P) session. This cross-national forum was to meet on a monthly basis, chaired by the UK's Secretary of State for Exiting the EU, David Davis (head of the Department for Exiting the European Union [DExEU]). The attending representative from Wales was Mark Drakeford (Cabinet Secretary for Finance and Local Government), who works in concert with the Welsh First Minister, Carwyn Jones, on Brexit. These actors are supported organisationally in the Welsh Government by an EU Transition Team, which was established in late summer 2016. Extensive discussion preceded the announcement of the JMC (EN), including the drafting of the JMC (EN)'s terms of reference. The devolved administrations were included in this process and were satisfied with the terms finally agreed, which consist of:

working collaboratively to: discuss each government's requirements of the future relationship with the EU; seek to agree a UK approach to, and objectives for, Article 50 negotiations; and provide oversight of negotiations with the EU, to ensure, as far as possible, that outcomes agreed by all four governments are secured from these negotiations; and, discuss issues stemming from the negotiation process which may impact upon or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive (UK Government 2016 – JMC (P)).

Of particular interest was the UK Government's commitment to 'seek to agree a UK approach' to the Article 50 negotiations. Given the differentiated outcome of the EU

Referendum across the UK, and the distinctive relationships between the EU and the devolved nations, some interviewees considered it ambitious of the UK Government to have made this commitment. However, as distinct from the practice of the JMC (E), the JMC (EN) does not foresee ministers from the devolved administrations participating in the negotiations themselves. Unsuccessfully, the Welsh Government has called for a place at the negotiating table when devolved issues are being discussed, and otherwise to be in the room.

The JMC (EN) met monthly from November 2016 to February 2017. However, it then did not meet for the remainder of the period under study, despite key events taking place, including triggering Article 50 notification. This dormancy has met with obvious frustration and concern from the Welsh and Scottish Governments. Furthermore, in operational and organisational terms, the JMC (EN) did not function well. For example, papers were received only a day in advance, the location of meetings was sometimes not confirmed until the last minute, and the ministerial representation was notably imbalanced, with ‘a cast of thousands’ of ministers, predominantly from across Whitehall, as opposed to a single minister from DExEU. The UK Government’s lacklustre approach to these organisational matters was thought to provide an indication of the level of importance it attached to this forum; as well as clearly impacting on its potential effectiveness.

During this pre-negotiation phase, the Welsh Government adopted a deliberately cooperative and evidence-based approach to intra-UK working, in a bid to secure Wales’ future as part of a ‘one UK Brexit’. As one interviewee stated:

The constitutional reality is that the UK Government will negotiate our departure from the European Union, the UK Government will negotiate the forward relationship between the UK and the European Union. The Welsh Government doesn't get to negotiate either of those, so our primary task is to try, to the extent that we can, to influence the UK Government to properly reflect, recognise and take forward the interests of Wales within those negotiations.

This stance reflected their pro-Unionist and pro-devolution position, and also situated them in a unique position, as the only devolved administration positioned as a source for 'like-minded debate' with the UK Government. The Welsh Government's calculations were also partly responsible for their emphasis on providing high-quality, intelligent and sensible, evidence-based contributions to the UK debate. The Welsh White Paper, *Securing Wales' Future: Transition from European Union to a New Relationship with Europe* of 23 January 2017 was developed to provide such a contribution, with its preparation seen by some in the Welsh Government as an opportunity to test their positions through research and analysis. The White Paper, a joint product of the Welsh Government and Plaid Cymru, the Party of Wales, reconciled the majority 'out' vote by the Welsh electorate with the position of the political majority in the Assembly by arguing that Wales' vote to leave the EU was not a vote to diminish the Welsh economy, nor for a loss of jobs. It was on this basis that the Welsh Government presented its case for the shape of the UK's future relationship with the EU, which has at its heart the UK's continued participation in the Single Market, including a recalibrated, employment-linked freedom of movement, through EFTA membership, or a bespoke deal for the UK. Continued membership of the Customs Union was also highlighted in the White Paper as being 'the best position for Welsh and UK business'. The Welsh

Government invested heavily in the London-based launch of the White Paper, aiming for its dissemination across Whitehall, as a constructive (not disruptive) contribution.

Appraisals of the JMC (EN) have judged it to have fallen short of expectations; although, our interviewees did not consider it a complete failure. It was said to have been a helpful information exchange mechanism, enabling useful ground to be covered. There were also some points where it was considered that the UK Government had listened; there had been a 'good discussion' of the Welsh Government's White Paper, for example. However, this communicative benefit was qualified: 'I think it's fair to say that the devolved administrations were really a bit unhappy with the JMC (EN). It didn't feel like a proper exchange.' Indeed, another interviewee stated that the JMC (EN) appeared to be, 'an information exchange mechanism, at which [the UK Government] have been quite guarded about saying anything to us that hasn't been in the public arena'.

This lack of transparency and consultation was apparent around the issuing of the UK Government's own White Paper on Brexit, which followed the Prime Minister's Lancaster House speech in January 2017. It was here that the UK Government confirmed its preference for leaving both the Single Market and the Customs Union. Neither the UK Government's White Paper, nor the Prime Minister's Article 50 notification letter of March 2017 were seen by the devolved administrations in advance of their public release. This exclusion of the devolved administrations was considered indicative (once again) of the highly centralised nature of the Brexit process (Hunt 2017).

This broader setting was highlighted by an interviewee, who noted that when Theresa May took office, she:

... kept her cards close to her chest ... so the development of opinion in Whitehall was kept very, very, very, very, very tight indeed, so there were even very senior players whose job it is to know about UK positions on things like Brexit who frankly knew no more than we knew.

Furthermore, the UK Government refused to engage in debate with the devolved administrations. This refusal jarred with the approach adopted by the Welsh Government, which sought to contribute to a UK debate. One interviewee gave us this example:

I think that we as a Welsh Government would have been very open to a proper debate and a discussion about [membership of the Customs Union] because we do recognise that there are some arguments for not being in the Customs Union, but we would have been very open to a debate about that but the UK Government just was not in the space of wanting to debate these issues, or didn't feel empowered, or the people in the room [didn't] - however you want to characterise it. It just did not want to have that debate and I know that that was a matter of really some frustration to our ministers, that that the spirit of debate wasn't really there.

Beyond the JMC (EN), at the end of 2016, the Prime Minister also committed to holding more than one JMC (P) per year and to holding these outside of London. As one of our interviewees stated, '... that was, I think, a psychological moving forward of that process. It

has met twice now actually, and it did of course meet in Cardiff... and I think that was symbolically helpful’.

Intra-UK relations have also been bilateral in nature, between Welsh Government and UK Government officials, beginning immediately following the EU Referendum. Unsurprisingly, these initially had an ad hoc quality and, in the first instance, were concentrated where bilateral links were already established (for example the UK Cabinet Office, and the Department for the Environment, Farming and Rural Affairs [DEFRA]), and between senior level officials. This bilateral communication continued throughout the summer. Then, with the institutional and governance architecture for exiting the EU established (both in Wales and at the UK-level), bilateral exchange took place under the more formal structure for multilateral working, through the JMC (EN). Links were established with DExEU and were intensified where they already existed. Communication between the Welsh Government and the UK Government officials takes place on a daily basis. According to one of our interviewees, the range of this bilateral contact across departments has never been stronger or deeper. These bilateral relationships are highly valued by the Welsh Government. They are considered useful in gaining a better understanding of how to frame interventions to influence more effectively the UK Government. However, this strategic framing does not guarantee successful policy influence.

Bilateral exchanges also take place at ministerial level, such as in advance of JMC (EN) meetings. However, given that power is highly centralised in the UK Government, it was questioned whether this communication led to influence. With respect to Special Advisors, there is limited cross-national interaction, due to different parties leading all four

governments in the UK. Finally, there is also bilateral and trilateral working between the devolved administrations themselves, excluding London; however, this exchange has been restricted due to the contrasting political positions between the Scottish and Welsh Governments. Indeed, the amount of bilateral working decreased following the Scottish Government's call on 13 March 2017 for a second referendum on Scotland's independence from the UK.

The Welsh Government claims to have influenced (with other actors) UK Government language and thinking on Brexit: first, regarding the UK Government's preference for 'frictionless access to the Single Market' (mirroring the Welsh Government's construction of 'full and unfettered access'); and, secondly, in seeking an 'implementation phase' (or a 'transition period', as promoted by the Welsh Government). In these two cases, the Welsh Government asserts that their contributions served to open these possibilities to the UK Government.

Taken together however, the intra-UK structures for the devolved administrations to influence UK foreign policy in this area have proven rather weak and ineffective. There is little evidence to indicate that the devolved administrations have succeeded in getting their policy priorities accepted, nor has there been a positive response from the UK Government to their requests to be included at the table once negotiations begin. The process is highly centralised, and without the political will at a more senior level to seek meaningful benefit from this cross-national forum. The recognised systemic weaknesses within the JMC frameworks have carried forward into the new formation, and the structures are inadequate to counter political intransigence from the centre. Nevertheless, Wales has

focused energies on influencing the UK Government through intra-UK working, including the JMC (EN). It has adopted a cooperative approach, emphasising its distinctive position as a well-placed interlocutor for the UK Government, and concentrating on providing evidence-based contributions to the UK debate.

### **Sub-state Paradiplomacy and the Brexit Process**

In this section we explore the EU-level opportunity structures for Wales to assert its own policy preferences and how Wales has engaged with them. We start with the observation that sub-states are increasingly foreign policy actors. The drivers behind such activity may be political, cultural and economic (Keating 1999), and may be attached to nation building (Hocking 1999) as sub-states seek to assert and legitimise a distinct national identity beyond the state. In turn, there will be a strengthening of the internal conceptualisation of nationhood. Such paradiplomatic activity is premised on two features of contemporary territorial politics. The first is the legal and political capacity of the sub-state, including the (mis-) match in policy competence between the internal and external dimensions of a policy area. The second is the regional or international opportunity structure (specifically the institutional architecture) for sub-state activity (Lecours 2001; Royles 2017). In response to this opportunity structure, sub-states build capacity (international and domestic), so as to enhance their international presence.

Within the UK, the devolved nations have a developing record of promoting their interests on the international stage. The devolved nations have been especially active beyond the nation state in the context of the EU and its governance structures. The EU provides a particularly amenable set of structures with which the sub-state may engage. These include

certain territorially defined posts in the EU institutions, such as members of the European Parliament (MEPs), the Economic and Social Committee, and especially, the Committee of the Regions (CoR). Sub-state engagement extends much further however. Responding to the opportunity structure provided by Brussels, sub-states both from within the EU - such as Brittany, Baden-Württemberg and Flanders - and beyond (notably Québec) operate regional offices. These offices undertake a range of functions, including policy influence, intelligence gathering, profile raising, and networking and relationship building with European, regional and EU institutional actors (Tatham 2008, 2016). Wales, along with Scotland and Northern Ireland, have their own regional presence in Brussels, with a combined base in 'Wales House' for the Welsh Government, the National Assembly, Higher Education Wales and the Welsh Local Government Association.

Whilst some intergovernmental working between the different governments of the UK takes place in Brussels, this Brussels-based work acts as a complement to UK-based activity which is firmly the principal site. The devolved nations enjoy regular formal and informal contact with the UK's Permanent Representation to the EU (UKREP), and appraisals of UKREP's receptivity to devolved sensitives are positive. This relationship contrasts with the sometimes less easy relationship between the devolved administrations and the UK Government at home.

In addition, there is an array of different networks headquartered in Brussels, specifically geared towards connecting a range of different regional actors, which see the involvement of the UK devolved nations. These include the Conference of Regions with Legislative Assemblies; Conference of Peripheral and Maritime Regions (CPMR); European Regions for

Research and Innovation; Network of Regional Governments for Sustainable Development; Cine Regions (a network of regional film funds) and the European Network of National Civil Society. Notably, each also has a membership that extends beyond EU member states.

Together, these institutions and networks, both formal and informal, might combine to provide Wales and the other devolved nations with a range of opportunity structures to advance their distinct interests in the Brexit process. As the ultimate expression of nation state sovereignty, however, the UK's decision to withdraw from the EU is clearly understood by its EU partners as a matter for the UK Government. No formal channel has been foreseen by the EU for the devolved administrations to engage directly in the upcoming negotiations. That said, there is clear evidence that the way in which the process is being managed by the EU (particularly the European Commission and Parliament) affords some scope for the acknowledgement of interests beyond those expressed by the nation state government. The regionally-responsive structures seen across EU governance present a range of opportunities for Wales, along with the other devolved nations, to present their concerns.

Looking first to the EU institutions, the European Parliament, despite enjoying a limited formal role in the Article 50 process, has under Brexit-lead MEP Guy Verhofstadt undertaken extensive research and consultation across a range of policy areas. Whilst the rights of citizens have been front and centre of its activity, space has been afforded to the consideration of regions and sub-national territories, including those in the UK. Indeed, the Parliament's Constitutional Affairs Committee has been very active in producing policy briefs and hosting hearings with a diverse range of actors. In January 2017, representatives

from Scotland and Gibraltar appeared at a hearing; and in April 2017 the Committee shared a commissioned policy brief on the implications of Brexit across the Scotland, Wales and Gibraltar (European Parliament 2017). Furthermore, as a former Belgian Prime Minister, Verhofstadt is well-versed in the dynamics of sub-state politics.

The European Commission's Chief Negotiator, Michel Barnier, is also fully literate in regional politics, given his own background in French regional politics and having served as European Commissioner for Regional Policy. It was also said by one interviewee that 'Barnier knows Wales and knows something of opinion [in Wales] and of the nuances of Wales... so there is that degree of empathy there'. Furthermore, one of Barnier's first public interventions as Chief Negotiator was at a Plenary meeting of the CoR, where the CoR's Resolution on Brexit was approved (Committee of the Regions 2017). This regional sensitivity is complemented by Barnier's broad approach to the Brexit process, which is very open to consultation and engagement with a range of stakeholders.

Beyond the institutional architecture provided by the EU, regional actors from the EU27 member states have highlighted the potential regional impacts of Brexit independently. For example, Flanders released a press statement the day after the EU Referendum (Minister-President Office of Flanders 2016); and one of the more established regional networks based in Brussels, CPMR, called for sensitivity to the regional dimension of Brexit (CPMR 2017). Laying the EU's open approach to the Brexit negotiations over a political landscape that is sensitive to the expression of regional interests has afforded space to regional actors (from the EU27 and the UK) to express their distinctive positions on Brexit. In particular, Scotland moved swiftly to highlight to the EU institutions and EU27 the distinctions between

its position and that of the UK Government, with early visits to Brussels by First Minister Nicola Sturgeon to scope a differentiated settlement for Scotland (Thomas 2016).

As for Wales, the Welsh Government's Brussels Office has so far undertaken multiple tasks in the context of the UK's withdrawal from the EU, aside from discharging the Welsh Government's continued EU-related responsibilities. These Brexit-specific tasks encompass intelligence gathering, awareness-raising, and network/partnership-building; the first two of which are more directly related to the withdrawal process, and the latter of which is more directly related to Wales' European future post-Brexit. In all its activity, the Brussels Office works with the Cardiff-based EU Transition Team (which leads on matters relating to exit and post-exit), and with policy-specific teams across the Welsh Government. Whilst Brussels and Cardiff are in regular communication, aside from requests for specific information or logistical assistance in the case of ministerial visits to Brussels, the Brussels Office leads on its own agenda of work.

In the context of Brexit, the Brussels Office has a two-pronged intelligence gathering role to play. First, they are Cardiff's 'eyes and ears':

... certainly [the Brussels office] is now and will continue to operate as an antennae for us, as a listening post. The office in Brussels is now keeping up with the various twists and turns of negotiations, they are well-placed to provide analysis of the formal exchanges of documents, and press conferences and culmination of opinion which is now happening thick and fast in Brussels, and [providing] accompanying

analysis to that which is really, really useful to us in terms of having our own source of intelligence...

It was only following the triggering of Article 50 that this work began in earnest, given the discipline of the EU institutions and the EU27 Member States in strictly limiting Brexit-related commentary before this time. In addition, there are requests for policy-specific information to support Wales' preparations for life post-Brexit. Given the extensive, international networks enjoyed by the Brussels Office, they are well-placed to collect information about how other regions address specific policy issues, such as immigration.

In terms of awareness-raising, there are two strands to the role of the Brussels Office. The first is the supporting role it plays when there are ministerial visits to Brussels. Secondly, the Brussels Office has worked to raise awareness of Wales' distinct Brexit position. As one interviewee stated:

They've got a ... role which is to work with others, with MEPs, with the Committee of the Regions, with other Regional Offices, with UKREP and other players in Brussels to help a better understanding of the specifically Welsh perspectives as expressed in the White Paper – so that's been distributed far and wide in Brussels and our office has a role in promoting an understanding of that.

To this end, the Brussels Office mobilises within its networks. As part of this process, the European Parliament has been identified as a key institution:

The institution which is most open to us [highlighting our position] is the European Parliament because it has a plurality of members, it isn't just a single front door. We have done work, and the ministers have been out to speak to MEPs, and I suspect we will do more of that in the future - as the European Parliament gets a vote on the future [withdrawal agreement].

In this activity, the emphasis is upon constructive awareness-raising; as opposed to more disruptive advocacy work. The approach taken to the launch of the Welsh Government's White Paper provides a useful example of this approach. The Brussels Office led on its dissemination across its Brussels-based networks; predominantly through personal email communication. In stark contrast to the Scottish Government, the Welsh Government did not host any high profile events in Brussels to publicise its paper, but instead concentrated efforts on a launch in London.

There have also been ministerial visits to Brussels since the EU Referendum. These have seen, for example, Mark Drakeford, meet with politicians and officials from the European Parliament, including the Chair of the Constitutional Affairs Committee (Danuta Hübner). This Chair suggested that the Welsh Government might give evidence to the Committee (as the Scottish Government and the Government of Gibraltar did in January 2017). The Welsh Government is likely to cultivate this link, as it has identified the European Parliament as potentially the most effective route in to highlighting their distinctive position. They have already held meetings with senior Commission officials, and these are scheduled to continue, including a meeting with Michel Barnier in summer 2017.

The Welsh Government's approach to its Brussels-based activity acknowledges that the UK Government is the formal interlocutor for EU matters. However, 'the expression of our positions can provide part of the backdrop, part of the colour, and a sense that opinion across the United Kingdom is certainly not uniform'.

Through their Brussels-based activity, the Welsh Government seeks to ensure that the EU institutions understand that 'whatever views put forward by the UK Government does not represent a whole and a uniform position of the UK as a whole'. In so doing, it is not seeking to challenge the status of the UK as the negotiating nation state, but asserting that there are different perspectives across the UK. As one interviewee stated:

I think that probably the European institutions will have an understanding that there are different shades of opinion across different part of the UK, but of course, the reality is that it is the UK Government that will take forward the negotiating position in that formal context.

Finally, much of the Welsh Government's work in Brussels since the referendum vote has been with an eye to future relations post-Brexit.

... one of the things that we [the Welsh Government] are very clear about is that withdrawing from the European Union, does not mean that Wales is pulling out of Europe. Wales is absolutely not pulling out of Europe, we are remaining part of Europe, even though we will not be part of the European Union in two years from now, presumably ... so maintaining relationships with friends, neighbours,

colleagues in Brussels - and Brussels is the place to do it because that's where all of Europe comes together - that remains important to us so we are continuing to work with our networks, and our friends and colleagues, with a view to trying to retain relationships, albeit in a different context...

Unsurprisingly, the Brussels Office has a key role to play in this regard. There are two strands to this work. The first is the continued investment in cross-national networks and partnerships; both as a benefit in and of itself as well as demonstrating Wales' commitment to international activity. As an interviewee noted, 'If we're, as a Government, saying in our Brexit White Paper, yes, we want to cooperate transnationally, afterwards [after Brexit], we have got to demonstrate that we're doing it now'.

The second strand is intelligence gathering and analysis. This activity has included scoping activity surrounding the involvement of Welsh actors in European networks (beyond the EU). Furthermore, the Brussels Office follows EU-level developments across a range of policy areas, which feeds into domestic work. For example, in tracking European regional policy, Wales can gauge the level of expected funding were the UK to remain within the EU. This information is valuable when Wales calls for an appropriate financial contribution to regional policy. Furthermore, Wales will also maintain a firm understanding of the policies of its soon-to-be European neighbour (as opposed to partner), which will impact on the British and Welsh economy, such as in the area of steel and agriculture.

Whilst there are no formal channels for Wales to influence the Brexit negotiations, the EU provides an opportunity structure that is hospitable to the articulation of regional interests.

Within these structures, Wales has not asserted itself forcefully; instead preferring to increase understanding of the Welsh position, without challenge to the UK Government's primacy in the Brexit negotiations.

### **Analysis: Wales within and outwith state**

The findings from our research highlight the weakness of the formal intra-UK structure for Wales to influence UK Government policy on Brexit, although this structure overlays frequent and useful bilateral interactions. At an EU level, there are no formal structures for sub-states to influence the negotiations. However, the institutional architecture around, and the approach taken to, Brexit are certainly hospitable to representation from sub-states. There are differences and similarities in the ways in which Wales has engaged with these internal and external structures. The primary difference is in the level of attention afforded to these two sites. Indeed, the Welsh Government has prioritised policy influence within the UK (and not at an EU level) despite the weakness of the intergovernmental machinery. In both cases, however, the approach of the Welsh Government has been characterised by a spirit of cooperation, as opposed to disruption. Unlike Scotland, Wales is seeking to secure a Welsh Brexit as part of a 'one UK Brexit'. These findings negate our hypothesis that, if the intra-UK structures were found to be unsatisfactory, Wales would actively pursue policy influence beyond the state. In turn, this raises the question of why Wales has adopted this strategy. We explore this question below, advancing two explanatory factors.

We argue that the nature of the Welsh Government's engagement with the structures both within and beyond the state casts Wales as a 'Good Unionist' on the one hand, and a 'Good

European' on the other. These dual principles have informed the Welsh Government's activity in the pre-negotiation phase of the Brexit process.

This activity played out in two, overlapping ways. First, whilst the Scottish Government has promoted the future of Scotland outside the UK, and prioritised a differential arrangement with the EU, Wales sought to secure a Welsh Brexit as part of a 'one UK Brexit'. As a 'Good Unionist' Wales occupied a lone position amongst the devolved administrations. The Welsh Government aimed to capitalise on this unique position, presenting itself as a 'like-minded' interlocutor for the UK Government and preparing itself to play this role through the provision of evidence-based contributions. Indeed, it has emphasised the provision of evidence-based (as opposed to political) contributions to the UK debate, in the spirit of partnership working. Secondly, the 'Good Unionist' principle informed the more cooperative approach espoused by the Welsh Government. In the promotion of its own distinct policy preferences, Wales has focused efforts on highlighting areas of complementarity and potential overlap with the UK Government; publicising areas of potential common ground and successful joint working, and highlighting differences privately. In contrast with the Scottish Government, it has not been combative in its interactions with the UK Government, only latterly becoming more strident in articulating its dissatisfaction with the intergovernmental machinery for the Article 50 negotiations.

While we argue that this cooperative approach is a reflection of Wales' pro-Unionism, it can also be viewed in light of Wales' poor bargaining hand within the UK as well as the current political constellation of the Welsh and UK Governments. In terms of bargaining power, unlike Scotland (that has called for a second independence referendum) (McHarg and

Mitchell 2017) and Northern Ireland (whose particular situation demands attention) (Gormley-Heenan and Aughey 2017), Wales has little leverage against the UK Government. Beyond this disparity, with different political parties dominating in London and Cardiff, there is little to no scope for informal intergovernmental working through party machinery. It is unsurprising, then, that Wales would seek healthy working relations with central government.

This 'Good Unionist' principle has also characterised the Welsh Government's pre-negotiation Brussels-based activity. Against a rich backdrop open to the representation of different perspectives on Brexit, the Welsh Government has not undertaken high-profile advocacy work to publicise its distinctive position. Instead, it has preferred to raise awareness of the Welsh perspective behind closed doors. A clear contrast can be drawn between Wales and Scotland in this regard. Scotland has been more combative and disruptive, using the EU stage to pursue its independence agenda, in a clear display of protodiplomacy.

Parallel to its profiling as a 'Good Unionist' is the Welsh Government's desire that Wales remains a 'Good European'. This principle has underpinned the Welsh Government's Brussels-based activity; both the activity relating to the Brexit negotiations themselves and also, crucially, to Wales' relationship with the EU post-Brexit. The Brussels Office has played both an intelligence gathering and a diplomatic role in this regard. As a 'Good European', the Welsh Government's objective has been to ensure that Wales is in a position to maximise its participation in political networks, bilateral and multilateral partnerships, and collaborative ventures post-Brexit.

As a final point, it is useful to set Wales as the 'Good Unionist' and the 'Good European' against the UK's current devolution landscape. The UK's withdrawal from the EU provides us with a case where the political agendas and positions of the devolved nations leave little scope for cross-national working. Thematically there is certainly overlap between them regarding, for example, the relationship with the Single Market, the Customs Union, and immigration. However, as it stands, the Scottish Government is invested in its future independence from the UK, Northern Ireland is currently without an executive, and the Welsh Government remains pro-Unionist without a public mandate to advocate its preferred Brexit agenda.

### **Conclusion**

The UK's membership of and withdrawal from the European Union is a matter of UK foreign policy. This is the case despite the distinct relationships that have developed between the EU and the devolved nations, and the territorially differentiated impact that Brexit will have across the UK. Indeed, turning to our case, the UK Government and the Welsh Government have contrasting Brexit preferences; the former preferring to leave both the Single Market and the Customs Union, and the latter preferring continued participation in both.

From this starting point, our article sought to identify and explore the structures by which Wales as a sub-state of the UK could seek to influence the course of the Brexit negotiations and how Wales has engaged with them. We considered the structures both within and beyond the state; hypothesising that in the case of limited opportunity for influence through intra-UK structures, Wales would focus efforts in the EU arena itself. Through

documentary analysis and interview data, we built a picture of these structures for sub-state influence, the effectiveness of these structures, and the ways in which Wales had engaged with them during the pre-negotiation phase of the Brexit process. Our hypothesis was disproved.

We argue that in its Brexit activity, Wales can be usefully characterised as both a 'Good Unionist' and a 'Good European'. Within the UK, we saw Wales participating in a collaborative and constructive manner in what was a relatively weak intergovernmental process. Beyond the UK, and in contrast to their Scottish counter-parts, the Welsh Government did not pursue any high-profile publicity of its distinctive position, but instead sought primarily to raise awareness more quietly, through direct communication. Despite its limitations, the Welsh Government targeted the UK-level as the site to influence the negotiations; seeking a Welsh Brexit as part of a 'one UK Brexit'. Activity in Brussels has included raising awareness of the Welsh perspective; not in a bid to challenge the UK Government's primacy in negotiations but in order to assert the multiple perspectives on Brexit in the UK. Beyond this work, much Brussels-based activity is underway to maintain Wales' profile as a 'Good European' post-Brexit.

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<sup>1</sup> Anonymised quotes are presented in quotation marks.