

COUNCIL OF THE
EUROPEAN UNION

Brussels, 22 March 2010

Mr. Miguel ARIAS CAÑETE
Chairman of the Joint Committee for the European Union
Cortes Generales
Congreso de los Diputados
Madrid

Dear Mr. Chairman,

The President of the European Council forwarded to us your letter of 16 February 2010, which we have considered with great interest and would like to thank you for.

As you know, Article 4, paragraph 3 of Protocol 2 on the application of the principles of subsidiarity and proportionality states that “*the Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.*”

Article 3 of the same Protocol specifies what is meant by “draft legislative acts”, namely “*proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.*”

Finally, under Article 289, paragraph 3, of the Treaty on the Functioning of the European Union, “*legal acts adopted by legislative procedure shall constitute legislative acts*”.

From the above provisions we can derive that the consideration of “draft legislative acts” under Protocol 2 should only be given to those concerning legal acts to be adopted under the standard legislative procedure or the special legislative procedure.

Therefore, only drafts to be adopted under the said procedures can be subjected to subsidiary checks on the part of national parliaments. Acts that do not fall under these procedures shall not be transmitted to national parliaments, in compliance with Article 4 of Protocol 2 on the application of the principles of subsidiarity and proportionality.

The Council, convinced that this shall strengthen the democratic nature of the European Union, is committed to ensuring the effective application of these provisions regarding those aspects of relations with national parliaments that fall within its competences and to fully respect the rights that the treaties bestow on national parliaments.

Allow me to assure you, Mr. Chairman, of my highest consideration.

/signed/

C. BASTARRECHE SAGÜES
Chairman of the Permanent Representatives Committee