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# 1 ANNEX

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## RESPONSES RECIEVED FROM NATIONAL PARLIAMENTS CONCERNING EU LEGISLATIVE SCRUTINY

### 1.1 AUSTRIA

1) As scrutiny by the European Affairs Committees of both chambers of the Austrian Parliament (i.e. Hauptausschuss, its Permanent Subcommittee on EU-affairs of the Nationalrat, EU-committee of the Bundesrat) is quite far-reaching comprising also the second and third pillar no legislative changes have been necessary after Amsterdam.

2) Practise of the European Affairs Committees has proved to work well in general during the first years after the accession of Austria to the EU. This has to be understood in a sense that strong possibilities of scrutiny exist though they need not always be applied. It often occurs that information by the competent minister and an exchange of opinions is sufficient to make available the position of parliament. It has been recognised as well that flexibility of members of government while negotiating in the Council – after having received a statement of the committee – has to be maintained.

3) Since 2000 tasks between the Hauptausschuss and its Permanent Subcommittee on EU-affairs are divided. The Permanent Subcommittee is competent to deal with every EU-project with the exception of European Councils and IGC. Since then there is a sitting of the Hauptausschuss prior to each European Council meeting.

4) The Draft Constitutional Treaty makes it necessary to reconsider the work of the EU-committees, in particular with regard to the early warning mechanism. A project group in Parliament was installed in order to discuss changes of the legal framework and practises.

### 1.2 BELGIUM

#### 1.2.1 Scrutiny procedure

##### **Méthodologie**

Jusqu'en 1995, la Chambre des représentants et le Sénat de Belgique disposaient chacun d'un Comité d'avis des Questions européennes (la collaboration existait « de facto »). Suite à la réforme constitutionnelle de 1993 qui est entrée en vigueur pleinement en 1995, les deux Assemblées fédérales ont décidé de travailler en étroite collaboration, ce qui a donné naissance à une nouvelle commission mixte, le Comité d'avis fédéral chargé de Questions européennes, composé de dix sénateurs, dix députés et dix membres du Parlement européen élus en Belgique.

Selon son règlement intérieur, le Comité d'avis a pour mission de :

- coordonner et stimuler le contrôle parlementaire du processus décisionnel européen ;

- contrôler l'exécution de la législation interne, des résolutions et des recommandations relatives aux questions européennes;
- d'émettre des avis, conformément à l'article 168 de la Constitution, sur les négociations en vue d'une révision des Traités instituant les Communautés européennes,
- d'établir des rapports, en exécution de l'article 92quater de la loi spéciale du 8 août 1980 de réforme des institutions, concernant les propositions d'actes normatifs de la Commission européenne ;
- d'entendre le gouvernement, avant et après chaque Conseil européen, sur les points figurant à l'ordre du jour et les conclusions ;
- de renforcer le contrôle parlementaire sur le processus décisionnel européen en prenant l'initiative en matière de coopération interparlementaire (entre les parlements nationaux et le Parlement européen ; entre les parlements nationaux eux-mêmes et les Conseils des Communautés et des Régions).
- participer à la COSAC (Conférence des organes spécialisés en Affaires communautaires), qui est convoquée tous les six mois par le parlement du pays qui assure la présidence de l'Union européenne.
- d'informer régulièrement les commissions permanentes sur :
  - les propositions importantes en matière d'actes juridiques normatifs de la Commission européenne ;
  - le programme législatif de l'Union européenne, les communications de la Commission européenne et les Livres blancs et verts ;
  - l'ordre du jour du Conseil des Ministres de l'Union européenne ;
  - les rapports des Conseils des ministres à transmettre par le Gouvernement ;
  - le rapport de la Cour des Comptes européenne.
- de consacrer annuellement une étude au rapport du gouvernement (à déposer à la Chambre le 1<sup>er</sup> mars au plus tard) concernant l'exécution des traités relatifs à l'Union européenne (conformément à la loi du 2 décembre 1957 portant approbation du Traité CEE) et qui rend également compte des progrès sur le plan de la transposition du droit européen en droit interne ;
- de se prononcer sur la recevabilité des questions écrites, que les membres belges du Parlement européen peuvent poser au gouvernement fédéral ;
- d'émettre des avis sur l'ensemble des problèmes européens (UEO, Conseil de l'Europe, Schengen,...).
- Le Comité d'avis peut rédiger des rapports d'initiative. Le Comité organise ses travaux et délibère selon les dispositions en vigueur pour les Commissions permanentes de la Chambre des représentants. Les travaux du Comité d'avis peuvent être conclus par des propositions de résolution, des recommandations ou d'autres textes finaux qui sont soumis directement à la séance plénière de la Chambre et/ou du Sénat.

En ce qui concerne la coopération interparlementaire

- le contrôle exercé par les parlements nationaux sur les gouvernements respectifs dans le cadre du Conseil des Ministres européen devrait s'opérer grâce à la collaboration entre le Parlement européen et les parlements nationaux et à une meilleure communication des informations entre les institutions européennes et les institutions nationales ;
- dans ce cadre, des rencontres ont régulièrement lieu à plusieurs niveaux (Présidents des parlements, délégations des Comités d'avis chargés de Questions européennes et fonctionnaires des parlements nationaux de l'Union européenne) ;
- afin de renforcer la coopération entre le Parlement européen et les parlements nationaux, des parlementaires belges participent de temps à autres – à l'invitation du Parlement européen – à certains travaux de Commission du Parlement européen ;
- le Comité d'avis accueille régulièrement des commissions homologues des autres parlements. A cette occasion, l'on procède à un échange d'informations sur le fonctionnement interne et les compétences de chaque commission. Au cours de ces dernières années, les échanges avec les pays candidats à l'Union européenne se sont intensifiés ;
- la COSAC (Conférence des organes spécialisés en Affaires communautaires) est considérée comme le meilleur instrument qui permette de favoriser l'échange d'informations et la collaboration des parlements.

En ce qui concerne la Chambre des représentants, les articles 36 et 37 du Règlement concernent les Affaires européennes.

L'article 36 stipule que : « sans préjudice des dispositions de l'article 24, alinéa 5, chaque commission permanente inscrit à son ordre du jour une fois par mois un échange de vues consacré aux questions européennes qu'elle la concernent et qui sont à l'ordre du jour du Conseil des ministres de la CE ou ont fait l'objet d'une décision de ce Conseil, ainsi qu'aux résolutions qui la concernent et qui ont été transmises officiellement à la Chambre par le Parlement européen<sup>1</sup> ».

L'article 37 stipule que : « chaque commission permanente nomme un europromoteur, qui est chargé d'assurer le suivi, au sein de la commission, des avis, des propositions de résolution, des recommandations et des autres textes finaux du Comité d'avis chargé de Questions européennes, ainsi que des propositions d'actes normatifs et autres documents de la Commission européenne qui lui sont transmis par le secrétariat du Comité ».

Depuis mars 2000, la Chambre des représentants désigne au début de chaque législature un europromoteur au sein de chaque commission permanente. Ce membre est le trait d'union entre les commissions permanentes et le Comité d'avis chargé de Questions européennes, et doit veiller à ce que les questions européennes soient portées mensuellement à l'ordre du jour de la Commission permanente de la Chambre à laquelle il appartient.

En ce qui concerne le Sénat, tous les documents de consultation (livres verts, livres blancs, communications, rapports) ainsi que d'autres documents jugés importants (principalement des propositions de directives ou de règlement) sont envoyés aux membres du Comité d'avis et aux présidents des commissions permanentes concernées.

Ensuite, il appartient aux membres de la Chambre et du Sénat d'apprécier si un examen plus approfondi est indiqué et ce, au moyen des instruments de contrôle

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<sup>1</sup> Voir l'article 92quater de la loi spéciale du 8 août 1980 des réformes institutionnelles.

parlementaire classiques : question orale, question écrite, demande d'explication, rapport en commission, résolution soumise à la plénière ainsi que, pour la Chambre uniquement, l'interpellation. Celle-ci constitue un moyen de contrôle parlementaire permettant à un membre de la Chambre de demander à un ou plusieurs ministres fédéraux de se justifier à propos d'un acte politique, d'une situation précise, d'aspects généraux ou spécifiques de la politique du gouvernement. En conclusion d'interpellations peuvent être déposées des motions mettant en cause la responsabilité du gouvernement ou d'un membre du gouvernement ou faisant une recommandation au gouvernement.

L'information relative aux affaires européennes que les parlementaires obtiennent par le Comité d'avis leur est également utile dans leurs activités politiques en général (contacts avec les citoyens, activités dans le cadre d'un mandat politique au niveau communal ou régional, activités dans des organisations professionnelles ou des organisations représentatives de la société civile, contacts au sein du parti politique, etc.).

En ce qui concerne le suivi des activités du Conseil, la représentation permanente de la Belgique communique systématiquement les ordres du jour des Conseils et du Coreper au Secrétariat du Comité d'avis. Ces ordres du jour sont ensuite transmis à tous les membres du Comité d'avis ainsi qu'aux commissions permanentes concernées.

En outre, il a été demandé au Ministre des Affaires étrangères que les ordres du jour des Conseils soient accompagnés d'une note explicative et d'un bref compte rendu de la réunion du Conseil, accordant une attention particulière à la position belge. Ces informations complémentaires doivent permettre d'alimenter les débats des commissions permanentes concernant les affaires européennes.

## **Base légale**

Devoir d'information du gouvernement sur les propositions d'actes normatifs de la Commission européenne.

En vertu de la loi spéciale du 8 août 1980 de réformes institutionnelles telle que modifiée par la loi spéciale du 5 mai 1993 sur les relations internationales des Communautés et des Régions<sup>2</sup>, le Gouvernement est tenu de communiquer les propositions d'actes normatifs de la Commission des Communautés européennes aux Assemblées législatives, leur permettant ainsi d'en délibérer avant que le Conseil des Ministres de l'Union européenne ne prenne une décision.

### **1.2.2 Le Protocole d'Amsterdam**

Le Comité d'avis travaille de façon autonome, c'est-à-dire qu'il ne doit pas attendre d'être saisi par le Gouvernement d'une proposition législative de la Commission européenne. Le Protocole a eu comme effet positif que le Gouvernement et les administrations sont plus sensibles aux demandes d'information du Comité d'avis.

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<sup>2</sup> L'article 4 de cette loi introduit un titre nouveau, dans la loi spéciale du 8 août 1980, libellé comme suit : « Titre IVter – Information des Chambres et des Conseils sur les propositions d'actes normatifs de la Commission des Communautés européennes »

Article 92quater – Dès leur transmission au Conseil des Communautés européennes, les propositions de règlement et de directive et, le cas échéant, des autres actes à caractère normatif de la Commission des Communautés européennes seront transmis aux Chambres et aux Conseils, chacun pour ce qui le concerne.

### 1.2.3 Post – Seville « openness provisions »

Tant la Chambre que le Sénat ont toujours estimé que le fonctionnement des institutions européennes doit être régi, entre autres, par le principe de la transparence, ce qui veut dire qu'en ce qui concerne le Conseil, celui-ci doit travailler de manière encore plus transparente qu'il ne fait actuellement, surtout lorsqu'il agit en qualité de législateur. A cet égard, l'ouverture au public des sessions du Conseil lorsqu'il agit en codécision avec le Parlement européen n'est donc pas suffisant.

## 1.3 CYPRUS

At political level, the House of Representatives is in the process of examining the method and structure needed for carrying out its tasks emanating from the accession of Cyprus to the European Union and, in particular, those related to the new scrutiny system that needs to be adopted.

Three options seem to be available concerning the examination of the European legislation, and the scrutiny of the government's participation in the Council:

- 1.The existing Committee on European Affairs will be entrusted with these tasks.
- 2.The specialized parliamentary committees will be entrusted with these tasks in areas of their competence, while the Committee on European Affairs will be having a coordinating role.
- 3.A new Committee (like in Finland) may be set up and be entrusted with these tasks.

At technocratic level, the European Affairs Service, which was set up in 1999, is expected to provide the necessary assistance to the political process of examining the European legislation and scrutinizing the government's participation in the EU decision making process.

Should the Constitutional Treaty of the European Union be adopted, it is expected that the European Affairs Service will also assist the political process of monitoring the application of subsidiarity and proportionality by the House of Representatives.

## 1.4 CZECH REPUBLIC

### 1.4.1 Senate

#### Legal base

According to the Czech Constitution (Art. 10b) and the Protocol on the Role of National Parliaments in the European Union annexed to the Treaty of Amsterdam, the government has to inform and report to the Parliament about European matters. As the Czech Republic has a bicameral parliamentary system, the government has to fulfil this duty towards both chambers. Both chambers have also the possibility to give their opinion to the government. This *has to be* taken into account in the case of the Chamber of Representatives and *can* be taken into account in the case of the Senate, when the government formulates its positions for the negotiations in the Council.

The chambers of the Parliament have not established a single common body to deal with European matters and to represent the Parliament towards the government. There is also no special law defining the co-operation between the chambers on this matter yet. As a consequence, both chambers have to define the dealing with European matters separately by means of their rules of procedure. In the last months before the accession to the EU the rules of procedure of both chambers were amended and a new chapter regulating the relationship with the government on European matters was introduced. At the time being, both chambers have adopted the amended rules of procedure and are awaiting the signature of the President of the Republic, which is necessary for every law.

Until now, the Committee on European Integration has been handling with the implementation of the *acquis communautaire* into the Czech law system and monitoring the progress on the accession process of the Czech Republic to the EU. The Committee has also established a Subcommittee for the Intergovernmental conference 2004 and has arranged public hearings concerning different European issues.

*The amended Rules of procedure* change the role of the Senate and of its Committee on European Integration, which is going to be renamed by May 2004 to the Committee on European Affairs. Additional to its traditional role in the Czech legislative system the Senate gets an important role in the scrutiny of the European decision-making process and therefore it can consult the government in the process of adoption of European legislation.

### ***Senate***

From the 1<sup>st</sup> of May 2004, the Senate will be dealing with concrete initiatives after they have been published by the European Commission and will present its opinion to the Government before this decides on the legislative initiative in the Council of the EU. The Senate may exert a right of parliamentary reserve for a maximum period of 35 days and this is only applicable to the legislative acts, not measures in the second or third pillar.

### ***Committees***

The *new Rules of procedure* give the Senate the right to study the legislative proposals, which it itself has selected. The process is following: The respective authorized Committee (for the first pillar the European Affaires Committee and for the second and third pillar the Foreign Affaires, Defence and Security Committee) decides on which documents the Committee will deal with. The Committee on European Affaires is centralising the dealing with the European matters in the Senate (with the exception of the 2<sup>nd</sup> and 3<sup>rd</sup> pillar), but it can ask another specialised Committee to give its opinion on a particular matter. The Committee can also demand from the Government all necessary information in order to analyse the legislative initiatives in a qualified way.

As the Committee on European Affairs (the same is concerning the Foreign Affaires, Defence and Security Committee) can not substitute the Senate - as it is the case in many national parliaments - it may only recommend that the plenary session of the Senate adopts a resolution on the matter.

### **Expert and administrative background of the scrutiny system**

The new Independent Department on European Affairs was established in the Senate Chancellery in mid-2003. In addition to the head of the department, there are at present four other experts on Law, Economy and European Studies employed here.

Our task is to support all Senate bodies concerned with European matters, especially the above mentioned committees on European and foreign affairs. This support means:

- to analyse the respective positions of the government to initiatives of the Commission of the EC
- to make recommendations whether to deal with the document or to take it into account
- to prepare background notes for the meetings of the committees inclusive the positions to the merits of debated initiatives
- to cooperate in the European matters with similar bodies outside of the Senate
- to arrange a register of documents with their description and results of their debating on the floor of the Senate

At present we are closely cooperating with both of these committees in order to make sure that the scrutiny of European legislation will work smoothly in our chamber after 1<sup>st</sup> of May. At the time being we are trying to establish the best practise on this matter in close cooperation with the senators of this committee.

We do not yet have our permanent representative in Brussels yet, but we are going to have one established by September 2004. Until the accession, we are accompanying the observers on their missions to Brussels and Strasbourg.

#### **1.4.2 Chamber of deputies**

**ACT**  
of 1<sup>st</sup> May 2004,

**amending Act No. 90/1995 Coll., on the Rules of Procedure of the  
Chamber of Deputies, as subsequently amended**

Parliament has enacted the following Act of the Czech Republic:

Part Fifteen A is inserted after Part Fifteen with the following text:

**“PART FIFTEEN A**  
**Deliberation of European Union Affairs**

Section 109a

(1) The Government shall submit draft acts of the European Communities and the European Union to the Chamber via the Committee for

European Affairs. The Government shall submit its preliminary opinion on the draft acts specified in the preceding sentence. The Government shall submit legal acts of the European Communities and the European Union to the Chamber at the same time they are submitted to the Council of the European Union (hereinafter “Council”). The Government shall also submit other draft acts and documents of the European Communities and the European Union if it so decides or if so requested by the Chamber or its bodies.

(2) Draft acts and other documents of the European Communities and the European Union shall be deliberated by the Committee for European Affairs on the basis of the Government’s preliminary opinion without undue delay. The Committee for European Affairs may relay such drafts to other competent committees and may at the same time specify the time period in which the draft is to be deliberated.

(3) The Chairperson of the Committee for European Affairs or the Chairperson of the competent committee shall relay resolutions on draft acts, nominations to European Union bodies and other documents pursuant to paragraph (2) to the Chairperson of the Chamber and may, within 8 days from the adoption of such a resolution, request the Chairperson of the Chamber to include it on the agenda for the next session of the Chamber. The Government may also request that the resolution be included on the agenda for the session of the Chamber. Resolutions as defined by the preceding sentences shall be delivered to all deputies at least 24 hours prior to their deliberation in the Chamber.

(4) If a resolution is not included on the agenda for the next session pursuant to paragraph (3) or section 46 paragraph (4)(c), or if the Chamber has not decided on its inclusion pursuant to section 54 paragraphs (4) to (6), it shall be deemed to be the Chamber’s opinion.

(5) In the cases referred to paragraph (4), resolutions by the Chamber or the committees on draft acts and other documents of the European Communities and European Union shall be dispatched to the Government, which shall take them into account when formulating its opinion for deliberations in the bodies of the European Communities and European Union.

(6) All members of the European Parliament elected for the Czech Republic may attend meetings of the Committee for European Affairs or any other committee deliberating drafts pursuant to paragraphs (1) and (2). Section 39 shall apply analogously.

## Section 109b

(1) Prior to the Council meeting in which draft acts or other documents pursuant to section 109a are to be deliberated, a member of the Government shall attend the meeting of the Committee for European Affairs if so requested by the Committee and shall provide information on the position that the Czech Republic will adopt on the matter being deliberated in the Council. The member of the Government shall also provide information or explanations for draft acts or other documents of the

European Communities and European Union at the Committee meeting if the Government was so requested by an earlier Committee resolution. The Government may request that a meeting of the Committee for European Affairs or a part thereof, at which matters are to be discussed pursuant to the preceding sentences, be held in camera; section 37 shall apply analogously

(2) The Government or a competent member thereof shall send a report on the Council meeting to the Committee for European Affairs immediately after the Government has approved the report or taken it into account.

(3) With the exception of acts or other documents of considerable urgency, the Government shall not adopt a final opinion in Council deliberations until the procedure in the Chamber pursuant to the preceding paragraphs has been completed.

#### Section 109c

(1) The Government shall submit to the Committee for European Affairs for deliberation its nominations for the European Commissioner, judges at the European Court of Justice and its nominations to the governing bodies of the EIB and EBRD for the Czech Republic.

(2) The Committee for European Affairs shall deliberate nominations to European Union bodies before the Government adopts a final decision.”.

#### Article II

This Act shall come into effect on the day of its promulgation.

### 1.5 DENMARK

The past year has witnessed several changes in the administrative procedures in relation to the Danish Parliament's European Affairs Committee. The first change concerns how the Parliament receives proposals from the European Commission (COM documents). Previously the Foreign Ministry was obliged to send all Commission documents to the Committee. However during the summer of 2002 it was no longer possible to receive official proposals in paper form from the Government (i.e. the official documents published in Luxembourg). Subsequently the Foreign Ministry began printing these documents from the Internet site [europa.eu.int/eur-lex](http://europa.eu.int/eur-lex). As a result it was decided in the Parliament to begin to download these documents independently from the Government. In order to accomplish this, a system was devised that automatically transfers documents from the Commission's database to the database of the European Affairs Committee. As a consequence, the Danish Parliament now receives all documents from the Commission on the day of publication.

The second change in the administrative procedures of the European Affairs Committee was the publication of status sheets on all community proposals on a publicly accessible website. Since October 2003 the staff of the European Affairs Committee has produced files on all community proposals, which includes links to corresponding files in relevant community databases (Pre-Lex, Oeil, and the Registry of the Council) as well as all documents concerning the Danish scrutiny of the specific proposal.

The last administrative change was to introduce electronic agendas for meetings of the European Affairs Committees. Contrary to the formal agenda of the Committee, the electronic agenda contains links to the individual status sheets for proposals under negotiation as well as links to corresponding documents from the Swedish European Affairs Committee.

## **1.6 ESTONIA**

In 1999 and 2003 general elections were held in Estonia. Each time the newly elected Riigikogu formed a new European Affairs Committee as a select committee.

Analysing the activities of the Committee we could divide in 3 stages:

- Pre-accession and accession negotiations;
- Post-negotiations, but pre-members (during which we have participated in EU institutions as observers);
- Activities of the committee after accession

During the first phase, the main activities of the EAC were to establish, maintain and develop contacts with the colleagues in other parliaments, to establish a scrutiny system of the Government's integration activities and to co-ordinate EU-related information flows in the Riigikogu. The Committee's had among its tasks the information of the general public about the accession process and the EU.

The working relations with the Government that were laid down during this period as an unofficial agreement and they have proven to be useful during the negotiations as well as for further development of the Riigikogu's activities in EU context.

The scrutiny of the Government concentrated on checking whether the executive had put together realistic annual plans and how it was able to fulfil its obligations.

A tradition was developed whereby the Government regularly informed the parliament through the European Affairs Committee and ministers appeared before the MPs to give account of their actions.

During the accession negotiations, the parliament was involved more systematically. European Affairs Committee was regularly briefed about the positions of Estonia as regards chapters of the negotiations. This later developed into a practice whereby the draft positions were discussed in the committee before being adopted by the Government. The Minister of Foreign Affairs and Acting Head of Estonian accession negotiations delegation received the positions of the members of the committee that they could convey during the sessions of the Government. This practice gave a possibility to exert parliamentary influence without using a direct mandate system.

During the discussions on some of the chapters, the relevant standing- specialised committee was involved, i.e. joint meetings of the EAC and relevant standing committee were organised. In addition to that some of the standing committees discussed their respective chapters separately.

After the 2003 elections, the Riigikogu formed new European Affairs Committee giving it some new tasks: to compose an analysis of the impacts of accession and to prepare the necessary reforms for the Riigikogu to take part in decision-making process of EU affairs.

The latter was formed as an amendment to the Rules of Procedure Act of the Riigikogu and came into force on March 15, 2004 (the Act was adopted on February 11).

The main idea behind the amendments is the necessity to involve both the EU Affairs Committee and the standing specialised committees in our internal co-ordination process.

When the European Commission presents a draft bill, the Government delivers it to the Riigikogu together with an explanatory statement and a draft preliminary position. The Board of the Riigikogu forwards the draft to the European Union Affairs Committee and to the relevant standing specialised committee. The latter discusses the draft, evaluates its relevance to the parliament and presents its reasoned position to the EU Affairs Committee. The EUAC gives its position to the Government, based on the opinion of the standing committee. In case of divergences, the EUAC's opinion (reasoned) shall prevail. In case the draft is changed during the proceedings in different Council stages, the EUAC will discuss the changes and give its position. The relevant minister shall appear before the EUAC before the given item (bill) is discussed and decided upon in the Council.

The Foreign Affairs Committee has the same co-coordinative role within the context of CFSP.

One could make a distinction (according to the Rules of Procedure) between the draft legal acts of the EU and other significant documents. In case of the latter, the parliament gives its opinion, whereas draft legal acts get a position. The distinction should be made in the context of important policy papers: A White or a Green Book and the Financial Framework. In case a document is not a legal act, but, for example, an interinstitutional agreement, it is still to be seen how the mandate system will be used.

### **1.6.1 Practical example in relation to the IGC**

At the beginning of the IGC during the Italian Presidency, the Estonian Government presented a "White paper" containing positions in main issues to be discussed. The Riigikogu discussed this document under the co-ordination of the European Affairs Committee. The Foreign Affairs and Constitutional Affairs Committee discussed the paper and gave their positions; the Riigikogu had a plenary discussion where after which the Factions gave their positions. The European Affairs Committee gathered all the positions and following a debate the package was presented to the Government. The Committee discussed the updated positions before the Brussels Summit and presented its positions to the Government (technically speaking it was a point-by-point discussion and position-taking).

## **1.7 FRANCE**

### **1.7.1 Assemblée Nationale**

The increasing influence of European construction over Member States' national legislation led to the creation in 1979, in each of Parliament's chambers, of a Delegation for the European Union. Till then no body within the National Assembly or the Senate was specifically tasked with following Community issues-it was the duty of the National Assembly deputies appointed to sit at the European Parliament to present each year to the Foreign Affairs Committee an information report on the main issues of European construction.

For as long as the Strasbourg Assembly was composed of national parliamentarians, these were institutionally associated in European construction. But the election since 1979 of European deputies by direct universal suffrage has broken this tie and the continuous extension of Union competences has led the deputies and senators to feel progressively stripped of their powers. As the development of the European Communities has entailed the transfer to Brussels of decision-making authority in an increasing number of areas which are matters for statute, the risk emerged of Parliament being insufficiently informed. In addition, as the Community legal order does not take up the distinction made by the French Constitution between matters for statute and matters for regulation, many texts (directives, regulations, decisions) are directly negotiated by the government whereas their content could, according to French law, be a matter for the legislator.

Unlike the six standing committees whose existence is laid down by the Constitution, the Delegation for the European Union has only a statutory status. While its operation is similar to that of a committee, its remit is however different. Whereas the committees are tasked with considering French legislation and voting on it in the public sitting, the Delegation for the European Union exercises above all political scrutiny over the government's European activities. It intervenes upstream of the decision-making process, in the negotiation phase of Community texts.

#### **Original composition**

The number of members of each Delegation-the National Assembly's and the Senate's-is, by statute, thirty-six-a number which is nevertheless considerably lower than that of the six standing committees. For instance, the Cultural, Family and Social Affairs Committee can number up to 145 deputies.

The Delegation bureau is made up of a Chairman, four deputy chairmen and two secretaries. The Chairman determines the agenda of meetings and convenes the Delegation. He is, like the President of the National Assembly, elected for the length of the legislature; this permanence facilitates the monitoring of Community texts which are negotiated and adopted according to a schedule which does not match the rhythm of parliamentary sessions. Pursuant to Article 48 of the Rules of Procedure of the National Assembly, he participates in the Chairmen's Conference, a body which provides the opportunity for an exchange of views on the priority agenda laid down by the government and which, in some cases, draws up a complementary agenda to the texts given precedence by the government.

The rules on the composition of the Delegation set forth proportional representation of political groups and balanced representation of standing committees. The Delegation indeed engages in transversal activity and can be led to examine any subject whenever

it is addressed by the European Union. Therefore the fact that all the deputies of the Delegation are also members of one of the six standing committees facilitates this transversal work.

### **The delegation: The National Assembly's European outlook**

The Delegation's first remit is to inform the National Assembly of European Union work, particularly by publishing information reports. Since the constitutional amendment of 1992 prior to ratification of the Maastricht Treaty, this general information remit has been combined with a duty to scrutinise, upstream, Community legislation, pursuant to Article 88-4 of the Constitution.

In session, the Delegation generally holds one to two meetings a week during which reports, opinions, communications or hearings are included on the agenda. Distributed after each meeting, the work reports are grouped in the Delegation Bulletin published every month.

### **A remit of informing deputies**

The Delegation's general remit is to stay abreast of work by European Union institutions in order to keep the deputies informed.

It is the government's duty to keep the Delegation informed by communicating any necessary document drawn up by the various European institutions. The Act of 10 June 1994 extended this communication obligation to all 'European Union' drafts of instruments, in other words not only Community drafts of instruments, but also those coming under the common foreign and security policy and cooperation in the fields of justice and internal affairs.

Each year the Delegation therefore receives nearly 3 000 European documents (draft regulations, draft directives, decisions, white papers, green papers, communications, work programme, etc.). Every month it publishes a 'Selection of European Union documents' aimed at allowing the deputies and committees to become rapidly informed of the main points of the Union's legislative activity. Brief analyses draw attention to texts deemed particularly important.

### **Number of documents received**

	<b>11<sup>th</sup> legislature</b>						<b>12<sup>th</sup> legislature</b>	
Years	1997	1998	1999	2000	2001	2002 (1)	2002/2003 session (2)	Total
Number of European texts received by the Delegation	2008	2009	2010	2011	2012	2012	2 919	19 046

(1) from 01/01/2002 to 18/06/2002, (2) from 25/06/2002 to 30/06/2003

As part of its information remit, the Delegation regularly holds hearings of ministers and French and foreign personalities. For instance it systematically hears the foreign affairs minister or the minister delegate with responsibility for European affairs, following each European Council.

During the 2002-2003 ordinary session, it heard thirty or so personalities, among whom many members of the government. Several of these hearings were open to the public and the press.

**Number of hearings**

	1997/98	1998/99	1999/2000	2000/01	2001/02	2002/03 (1)
Hearings of ministers	11	7	7	9	5	14
Hearings of personalities	16	8	5	4	12	18
Total	27	15	12	13	17	32

(1) from 25/06/2002 to 30/06/2003

Many information reports are also published to keep the deputies informed and these are circulated both within the Assembly and outside of it (government, Community institutions, French representatives to the European Parliament, socio-professional bodies, press, etc.). The delegation is entitled to issue own-initiative opinions on any subject it chooses and can publish as many information reports as it desires in order to keep the national parliament abreast of each of the major ongoing debates on the future architecture of the Union institutions and the specific policies implemented: creation of a European public prosecutor, asylum and immigration policy, Europol, maritime safety, common agricultural policy, transports, trade policy. Each of these reports can lead to the adoption of a motion for a resolution or a proposal for conclusions expressing the Delegation's position on these dossiers.

**Number of reports tabled**

11 <sup>th</sup> legislature						2002/2003 session (2)	Total
1997	1998	1999	2000	2001	2002 (1)		
18	30	30	30	27	10	37	182

(1) from 01/01/2002 to 18/06/2002, (2) from 25/06/2002 to 30/06/2003

By way of example, during the 2002-2003 session, the Delegation gave a favourable opinion for the enlargement of the European Union to ten new States. A general rapporteur on the enlargement process as a whole and special individual country rapporteurs were appointed to keep tabs on the membership process of each of the candidate countries.

**A constitutional remit of examining European texts**

Introduced into the Constitution in 1992, on the occasion of the constitutional revision prior to ratification of the Maastricht Treaty, then amended in 1999 as part of the ratification process of the Amsterdam Treaty, Article 88-4 has given the French Parliament specific means of monitoring European affairs.

This constitutional provision requires the government to lay before the National Assembly and the Senate any drafts of or proposals for instruments of the European Communities or the European Union containing provisions which are matters for statute as soon as they have been transmitted to the Council of the European Union. It is up to the *Conseil d'Etat* to decide on the statutory nature or not of a draft of or a proposal for a Community instrument. However, since the constitutional amendment

of 25 January 1999, the government has also had the possibility of laying before the chambers European texts which, though not statutory in nature, can be considered as likely to give rise to Parliament taking a position. This is the 'optional clause' added to the 'mandatory clause' on drafts of or proposals for European instruments containing provisions which are matters for statute.

#### **Article 88-4 of the Constitution**

'The Government shall lay before the National Assembly and the Senate any drafts of or proposals for instruments of the European Communities or the European Union containing provisions which are matters for statute as soon as they have been transmitted to the Council of the European Union. It may also lay before them other drafts of or proposals for instruments or any document issuing from a European Union institution.

In the manner laid down by the rules of procedure of each assembly, resolutions may be passed, even if Parliament is not in session, on the drafts, proposals or documents referred to in the preceding paragraph.'

European texts which are matters for statute are printed on blue paper and distributed in a specific series of parliamentary documents bearing the letter 'E' (for Europe) followed by a number corresponding to the order of arrival of proposals.

The Rules of Procedure of the National Assembly (Rules 151-1 to 151-4) entrust the Delegation with the task of systematically examining the texts which the government lays before the Assembly pursuant to Article 88-4 of the Constitution. Approximately 250 European texts are thus submitted to the Delegation on which it is required to take a position.

It can then decide:

- To approve the draft of or the proposal for a Community instrument by adopting, where applicable, conclusions or a motion for a resolution to explain its position in detail;
- To defer taking a decision when it feels it lacks information to assess the scope of the text and it may possibly appoint an information rapporteur tasked with addressing in greater depth the examination of the document;
- To oppose the adoption of the draft of or the proposal for a Community instrument. It may then decide to state the reasons for its opposition by adopting conclusions or a motion for a resolution which will be automatically communicated for examination to one of the National Assembly's six standing committees responsible.

#### ***E' Documents communicated by the Government pursuant to article 88-4 of the constitution***

	<b>11<sup>th</sup> legislature</b>						<b>2002/2003 session (2)</b>	<b>Total</b>
Years	1997	1998	1999	2000	2001	2002 (1)		
Number of texts submitted pursuant to Article 88-4 of the	168	206	195	274	287	136	296	1562

Constitution								
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(1) from 01/01/2002 to 18/06/2002, (2) from 25/06/2002 to 30/06/2003

### **How does the procedure take place for examining drafts of or proposals for Community instruments ?**

#### *Parliamentary scrutiny reserve*

The parliamentary scrutiny reserve notion was introduced by the Prime Minister's circular of 19 July 1994 on the factoring of the position of the French Parliament into the formulation of Community instruments. It means that the National Assembly and the Senate are entitled to vote - for or against - a proposal for an instrument before its adoption by the European Union Council of Ministers. The Prime Minister's circular of 13 December 1999 therefore sets forth that the government must allow a minimum one month period from the transmittal to Parliament of a draft of or a proposal for a Community instrument. This one month period is part of the six week period laid down by the protocol on the role of national parliaments appended to the Amsterdam Treaty, during which the Union Council cannot adopt a common position or a decision with respect to a legislative proposal received from the Commission.

There is however an emergency examination procedure which allows the government to ask the Chairman of the Delegation to directly carry or reject a draft European instrument, without convening the Delegation, when the Community schedule requires the urgent adoption of a text. This procedure should however remain exceptional.

#### **Number of emergency procedures**

11 <sup>th</sup> legislature						2002/2003 session (2)	Total
1997	1998	1999	2000	2001	2002 (1)		
18	16	48	27	33	28	28	198

(1) from 01/01/2002 to 18/06/2002, (2) from 25/06/2002 to 30/06/2003

#### *Point A or Point B of the agenda*

Texts deemed of minor importance or that do not involve any specific difficulty are placed under point A of the Delegation's agenda, which means that they are approved without debate. For each of these, an information sheet is sent to the Delegation members approximately one week before the date of the meeting during which they are considered as approved unless a Delegation member voices his disagreement. In this case, the Delegation does not take a position until after a debate between its members.

The other texts, placed under point B of the agenda, are presented orally by the Chairman of the Delegation or a specially appointed rapporteur who states the content and the explanatory memorandum of the draft European instrument, any feedback, compliance with the subsidiarity principle, legal basis adopted, probable schedule for its examination... The examination sheets of all the E documents (examined under

point A and point B) are regularly published as part of the Delegation's 'balai' reports (information reports on texts laid before the National Assembly pursuant to Article 88-4 of the Constitution).

*National Assembly resolutions on drafts of or proposals for European Community and European instruments*

Unlike the adoption of conclusions which are wholly those of the Delegation for the European Union, resolutions express the position of the National Assembly as a whole. The Delegation can adopt therefore only proposals for resolutions which are then sent for examination to one of the six standing committees tasked with deciding within a period of one month following the referral.

The standing committee then appoints its own rapporteur and takes a position on the Delegation's proposal for a resolution which it can adopt as such, amend or reject. Within eight days following the distribution of the committee's report, the proposal for a resolution can be included on the National Assembly's agenda on request by a group chairman, a committee chairman, the Chairman of the Delegation or the government. If no request for inclusion on the agenda is presented, the text adopted by the committee responsible is considered final and transmitted to the government. Resolutions have a political scope; they are not legally binding on the government but the latter must take them into account at Community negotiations.

In all cases, resolutions adopted by the Assembly are published in the *Journal officiel* (official gazette)(Acts and decrees edition).

The Delegation does not however have the sole right of initiative to table proposals for resolutions, which is also an individual right enjoyed by each deputy. If the government or the chairman of a group so requests, the standing committee responsible must examine the proposal for a resolution within one month following this request.

**Number of proposals for resolutions tabled and number of resolutions adopted**

	<b>11<sup>th</sup> legislature</b>						<b>2002/2003 session (2)</b>	<b>Total</b>
	1997	1998	1999	2000	2001	2002 (1)		
Number of proposals for resolutions tabled by the Delegation for the European Union	8	15	14	11	7	0	12	67
Total number of proposals for resolutions (including those tabled by deputies as individuals)	10	18	14	11	7	0	15	75
Number of resolutions adopted by the National Assembly:	8	12	12	11	6	0	8	57
- in committee	8	10	7	11	5	0	7	48
- in public sitting	0	2	5	0	1	0	1	9

(1) from 01/01/2002 to 18/06/2002,(2) from 25/06/2002 to 30/06/2003

### *Regular follow-up of the transposition of directives*

As part of its role of monitoring European affairs, and in view of France's poor results regarding the transposition of directives, the Delegation for the European Union has taken the initiative of publishing an annual information report taking stock of the effective transposition of directives into domestic law. This report lists directives whose transposition period has expired and analyses the causes for such delay. Parliament thereby intends to support the government's action plan to considerably reduce the backlog of directives remaining to be transposed, in order to meet Community requirements.

#### **1.7.2 Senat**

En réponse à votre courrier du 24 mars concernant le rapport bi-annuel de la COSAC, je voudrais vous apporter les précisions suivantes :

- nous n'avons pas d'observations concernant le plan de ce rapport ;
- depuis octobre 2000, il n'y a pas de changement à signaler concernant le rôle du Sénat dans le contrôle du Gouvernement en matière de législation européenne ;
- les conclusions du Conseil européen de Séville au sujet de la structure et du fonctionnement du Conseil n'ont pas fait l'objet d'un débat ;
- pour ce qui est de l'application du protocole d'Amsterdam, nous regrettons que les travaux du Conseil mettent parfois les assemblées devant un fait accompli. En effet, même lorsqu'il n'y a pas d'accord formel dans le délai de six semaines, il existe assez souvent des accords partiels sur lesquels, en pratique, il n'est pas possible de revenir. Malheureusement, le nouveau protocole figurant dans le projet de Constitution ne semble pas améliorer les garanties dont bénéficient les parlements nationaux.

En attendant d'avoir le plaisir de vous rencontrer à Dublin, je vous prie d'agréer, mon Cher collègue, l'expression de mes sentiments les meilleurs.

#### **1.8 GREECE**

As a large number of European legislative acts are being transferred to the Greek legal system mainly through presidential decrees, which lie to the exclusive competence of the executive, the need for scrutiny is imperative. The Hellenic Parliament trying to adapt itself to the demands of these needs, recognized constitutionally the relevant procedures, following the latest revision of our Constitution, on April 2001.

According to article 70 par.8 of the Greek Constitution:

*"The Parliament's Standing Orders specify the way by which the Parliament is being informed by the Government on issues that refer to legislative acts in the context of European Union and conducts the relevant debate".*

The main provision of Hellenic Parliament's Standing Orders (Rules of Procedure), which derives from the above mentioned constitutional term and concerns the scrutiny of European Legislation is article 41b.

This article mentions that:

- The Government sends to the Parliament's Speaker every draft of European legislation, as soon as it is transmitted to the Council of Ministers. The same is done with documents of non binding nature, issued by the European Commission.
- The Speaker transmits these documents to the competent standing committee and / or the Committee for European Affairs.
- In case of competence of more than one standing Committees or of a Standing Committee and the European Affairs Committee the Speaker can convene a joint meeting of the Committees concerned.
- The Speaker, or the Committee Chairman, or the Committee itself by decision of the 1/3 of its members, can invite the competent Minister to brief the Committee.

The third paragraph of article 41B refers to the drafting of Opinions by the Committees, which are addressed to the Plenary and the Government. These opinions are not binding; However the Government has to inform the Parliament on the follow up of the opinions, when they concern legislative issues.

According to the common practice, based on articles that regulate the functioning of the Parliamentary Committees in general, in conjunction with article 32a which refers particularly to the Committee on European Affairs, European Union issues are debated in the respective committee, usually with the presence of the competent Minister. These issues usually concern institutional matters or broader topics of European policies.

Some of the agenda items of last year's meetings are listed below as an example:

- The latest developments in the economic and monetary policy of the E.U, - Briefing by the Minister for Economy and Finance in view of an Ecofin Council,
- The revision of the CAP-briefing by the Minister for Agriculture after a respective Council Meeting,
- Evaluation of the Draft Constitutional Treaty –exchange of views with the Parliament's and the Government's representatives in the Convention.

In some cases instead of a Government Minister, other persons are invited to hearings by the Committee for European Affairs, as for example MEPs (apart from the Greek MEPs who are invited anyway and can participate in the debates without right of vote), Members of the European Commission, MPs from other member-states Parliaments, experts and so on.

## **1.9 GERMANY :**

### **1.9.1 Bundesrat :**

The scrutiny procedures on EU legislation in the Bundesrat are carried out still in the same way as reported for the XXIII. COSAC in October 2000.

Neither the "Europe Article" of the Basic Law nor the Act on Cooperation between the Federation and the Federal States in European Union Affairs have been amended.

The Amsterdam Protocol on National Parliaments did not cause changes in the Bundesrat scrutiny procedures on EU legislation. The Bundesrat was already provided with full information on a comprehensive range of matters by the Federal Government on the Protocols entry into force.

Up to now the Bundesrat did not give an opinion to the Seville conclusions on measures concerning the structure and functioning of the Council of Ministers. In the view of the Committee Secretariat the previous procedures did prove their worth, though they are discussed at present in the frame of the Committee on Modernising the Federal System. Therefore changes of the scrutiny procedures are thoroughly possible in the nearer future.

## **1.10 HUNGARY**

The last<sup>3</sup> amendment to the Hungarian Constitution enriched its text with an article<sup>4</sup> on the cooperation between the Parliament and the Government concerning European Union affairs. It is the 'Law on the Cooperation between the Parliament and the Government concerning European Union affairs' that shall regulate the matter in detail. This issue is a top priority on the Hungarian legislative agenda today. The Government submitted its proposal for this law on 26 March 2004 to the Parliament. The general debate on the bill in the plenary session took place yesterday and hopefully the adoption will occur by mid-May this year. I wish to emphasize that the modification of the Rules of procedure is also necessary, but for the time being it is still pending.

Both the bill and the Rules of procedure modification require a two-third majority for the adoption.

The bill includes provisions on the following matters:

- parliamentary scrutiny
- communication of information by the Government to the Parliament

Parliamentary scrutiny on behalf of the Parliament will primarily be done by the Committee on European Integration Affairs. The Committee will have decisive competence in scrutiny matters, which is an exception to regular parliamentary practice. The Committee shall work on EU matters in cooperation with other standing committees.

The Government is due to forward all draft Council, COREPER and working group documents to the Parliament. The Parliament will have the right to request the Government to forward it additional documents as well.

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<sup>3</sup> Act 42/2002, passed in December 2002.

<sup>4</sup> Article 35/A.

The Parliament will have the right to demand information from the Government concerning the negotiating position of the Government relating to any EU draft referred to above. The Government will be due to forward its position to the Parliament in such time, that substantive consultation would be possible with regard to the EU decision-making agenda. The Parliament has the right to request this consultation.

The Parliament may adopt an opinion concerning the negotiating position of the Government. In its opinion the Parliament indicates the prime goals that it considers necessary to achieve in related EU decision-making. The opinion of the Parliament shall be politically binding upon the Government. When the EU draft legislation concerns a matter of qualified majority decision-making in the Parliament, the Government may only depart from the parliamentary opinion in reasonable case.

The Government is due to inform the Parliament in written form after each decision taken by the Council on which the Parliament has delivered an opinion or which the Parliament has indicated. Further, the Government shall inform the Parliament orally after each decision taken by an EU institution with governmental participation in case the position taken by the Government derogated from the opinion of the Parliament. The Government is also due to inform the Parliament once a year on the actualities relevant to Hungary's membership and of the European integration.

The legislative work also includes the modification of the Rules of Procedure of the Hungarian National Assembly. An entire new chapter will be added to regulate the EU-related aspects of parliamentary procedure. There is a text under debate drafted by a group of experts.

The key issues to regulate in the Rules of Procedure are the following:

- registration and access to EU documents, database
- internal parliamentary procedure with regard to scrutiny

According to the draft the Government is due to forward to the Committee on European Integration Affairs electronically all documents indicated in the 'Law on the Cooperation between the Parliament and the Government concerning European Union affairs' without delay. There will be a database at the Committee on European Integration Affairs, which will contain the documents referred to above. The documents will be available for all members of Parliament, the parliamentary factions and the staff of the Bureau of the Parliament.

The position of the Government referred to in the Law shall be forwarded to the Speaker of the Parliament and to the Committee on European Integration Affairs. These documents shall be qualified as not public during the procedure detailed in the chapter.

The EU legislative proposals shall be debated in the standing committees. The parliamentary opinion concerning the position of the Government shall be formulated exclusively by the Committee on European Integration Affairs in camera meeting. It is the chairman of the Committee who will have the right to indicate the EU legislative proposals to hold consultation on. The two-fifth of the members of the Committee also has the right to initiate the examination of EU legislative proposals.

## **1.11 IRELAND**

Enhanced arrangements for Oireachtas scrutiny of EU business were introduced on 1 July 2002 and were placed on a statutory basis on 23 October 2002, with the entry into force of the European Union (Scrutiny) Act 2002. While the work of scrutiny involves the Oireachtas as a whole, the Joint Committee on European Affairs coordinates and oversees this work through the Sub-Committee on European Scrutiny.

There are two broad strands to scrutiny:

- Firstly, the Government forwards to the Sub-Committee all legislative proposals, together with information notes outlining the purpose, significance and implications of the texts presented. Under the terms of the new Act the following measures are subject to Oireachtas Scrutiny:
- regulations or directives adopted under the Treaty establishing the European Community;
- joint actions adopted under Article 14 of the Treaty on European Union;
- common positions adopted under Article 15 of the Treaty on European Union;
- measures requiring the prior approval of both Houses of the Oireachtas pursuant to Article 29.4.6° of the Constitution not otherwise mentioned in this definition.
- Additional arrangements are in place for the scrutiny of decisions and CFSP measures.

The Sub-Committee of the European Affairs Committee (also chaired by Mr. Gay Mitchell T.D.) conducts a examination of these proposals and determines which of those presented requires further scrutiny. Those proposals which have been identified for further scrutiny are then referred to the relevant Sectoral Committees to be considered in further detail.

Through this scrutiny of legislative measures the Oireachtas plays a greater role in the EU process. In the course of detailed scrutiny of measures Oireachtas Committees may invite outside witnesses to give their views on the measures in question or groups or individuals may approach the Oireachtas to express their concerns about specific proposals. The Oireachtas web-site contains details of the proposals considered, for the information of the public thus facilitating public input and participation.

The second strand of scrutiny involves preparation for meetings of the Council of Ministers and of the European Council. Before each meeting of the Council of Ministers, the Minister attending will, on request, come before the relevant Committee to present and discuss the agenda items and, where appropriate, the Government's position on those items.

## **1.12 ITALY**

### **1.12.1 Chamber of Deputies**

1° Following the changes made to the Rules of the Chamber in August 1996 and July 1999, the Committee on EU Policies has become a Standing Committee: this means

that its members cannot belong to other Standing Committees and that it possesses full law-making powers.

Furthermore, pursuant to the Circular Letter of the Speaker of the Chamber of January 1997, the opinions given by said Committee on bills transmitted by other Committees are binding.

Starting in the year 2000 the Chamber of Deputies, in compliance with a procedure set out by the Committee on the Rules of Procedure, has considered the work and legislative programme of the European Commission as well as the annual and multiannual programmes of the Council. This procedure provides for the following: all the Standing Committees shall consider said programmes with respect to the issues falling under their responsibilities, and appoint a rapporteur who shall then report to the Committee on EU Policies; the Committee on EU Policy shall perform a general consideration – also by hearing Italian MEPs – and then submit a report to the Plenary; ultimately, a debate on the Floor of the House shall take place, which may lead to the adoption of motions or resolution addressed to the Government.

2° Thanks to the Protocol on the role of National Parliaments, new legislation was introduced in Italy that makes it mandatory for the Government to transmit to the Parliament not only the draft legislative and policy-setting acts that are being considered by the relevant EU bodies, along with any modifications, but also acts that are preliminary to the formulation of the former. This includes fact-finding, consultative and policy-setting acts which are frequently used by EU institutions (among them, communications, action plans and the so-called white and green papers). These acts have to be transmitted by the Government upon reception, with an indication of the possible date of their discussion or adoption by the EU bodies. Before such date the parliamentary Committees have the possibility of formulating remarks or adopting motions or resolutions addressed to the Government.

It is indeed quite often the case that the proposals that are transmitted to Parliament are already quite advanced, so that the Parliament's intervention becomes superfluous.

The Senate is currently discussing a bill, already passed by the Chamber, aimed at amending the legislation in force so as to make Italian participation in the preliminary stages of the Community law-making process more efficient and to speed up the transposition of Community provisions into the national legal system. In particular, the proposals under consideration concern three main aspects:

the strengthening of the participation of Parliament and other players involved in the "ascending phase" of the drafting of Community law with the introduction of a provision for mandatory parliamentary consideration;

new methods to transpose Community law into national legislation;

the redefinition of the role of regions and autonomous provinces in the "ascending" and "descending" phases of Community law-making process, in compliance with article 117, par. 5 of the Constitution (as amended by the Constitutional law n. 3 of 2001) establishing that the Regions and the autonomous provinces take part in preparatory decision-making process of EU legislative acts and in their implementation in the areas that fall within their responsibilities.

If the deadline set in the Protocol were observed, it would then be quite possible for the parliamentary Committees to give appropriate consideration to the drafts. The problem is to ensure that EU legislative proposals be made available to Parliaments when they are transmitted by the European Commission, in order not to reduce the six-week deadline envisaged in the Protocol.

In this connection it is important to point out that the Protocol on the role of National Parliaments annexed to the Draft Treaty establishing a Constitution for Europe

provide that the European Commission forwards drafts directly to the National Parliaments at the same time as they are transmitted to the European Parliament and the Council.

The notion of legislative proposal ought to be extended so as to include also all proposals concerning the measures under Titles V and VI of the European Union Treaty.

It would be desirable to create a permanent system for the exchange of information among the Parliaments of the European Union on the activities of European Union Affairs Committees, and more in general on parliamentary activities related to the EU.

In this connection the Chamber is interested in improving the activity of IPEX, whose steering group includes representatives of the Italian Parliament.

The members of the EU Policies Committee often attend the roundtable discussions, meetings and seminars organised by the European Parliament; these meetings are regularly attended by the members of the competent Committees by subject-matter.

Moreover, members of the EU Policies Committee take part on a regular basis in the sittings of the Constitutional Affairs Committee of the European Parliament when the IGC is on the Committee's agenda.

It would be desirable for such meetings and roundtable discussions to be organised in a systematic fashion to deal with major legislative proposals adopted at European level.

### **1.12.2 The Senate**

According to the changes introduced in the Senate Rules on 6th February 2003, and come into force last October, the former Committee on European Affairs has become a Standing Committee (14th Committee). First of all, the new Senate Rule envisages a double membership for the newly established EU policies Committee, whose members - unlike those of the other 13 Committees - must also be members of another standing Committee. This is to ensure that they combine an in-depth knowledge of EU Policies Committee with knowledge of specific matters, thus improving the value of debates and decisions.

Under the new Rules, the functions of the EU Policies Committee include a general jurisdiction over constitutional aspects of the activity of the EU and its bodies as well as a responsibility for relations with the European Parliament and the Conference of Community Affairs Committees of the EU Parliaments (COSAC). Apart from these general tasks, the main activity of the 14th Committee consists in the consideration of EU measures (regulatory and others) and of proposed national legislation related to Community law.

In doing this activity, the EU Policies Committee gives opinions to other Committees examining - each for the subject over which it has jurisdiction - the draft Community measures transmitted by the Government or published in the Official Journal of the European Union. The whole process is aimed at giving guidance to the Government in negotiations leading to the adoption of Community measures. For this purpose, the new Senate Rules lay down that when fixing its agenda, each Committee must assure the timely scrutiny of draft Community measures. Furthermore, under the new Rules, the 14th Committee can hold debates at the presence of Government Ministers on Commission's draft measures before they are included in the Council agenda.

The 14th Committee also scrutinises resolutions adopted by the European Parliament and can hold debates on specific matters dealt with by the EP.

As to the transposition of Community law, the new Rules empower the 14th Committee to scrutinise and report to the Senate on the Community Bill - which ensure the national implementation of community law - and the Yearly Report on Italy's membership of the European Union. The Community Bill is scrutinised differently from other Bills considered by other Committees: scrutiny time is shorter and the procedure followed resembles that of budget measures. Having approved the Bill, the 14th Committee presents a general report to the House, including reports produced by other Committees on the parts of the Bill that come under their field of responsibility.

In addition to these functions, the 14th Committee issues an opinion on every Bill which may raise questions of compliance with Community legislation and on bills implementing treaties and Community measures. The opinion is sent to the Standing Committee having jurisdiction over the matter. The 14th Committee also advises the Government on draft legislation concerning such issues. The new Rules also state that when considering bills and draft legislation introduced by the Government, the 14th Committee must take into account the compliance of national legislation with EU law and also the relations between Regions and the EU.

Furthermore, under the new Rules, the 14th Committee's advisory function on bills considered and adopted by a Standing Committee acting with a legislative remit, is strengthened. If this Committee does not conform to the opinion issued by the 14th Committee, the legislative remit is withdrawn and the regular procedure - requiring a Senate vote - is applied instead. This power is similar to that of the 1st Standing Committee (Constitutional Affairs), which oversees compliance of new Bills with the Constitution, and the 5th Standing Committee (Budget), which scrutinises all spending Bills.

2. With the ratification of the Amsterdam Treaty, and the annexed protocol on the role of national Parliaments, a piece of legislation was passed which makes it mandatory for the Government to transmit to the Parliament - and to the Presidents of the Regions - all the EU regulations, guidelines, as well as their preparatory documents (including white and green papers) and proposals, in order to be scrutinised by the appropriate Committees. For this purpose the opinion of the EU Policies Committee is also gathered. However, the Committees often do not receive such proposals in time for scrutiny, and the Parliament's consideration and opinion becomes useless. To solve this problem, the Italian Parliament is currently examining a bill, which amends the existing legislation (the so-called "La Pergola" Act), and aims at strengthening Parliament's involvement in the formation of Community law. To this end, the bill introduces a provision that makes parliamentary consideration mandatory before an EU proposal is passed.

3. The Protocol has certainly strengthened the role of the EU Policies Committee (and that of the previous Committee). However, there have been problems in its implementation. On the one hand, no clear definition of the type of documents to be submitted to the Parliament has been made, and, on the other, there are no mechanisms that can prevent the Parliament to be flooded with an excessive number of proposals, often consisting in the same proposal at a different stage. For the Parliament to be able to respect the six-week deadline fixed in the Protocol, it is also important that the proposals are sent to the Parliament as soon as they are available. In this connection, it is important to stress that the Protocol on National Parliaments envisages the transmission of EU proposals and preparatory documents directly from the EU Commission to the national Parliaments.

4. The notion of legislative proposals is too restricted and should also be extended to the main budgetary documents (which are adopted by an Act in Italy), and to international and inter-institutional agreements.

dealing with European Affairs is unsatisfactory. For this reason it is important to encourage systems that 5. The mutual exchange of information, among national Parliaments, on the activities of the Committees can provide a comprehensive exchange of information among all member States. One of these can be the IPEX website, which, if properly implemented, can provide useful information on Member State's parliamentary activities relating to EU affairs.

6. Members of the EU Policies Committee regularly attend sittings of the Constitutional Committee of the European Parliament, including those dedicated to the work of the Intergovernmental Conference. Other members participate, more or less regularly, to conferences, seminars and round tables, held by other EP Committees where representatives from national Parliaments are expressly invited.

### **1.13 LATVIA**

The Parliament of Latvia (Saeima) conducts its involvement in EU matters through its European Affairs Committee.

The European Affairs Committee (EAC) was originally set up in 1995, soon after the signing of the European Agreement establishing an association between the European Communities and their Member States on the one hand, and the Republic of Latvia on the other hand. The Saeima was one of the first parliaments of the EU accession countries to create specialised standing committees on EU matters.

#### **1.13.1 Legal basis**

##### **1) Rules of Procedure of the Parliament of Latvia.**

As early as February 2001, the role of the Saeima and particularly the role of its European Affairs Committee as regards EU affairs was formulated in the *Rules of Procedure*. Under these rules, all of the official positions adopted by the Government must first be approved by the EAC before they are communicated to the EU institutions. This scrutiny process was first used when the Government's positions in the accession negotiations were examined, and continues to this day in all relevant matters. Recently, this scrutiny process resulted in a mandate being granted to the Government in advance of the meeting of the Council of Ministers. In practical terms this means that each position of the Government is first debated within the EAC, after which the Committee grants its mandate.

According to the Rules of Procedures of the Saeima (as amended on February 16, 2001):

- "The Saeima exercises its involvement in EU matters through its European Affairs Committee (EAC).
- All political groups of the Saeima should be represented in the EAC. The composition of the EAC reflects the representation of political parties in the Saeima itself.
- The EAC reviews and approves the official positions of the Republic of Latvia prior to their submission to European Union's institutions

- At least twice a year, the Prime Minister of the Republic of Latvia or a member of the Cabinet (authorised by the Prime Minister) reports to the Saeima on the Government's accomplishments and on intended future actions regarding EU matters. Parliamentary debates may be held about this report".

## **2. Use of General provisions in the Constitution (Satversme) and of the Saeima Rules of Procedures**

When conducting Government scrutiny the Saeima can exercise all of their rights as stipulated by the Constitution (The Satversme) of the Republic Latvia, and as foreseen under the Saeima Rules of Procedure. This means that any ordinary non-EU related procedures may also be used in the realm of EU affairs, including request of information, attendance of ministers', and such.

### Article 25 of The Constitution

"The Saeima shall establish committees and determine the number of members and their duties. Committees may require, of individual Ministers and/or local government authorities, information and explanations as may be called for or necessary for their work, and may invite to their sittings responsible representatives from the relevant ministries or local government authorities, so that such may furnish any required explanations..."

### Article 172 (1) of the Saeima Rules of Procedures

"A committee may directly, without the Presidium's mediation being in any way necessary, request information and/or any explanations deemed necessary for its work, from the respective Minister and the institutions subordinated to or supervised by him/her, as well as from local governments. The committee itself may summon the appropriate officials to provide any required comments".

## **3) Additional legal base for the Saeima involvement in the EU decision-making process**

The role of the Saeima and its European Affairs Committee has also been set down in the documents of the Government. During the accession negotiations it was subject to the *Rules and Regulations of the Cabinet of Ministers on Co-ordination of Latvia's negotiating stances*. It was stipulated that the government submit all draft negotiation positions to the EAC and the EAC approves the national position before it goes to the EU institutions.

The legal basis and mechanism of the EU decision-making process within Latvia was changed after observer status was secured within the EU institution.

The Regulations of the Cabinet of Ministers No 286, form 03.06.2003. "Temporary procedures for co-ordination of Latvia's national positions states as follows:

### **1.13.2 Saeima Involvement**

"It is the duty of the responsible Ministry to keep the Saeima informed on all important issues related to the work of the EU Council of Ministers.

All and any Ministry responsible must agree on the national position with the Saeima European Affairs Committee, within the procedure set out by the Saeima rules of procedures”.

### **1.13.3 Saeima’s Observer status at the Government institutions**

Scrutiny of the Government’s EU integration policy is implemented in practice through participation in different organisations responsible for coordination and decision-making within the most important EU-related areas. For example, representatives of the European Affairs Committee enjoy observer status in the European Integration Council and the Council of Senior Officials. These bodies are responsible for coordinating horizontal issues within the EU decision-making process. The rights of the EAC to participate in meetings and to receive information are established by the ad hoc Regulations of the Cabinet of Ministers.

The EAC has always been active in scrutinizing EU funds received by Latvia. It is expected that EU funding will increase significantly with EU membership. The EAC has begun regular monitoring of the issues related to the use of EU Structural and Cohesion funds in Latvia. All ministries and organisations responsible for managing the EU funds are invited to regularly issue reports on the subject. According to the *Regulation of the Cabinet of Ministers on Structural funds management*, the EAC has advisory status in the Latvia Management committee for Structural funds.

### **1.13.4 Access to timely information on EU legislative proposals and other documents**

1) One central EU documentation database has been established in Latvia. The Parliament has access to this database, as well as other state institutions. Access to the database has been granted to all officials of the EAC and to one designated official within each standing committee of the Parliament. This common database contains EU draft legislation documents, agendas, reports of the line ministries written down after different meetings and other EU related documents. The EAC receives all government draft national positions as soon as they are drafted.

2) A further direct information link with EU institutions is provided via the permanent representatives of the Saeima to the EU. The office of the Saeima in the European Parliament was established as early as 2001. In 2003 a decision was made to establish a second position in Brussels, therefore there are currently two permanent representatives of the Saeima in the EP. The EAC deems that the need for closer cooperation with the EP and the network of the national parliament representatives in Brussels will grow even further after enlargement.

The Saeima has also begun to develop cooperation mechanisms with the future Latvian members of the EP. They are seen as an additional potential information source for the Saeima as well as an instrument for defending certain national interests at the EP level.

3) One more information source is the EU-Information Centre, which was established under the aegis of the EAC in 1997. It has become one of the main providers of unbiased and neutral information on EU matters within the country.

### **1.13.5 Current situation and developments**

Before the date of accession a number of laws or amendments to existing ones remains to be adopted by the Saeima. The European Commission closely monitors this process. Good coordination between the government and the parliament as well as proper coordination of the legislative agenda within the Saeima are thus seen as a crucial precondition to not jeopardising the quality of the legislation owing to tension and haste.

Cooperation between the Saeima and the Government has been very fruitful and constructive. The Saeima has decided that the current legal framework is almost optimal and should be revised after Latvia accumulates enough experience as a EU Member State. It has been accepted that no need exists for working out very detailed procedures for the exchange of information or for strict rules governing internal decision-making process as regards the scrutiny system.

However, recent practice has already shown that some elements of the scrutiny system ought to be improved. First, the EAC does not have enough time for sufficient scrutiny of submitted documents. Sometimes only one day is at MPs' disposal to formulate the EAC's opinion.

Second, there may be an occasional lack of qualified experts and/or staff persons able to give proficient advice to the EAC on draft positions.

In the nearest future the EAC will be able to concentrate on the most important issues only, namely, those which impact national interests and/or those which might result in the Saeima legislative acting *after* the EU law-making process.

Administrative capabilities should still be strengthened both in the ministries and the Parliament, so as to be properly involved in the EU decision-making process from the very beginning when the European Commission issues a proposal for a legislative act.

The EAC sees a great need to also involve sector committees of the Parliament in debating government positions before Council meetings. However at the current stage it is almost impossible, as the sector committees are already overloaded with legislation slated to be adopted before May 1<sup>st</sup>. After accession, the sector committees will become more and more involved in the scrutiny process.

## **1.14 LUXEMBOURG**

As for general information about the work of our European Affairs Committee, I can inform you that the Luxembourg Chamber of Deputies has no specialised committee in European affairs. It is in fact the Committee for Foreign and European Affairs and for Defence which is in charge of these issues (as well as the specialised committees). A good cooperation exists with the Ministry for Foreign Affairs (frequent meetings with Mrs. Lydie Polfer, Minister for Foreign Affairs and with Mr. Charles Goerens, Minister for Defence and for Cooperation) on European issues. Please note that the Committee will very probably change its working methods after parliamentary elections in June, meaning that a more detailed analysis of European documents should be possible. I will keep you informed on our work.

## **1.15 POLAND**

The European Committee is the biggest among all the Committees in the Polish Sejm. It is composed of 52 members. Mr Józef Oleksy , who was the Marshall of the Sejm in

1993-95 and the Prime Minister in 1995-96, was the chairman of the Committee until January 21, 2004. Mr Jerzy Czepułkowski was elected the new chairman of the Committee on February 16, 2004. There are 8 vice-chairmen who are representatives of all the parliamentary fractions in the Sejm.

According to the Standing Orders of the Sejm, the Committee is responsible for the matters relating to the process of the European integration and the accomplishment of the international agreements in this matter. The European Committee took over the responsibilities of the former term's European Integration Committee and the Special European Law Committee.

Thus one can distinguish two fields of the Committee's activity. On the one hand the Committee is responsible for political control over the process of the European integration; on the other hand it is dealing with the adjustment of Polish law to the *acquis communautaire*.

The Committee played a vital role in monitoring accession negotiations, monitoring the follow up the National Programme of the Adoption of the Acquis and the information activity of the government concerning the EU and the conditions of the Polish accession. The absorption of the European pre-accession funds, preparation for the absorption of the European structural and cohesion funds in the accomplishment of the National Development Plan are also of great importance to the Committee. The Committee also initiates dialogue with social partners on EU-related issues and co-operates with non-governmental organisations. The European Committee maintains bilateral and multilateral (COSAC) relations with the relevant specialised parliamentary committees in the member states and the candidate countries on matters which go beyond the structural dialog.

The European Committee is also dealing with drafts which aim at adjusting of the Polish law to the legal order of the European Union. Changes, which were introduced in 2000 and 2001 to the statute on the rules of procedure of the Sejm, created new, quicker legislative path for the drafts tabled by the government. In the course of its work, the Committee is also allowed to appoint special subcommittees. Since the beginning of 2002 the Committee has been working on more than sixty legislative drafts so far.

The Committee established a special subcommittee to deal with monitoring of absorption of European structural and cohesion Funds as well as six sectoral working groups.

The European Parliamentary Committee is also actively participating in the debate on the future of the EU. The president of the Committee, Józef Oleksy, was a representative of the Polish Sejm to the European Convention. Marta Fogler (Civic Platform), who is also a member of the Committee, was his deputy. Józef Oleksy was also the co-chairman of the EU-Poland Joint Parliamentary Committee and vice co-chairman is the vice-chairman of the Committee – Janusz Lewandowski (Civic Platform).

More detailed information on the composition and the work of the Committee can also be found on the following internet page:

[www.sejm.gov.pl/komisje/www\\_eur.htm](http://www.sejm.gov.pl/komisje/www_eur.htm)

## **1.16 PORTUGAL**

There are no recent developments in scrutiny procedures in the portuguese parliament.

The legal basis is still Law 20/94 from 15 June 1994.

The only thing that changed was the merger of the Committee on Foreign Affairs and the Committee on European Affairs into one Committee of European Affairs and Foreign Policy that happened in May 2nd, 2002, at the beginning of the new legislature.

There is also an attempt to follow more closely the annual working and legislative programme presented by the European Commission but this is still a work in progress. The meetings held with the Secretary of State of European Affairs and Ministry of Foreign Affairs before and after each European Summit have profited from the Seville openness provisions.

## **1.17 SLOVAKIA**

The Committee for European Integration presided over by Mrs. Beňová was cancelled at its last session taking place on 29 April 2004 via the adoption of its Resolution No. 53. In the same session the Committee agreed to establish a new Committee for European Affairs which was executed by its Resolution No. 54. On the same day the plenary session has agreed with these Resolutions and has terminated the operation of the “old” committee while at the same time established a new European Affairs Committee. However, the membership in this Committee as well as its competences have not yet been established by law.

The proposal for an amendment of the Constitution of the Slovak Republic dealing with a new role of the National Council of the Slovak Republic concerning the scrutiny of EU affairs (deposited under the parliamentary press number 515) was not passed in March this year.

We expect the amendment of the Rules of Procedures concerning this issue to be debated in the third reading during the May plenary session as well as a new proposal for a constitutional act on the cooperation between the National Council of the Slovak Republic and the Government

of the Slovak Republic in the matters of the European Union (having being deposited with the Parliament on 22 April 2004 under the parliamentary press number 673).

## **1.18 SPAIN**

As you surely know, we have just had general elections in Spain and both Houses of our Parliament and their committees are not yet set up. That means that it is impossible for me (as a parliamentary officer) to give an opinion on the political questions of your request. This is particularly clear in relation to the Council of Ministers' structure and functioning; there has been considerable debate on the subject in Spain and it is likely that our future new Government will have, on this issue, a different position than the one of the precedent Cabinet.

2. as for our parliamentary procedures on EU legislation, after revising the COSAC-Versailles debates on the matter (mainly Mr. Haenel's exposé); my opinion is that no essential changes have been introduced in the Spanish parliamentary procedures and practices.

## 1.19 UNITED KINGDOM

### 1.19.1 House of Commons

[Changes in role of Committee] No formal change to the Committee's role etc. since 2000. However the Committee has been making much greater use of its power to take evidence from Ministers, has begun taking evidence each year from Commission officials on the Annual Work Programme, and has also issued several reports on the Convention. A Standing Committee on the Convention was established in 2002 of which members of the European Scrutiny and Foreign Affairs Committees were designated members (counting towards the quorum) but which any member of either House could attend to question the two Houses' representatives on the Convention and debate Convention issues; a similar committee was established on the IGC, in which Ministers were questioned. The Government has recently proposed a new Committee building on these precedents (to be an addition to the European scrutiny system rather than replacing anything), which all Members of either House (and possibly the UK MEPs) could attend and which would meet at least twice a year to question Ministers and possibly Commissioners on EU matters; other changes in the scrutiny system are also being discussed.

[Whether European legislative proposals are received in time] No change. Second Pillar documents continue to cause problems.

[Adequacy of time to consider proposals] As discussed in its Report of June 2002 on *Democracy and accountability in the EU and the role of national parliaments*, the Committee continues to be concerned about revised proposals, about the impact of the co-decision and conciliation process and about European Council deadlines. First reading agreements are potentially a problem, as indeed are any procedures which involve the EP negotiating in private rather than debating and amending legislation in public.

[Definition of legislative proposals] No change.

[Information about other EU affairs committees] Committees need to decide what information is worth exchanging. More systematic exchange of information on responses to major EU proposals and on scrutiny reserves might be worthwhile, and could be achieved through COSAC or IPEX.

[Attendance at meetings organised by EP] Yes, but the Committee would prefer such meetings to be organised in consultation with national parliamentarians, and has emphasised that full information should be circulated well in advance and there should not be too many set speeches from the platform.

While the Committee values the Protocol, with its minimum six-week period between publication and decision, the pressure of time tends to be least when a proposal is first introduced and greatest when it is revised, and the latter is not covered by the Protocol.

The Seville reforms are welcome (and our National Parliament Office representative has used them to report back on several Council meetings), but they do not go as far as the Committee would like. In particular, the Committee believes that all the Council's legislative proceedings should be in public, and that public meetings should certainly not be confined to measures subject to co-decision. The Committee also wishes there to be an official transcript of such proceedings.

As indicated above, the Committee has for the second time taken evidence from Commission officials on the Annual Work Programme, and this year published a report following that evidence. The Committee received a copy of the European

Council's Multi-annual Strategic Programme. There appeared to be little or nothing new in it, but this may not be the case in future, and the Committee may in future request that the Programme be formally deposited in Parliament and examine it closely.

The Committee has endorsed a discussion paper on how the subsidiarity early-warning mechanism could be implemented, and has consulted the Leader of the House, other committees and the European committees in the UK's devolved assemblies about it.

The Committee has published reports on its work in 2002 and in 2003 which give more detail about its activities (HC 63-viii, 2002-03; HC 42-viii, 2003-04)

### **1.19.2 House of Lords**

As regards the Versailles responses:

#### **VERSAILLES QUESTION 1 [Changes in role of Committee]**

There has been no formal change to the Committee's role or terms of reference since 2000. However the Committee conducted a major Review of Scrutiny in 2002<sup>5</sup>. This made a considerable number of recommendations for changing the Committee's working methods and for enhancing the European scrutiny work of the House of Lords.

The Review set out for the first time to define what the purpose of parliamentary scrutiny is (see box). This conclusion derives from the fact that the UK Parliament does not have direct and effective law-making powers in cases where the EU legislates (the power to amend or reject legislation at implementations stage being so limited).

National parliamentary scrutiny of EU legislation has a clear constitutional purpose. Scrutiny at an early stage is therefore essential and must be as effective as possible. To that end, scrutiny should include:

- The accumulation, presentation and summary of relevant material, including information, statistics, explanation and analysis.
- The provision of information to the House and to the public as a contribution to transparency.
- Drawing the attention of the House, the Government, European institutions and the public to significant matters contained within that information and in particular making recommendations—"focusing the debate".
- Contributing to the law-making process by detailed analysis of draft texts, by exposing difficulties and proposing amendments.
- An examination of the Government and its role in agreeing European legislation and, as part of that process, compelling the Government not only to think through what it is doing or has done but sometimes to account for it.
- An examination of the Commission and the policies it formulates

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<sup>5</sup> <http://pubs1.tso.parliament.uk/pa/ld200203/ldselect/lducom/15/15.pdf> or for an HTML version: [House of Lords - European Union - First Report](#)

The Review reinforced the Committee's view that scrutiny at the earliest stage in the legislative cycle was most effective. The Committee has accordingly begun taking evidence each year from Commission officials on the Annual Work Programme and has been following through with detailed scrutiny of this document by the Sub-Committees. There has also been examination of the Council's multi-annual strategic programme.

Other enhancements to scrutiny include:

- Scrutiny of comitology
- Scrutiny of RIAs
- Scrutiny of devolution and human rights
- Scrutiny of budget (Sub-Committee A)
- GAERC scrutiny (Sub-Committee C)

Changes to working methods include:

- short and more focussed inquiries
- more follow-up
- better provision for debates in the House
- enhanced monitoring of scrutiny overrides
- joint working with the Commons
- preparing for the subsidiarity mechanism (yellow card)
- Enhanced contacts with EP and other national parliaments
- Enhanced information to and from the Committee

The Committee would be more than happy if some or all of these themes could appear on future COSAC agendas under the scrutiny heading and I would be happy to facilitate that.

The Committee also issued several reports last year on the Convention and on the draft Constitutional Treaty including detailed analysis of individual draft articles.

In related developments at Westminster (as covered by the Commons answer) the Lords participated in the Standing Committee on the Convention and the similar committee on the IGC, in which Commons Ministers were questioned. The Committee will discuss in due course the Government's further proposals intended to enhance scrutiny, although it is the Committee's preliminary view that our present Sub-Committee structure already allows the Lords to undertake much of this work (eg by providing opportunities to question Ministers and Commissioners).

VERSAILLES QUESTION 2 [Whether European legislative proposals are received in time] Generally the same answer as for the Commons, no change. Second Pillar documents continue to cause problems. The Committee intends to review CFSP scrutiny during this year. The Committee also continues to monitor and follow-up breaches of the scrutiny system whenever they occur, across all departments.

VERSAILLES QUESTION 3 [Adequacy of time to consider proposals] As discussed in the Scrutiny Review the Committee continues to be concerned about a number of issues including the impact of the co-decision and conciliation process and about European Council deadlines.

VERSAILLES QUESTION 4 [Definition of legislative proposals] No change.

VERSAILLES QUESTION 5 [Information about other EU affairs committees] The Committee is committed to enhancing systematic exchanges of relevant information with other scrutiny committees. More systematic exchange of information on responses to major EU proposals and on scrutiny reserves would be worthwhile, and we are working to achieve this through COSAC and/or IPEX.

VERSAILLES QUESTION 6 [Attendance at meetings organised by EP] The Committee continues to attend such meetings where they appear to add value (rather than just providing a forum for empty debate). The Committee supports initiatives planned through the Conference of Speakers to rationalise interparliamentary contact between national parliaments

#### OTHER GENERAL QUESTIONS RAISED

While the Committee values the Protocol, with its minimum six-week period between publication and decision, the pressure of time tends to be least when a proposal is first introduced and greatest when it is revised, and the latter is not covered by the Protocol.

The Seville reforms are welcome but they do not go as far as the Committee would like. In particular, the Committee believes that all the Council's legislative proceedings should be in public, and with an official record.

The Committee also for the first time published in November 2003 an annual report<sup>6</sup> setting out policy and procedural developments during the year and looking ahead. This will be the first in a series of such reports which may be of interest to you and to COSAC colleagues.

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<sup>6</sup> <http://pubs1.tso.parliament.uk/pa/ld200203/ldselect/ldcom/191/191.pdf> or for an HTML version: [House of Lords - European Union - Forty-Fourth Report](#)

## 2 ANNEX

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### THE LAEKEN DECLARATION ON THE FUTURE OF EUROPE

#### 2.1.1 I. EUROPE AT A CROSSROADS

For centuries, peoples and states have taken up arms and waged war to win control of the European continent. The debilitating effects of two bloody wars and the weakening of Europe's position in the world brought a growing realisation that only peace and concerted action could make the dream of a strong, unified Europe come true. In order to banish once and for all the demons of the past, a start was made with a coal and steel community. Other economic activities, such as agriculture, were subsequently added in. A genuine single market was eventually established for goods, persons, services and capital, and a single currency was added in 1999. On 1 January 2002 the euro is to become a day-to-day reality for 300 million European citizens.

The European Union has thus gradually come into being. In the beginning, it was more of an economic and technical collaboration. Twenty years ago, with the first direct elections to the European Parliament, the Community's democratic legitimacy, which until then had lain with the Council alone, was considerably strengthened. Over the last ten years, construction of a political union has begun and cooperation been established on social policy, employment, asylum, immigration, police, justice, foreign policy and a common security and defence policy.

The European Union is a success story. For over half a century now, Europe has been at peace. Along with North America and Japan, the Union forms one of the three most prosperous parts of the world. As a result of mutual solidarity and fair distribution of the benefits of economic development, moreover, the standard of living in the Union's weaker regions has increased enormously and they have made good much of the disadvantage they were at.

Fifty years on, however, the Union stands at a crossroads, a defining moment in its existence. The unification of Europe is near. The Union is about to expand to bring in more than ten new Member States, predominantly Central and Eastern European, thereby finally closing one of the darkest chapters in European history: the Second World War and the ensuing artificial division of Europe. At long last, Europe is on its way to becoming one big family, without bloodshed, a real transformation clearly calling for a different approach from fifty years ago, when six countries first took the lead.

#### **The democratic challenge facing Europe**

At the same time, the Union faces twin challenges, one within and the other beyond its borders.

Within the Union, the European institutions must be brought closer to its citizens. Citizens undoubtedly support the Union's broad aims, but they do not always see a connection between those goals and the Union's everyday action. They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular

concerns, instead of intervening, in every detail, in matters by their nature better left to Member States' and regions' elected representatives. This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are all too often cut out of their sight and they want better democratic scrutiny. Europe's new role in a globalised world.

Beyond its borders, in turn, the European Union is confronted with a fast-changing, globalised world. Following the fall of the Berlin Wall, it looked briefly as though we would for a long while be living in a stable world order, free from conflict, founded upon human rights. Just a few years later, however, there is no such certainty. The eleventh of September has brought a rude awakening. The opposing forces have not gone away: religious fanaticism, ethnic nationalism, racism and terrorism are on the increase, and regional conflicts, poverty and underdevelopment still provide a constant seedbed for them.

What is Europe's role in this changed world? Does Europe not, now that it is finally unified, have a leading role to play in a new world order, that of a power able both to play a stabilising role worldwide and to point the way ahead for many countries and peoples? Europe as the continent of humane values, the Magna Carta, the Bill of Rights, the French Revolution and the fall of the Berlin Wall; the continent of liberty, solidarity and above all diversity, meaning respect for others' languages, cultures and traditions. The European Union's one boundary is democracy and human rights. The Union is open only to countries which uphold basic values such as free elections, respect for minorities and respect for the rule of law.

Now that the Cold War is over and we are living in a globalised, yet also highly fragmented world, Europe needs to shoulder its responsibilities in the governance of globalisation. The role it has to play is that of a power resolutely doing battle against all violence, all terror and all fanaticism, but which also does not turn a blind eye to the world's heartrending injustices. In short, a power wanting to change the course of world affairs in such a way as to benefit not just the rich countries but also the poorest. A power seeking to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development.

### **The expectations of Europe's citizens**

The image of a democratic and globally engaged Europe admirably matches citizens' wishes. There have been frequent public calls for a greater EU role in justice and security, action against cross-border crime, control of migration flows and reception of asylum seekers and refugees from far-flung war zones. Citizens also want results in the fields of employment and combating poverty and social exclusion, as well as in the field of economic and social cohesion. They want a common approach on environmental pollution, climate change and food safety, in short, all transnational issues which they instinctively sense can only be tackled by working together. Just as they also want to see Europe more involved in foreign affairs, security and defence, in other words, greater and better coordinated action to deal with trouble spots in and around Europe and in the rest of the world.

At the same time, citizens also feel that the Union is behaving too bureaucratically in numerous other areas. In coordinating the economic, financial and fiscal environment, the basic issue should continue to be proper operation of the internal market and the single currency, without this jeopardising Member States' individuality. National and regional differences frequently stem from history or tradition. They can be enriching. In other words, what citizens understand by "good governance" is opening up fresh opportunities, not imposing further red tape. What they expect is more results, better

responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life.

In short, citizens are calling for a clear, open, effective, democratically controlled Community approach, developing a Europe which points the way ahead for the world. An approach that provides concrete results in terms of more jobs, better quality of life, less crime, decent education and better health care. There can be no doubt that this will require Europe to undergo renewal and reform.

### **2.1.2 CHALLENGES AND REFORMS IN A RENEWED UNION**

The Union needs to become more democratic, more transparent and more efficient. It also has to resolve three basic challenges: how to bring citizens, and primarily the young, closer to the European design and the European institutions, how to organise politics and the European political area in an enlarged Union and how to develop the Union into a stabilising factor and a model in the new, multipolar world. In order to address them a number of specific questions need to be put.

#### **A better division and definition of competence in the European Union**

Citizens often hold expectations of the European Union that are not always fulfilled. And vice versa - they sometimes have the impression that the Union takes on too much in areas where its involvement is not always essential. Thus the important thing is to clarify, simplify and adjust the division of competence between the Union and the Member States in the light of the new challenges facing the Union. This can lead both to restoring tasks to the Member States and to assigning new missions to the Union, or to the extension of existing powers, while constantly bearing in mind the equality of the Member States and their mutual solidarity.

A first series of questions that needs to be put concerns how the division of competence can be made more transparent. Can we thus make a clearer distinction between three types of competence: the exclusive competence of the Union, the competence of the Member States and the shared competence of the Union and the Member States? At what level is competence exercised in the most efficient way? How is the principle of subsidiarity to be applied here? And should we not make it clear that any powers not assigned by the Treaties to the Union fall within the exclusive sphere of competence of the Member States? And what would be the consequences of this?

The next series of questions should aim, within this new framework and while respecting the "acquis communautaire", to determine whether there needs to be any reorganisation of competence. How can citizens' expectations be taken as a guide here? What missions would this produce for the Union? And, vice versa, what tasks could better be left to the Member States? What amendments should be made to the Treaty on the various policies? How, for example, should a more coherent common foreign policy and defence policy be developed? Should the Petersberg tasks be updated? Do we want to adopt a more integrated approach to police and criminal law cooperation? How can economic-policy coordination be stepped up? How can we intensify cooperation in the field of social inclusion, the environment, health and food safety? But then, should not the day-to-day administration and implementation of the Union's policy be left more emphatically to the Member States and, where their constitutions so provide, to the regions? Should they not be provided with guarantees that their spheres of competence will not be affected?

Lastly, there is the question of how to ensure that a redefined division of competence does not lead to a creeping expansion of the competence of the Union or to encroachment upon the exclusive areas of competence of the Member States and, where there is provision for this, regions. How are we to ensure at the same time that the European dynamic does not come to a halt? In the future as well the Union must continue to be able to react to fresh challenges and developments and must be able to explore new policy areas. Should Articles 95 and 308 of the Treaty be reviewed for this purpose in the light of the "acquis jurisprudentiel"?

### **Simplification of the Union's instruments**

Who does what is not the only important question; the nature of the Union's action and what instruments it should use are equally important. Successive amendments to the Treaty have on each occasion resulted in a proliferation of instruments, and directives have gradually evolved towards more and more detailed legislation. The key question is therefore whether the Union's various instruments should not be better defined and whether their number should not be reduced.

In other words, should a distinction be introduced between legislative and executive measures? Should the number of legislative instruments be reduced: directly applicable rules, framework legislation and non-enforceable instruments (opinions, recommendations, open coordination)? Is it or is it not desirable to have more frequent recourse to framework legislation, which affords the Member States more room for manoeuvre in achieving policy objectives? For which areas of competence are open coordination and mutual recognition the most appropriate instruments? Is the principle of proportionality to remain the point of departure?

### **More democracy, transparency and efficiency in the European Union**

The European Union derives its legitimacy from the democratic values it projects, the aims it pursues and the powers and instruments it possesses. However, the European project also derives its legitimacy from democratic, transparent and efficient institutions. The national parliaments also contribute towards the legitimacy of the European project. The declaration on the future of the Union, annexed to the Treaty of Nice, stressed the need to examine their role in European integration. More generally, the question arises as to what initiatives we can take to develop a European public area.

The first question is thus how we can increase the democratic legitimacy and transparency of the present institutions, a question which is valid for the three institutions.

How can the authority and efficiency of the European Commission be enhanced? How should the President of the Commission be appointed: by the European Council, by the European Parliament or should he be directly elected by the citizens? Should the role of the European Parliament be strengthened? Should we extend the right of co-decision or not? Should the way in which we elect the members of the European Parliament be reviewed? Should a European electoral constituency be created, or should constituencies continue to be determined nationally? Can the two systems be combined? Should the role of the Council be strengthened? Should the Council act in the same manner in its legislative and its executive capacities? With a view to greater transparency, should the meetings of the Council, at least in its legislative capacity, be public? Should citizens have more access to Council documents? How, finally, should the balance and reciprocal control between the institutions be ensured?

A second question, which also relates to democratic legitimacy, involves the role of national parliaments. Should they be represented in a new institution, alongside the Council and the European Parliament? Should they have a role in areas of European action in which the European Parliament has no competence? Should they focus on the division of competence between Union and Member States, for example through preliminary checking of compliance with the principle of subsidiarity?

The third question concerns how we can improve the efficiency of decision-making and the workings of the institutions in a Union of some thirty Member States. How could the Union set its objectives and priorities more effectively and ensure better implementation? Is there a need for more decisions by a qualified majority? How is the co-decision procedure between the Council and the European Parliament to be simplified and speeded up? What of the six-monthly rotation of the Presidency of the Union? What is the future role of the European Parliament? What of the future role and structure of the various Council formations? How should the coherence of European foreign policy be enhanced? How is synergy between the High Representative and the competent Commissioner to be reinforced? Should the external representation of the Union in international fora be extended further?

### **Towards a Constitution for European citizens**

The European Union currently has four Treaties. The objectives, powers and policy instruments of the Union are currently spread across those Treaties. If we are to have greater transparency, simplification is essential.

Four sets of questions arise in this connection. The first concerns simplifying the existing Treaties without changing their content. Should the distinction between the Union and the Communities be reviewed? What of the division into three pillars?

Questions then arise as to the possible reorganisation of the Treaties. Should a distinction be made between a basic treaty and the other treaty provisions? Should this distinction involve separating the texts? Could this lead to a distinction between the amendment and ratification procedures for the basic treaty and for the other treaty provisions?

Thought would also have to be given to whether the Charter of Fundamental Rights should be included in the basic treaty and to whether the European Community should accede to the European Convention on Human Rights.

The question ultimately arises as to whether this simplification and reorganisation might not lead in the long run to the adoption of a constitutional text in the Union. What might the basic features of such a constitution be? The values which the Union cherishes, the fundamental rights and obligations of its citizens, the relationship between Member States in the Union?

### **2.1.3 CONVENING OF A CONVENTION ON THE FUTURE OF EUROPE**

In order to pave the way for the next Intergovernmental Conference as broadly and openly as possible, the European Council has decided to convene a Convention composed of the main parties involved in the debate on the future of the Union. In the light of the foregoing, it will be the task of that Convention to consider the key issues arising for the Union's future development and try to identify the various possible responses.

The European Council has appointed Mr V. Giscard d'Estaing as Chairman of the Convention and Mr G. Amato and Mr J.L. Dehaene as Vice-Chairmen.

### **Composition**

In addition to its Chairman and Vice-Chairmen, the Convention will be composed of 15 representatives of the Heads of State or Government of the Member States (one from each Member State), 30 members of national parliaments (two from each Member State), 16 members of the European Parliament and two Commission representatives. The accession candidate countries will be fully involved in the Convention's proceedings. They will be represented in the same way as the current Member States (one government representative and two national parliament members) and will be able to take part in the proceedings without, however, being able to prevent any consensus which may emerge among the Member States.

The members of the Convention may only be replaced by alternate members if they are not present. The alternate members will be designated in the same way as full members.

The Praesidium of the Convention will be composed of the Convention Chairman and Vice-Chairmen and nine members drawn from the Convention (the representatives of all the governments holding the Council Presidency during the Convention, two national parliament representatives, two European Parliament representatives and two Commission representatives).

Three representatives of the Economic and Social Committee with three representatives of the European social partners; from the Committee of the Regions: six representatives (to be appointed by the Committee of the Regions from the regions, cities and regions with legislative powers), and the European Ombudsman will be invited to attend as observers. The Presidents of the Court of Justice and of the Court of Auditors may be invited by the Praesidium to address the Convention.

### **Length of proceedings**

The Convention will hold its inaugural meeting on 1 March 2002, when it will appoint its Praesidium and adopt its rules of procedure. Proceedings will be completed after a year, that is to say in time for the Chairman of the Convention to present its outcome to the European Council.

### **Working methods**

The Chairman will pave the way for the opening of the Convention's proceedings by drawing conclusions from the public debate. The Praesidium will serve to lend impetus and will provide the Convention with an initial working basis.

The Praesidium may consult Commission officials and experts of its choice on any technical aspect which it sees fit to look into. It may set up ad hoc working parties.

The Council will be kept informed of the progress of the Convention's proceedings. The Convention Chairman will give an oral progress report at each European Council meeting, thus enabling Heads of State or Government to give their views at the same time.

The Convention will meet in Brussels. The Convention's discussions and all official documents will be in the public domain. The Convention will work in the Union's eleven working languages.

**Final document**

The Convention will consider the various issues. It will draw up a final document which may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved.

Together with the outcome of national debates on the future of the Union, the final document will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions.

**Forum**

In order for the debate to be broadly based and involve all citizens, a Forum will be opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia, etc.). It will take the form of a structured network of organisations receiving regular information on the Convention's proceedings. Their contributions will serve as input into the debate. Such organisations may be heard or consulted on specific topics in accordance with arrangements to be established by the Praesidium.

**Secretariat**

The Praesidium will be assisted by a Convention Secretariat, to be provided by the General Secretariat of the Council, which may incorporate Commission and European Parliament experts.

## **3 ANNEX**

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### **PRESIDENCY CONCLUSIONS SEVILLE EUROPEAN COUNCIL 21 AND 22 JUNE 2002**

The following are excerpts from the Seville Council Presidency Conclusions:

#### **3.1.1 Reform of the Council**

The European Council embarked upon a process of reform at Helsinki in December 1999, when it adopted a set of recommendations, and then in Göteborg and Barcelona, where it took note of the reports from the Secretary-General/High Representative, focusing on four main subjects: the European Council, the General Affairs Council, the Presidency of the Council, and the legislative activity of the Council and transparency.

In the light of a summary report, accompanied by detailed proposals, submitted in Seville by the Presidency, the European Council held a detailed discussion on the subject and gave its agreement to a series of specific measures applicable, without amendment of the treaties, to the organisation and functioning of the European Council (see Annex I) and of the Council (see Annex II). This reform is a substantial change to present practices in the direction of enhancing the efficiency of the institution on the eve of an unprecedented increase in the number of Member States of the Union.

The European Council also took note of the Presidency's report on the current debate regarding the Presidency of the Union. It found that there was a general readiness to examine the question further, with the proviso that any adjustment to the present system of six-monthly rotation will in any event have to continue to observe the principle of equality between the Member States. The European Council therefore asked the future Danish Presidency to take appropriate steps to continue discussions with a view to an initial report to the European Council in December 2002.

The European Council also gave a reminder of the importance which it attached to the effective implementation of all the guidelines and operational recommendations adopted by the Helsinki European Council on 10 and 11 December 1999. In particular, the Council is asked to study the question of the use of languages in the context of an enlarged Union and practical means of improving the present situation without endangering basic principles. In this context, a proposal should be submitted in due course and in any event there should be an initial report to the European Council in December 2002.

The new rules referred to in point 3 above will enter into force under the next Presidency, unless otherwise specified. Consequently, the requisite formal amendments to be made to the Council's Rules of Procedure will be adopted before 31 July 2002. The implementation of this set of provisions will be evaluated by the European Council in December 2003.

### **3.1.2 Better lawmaking**

The European Council took cognisance of the communications from the Commission on better lawmaking and, in particular, the Action Plan for simplifying and improving the regulatory environment. It invites the three institutions concerned (Parliament, Council and Commission) to adopt an interinstitutional agreement before the end of 2002, on the basis of proceedings in the High Level Technical Group, in order to improve the quality of Community legislation and the conditions, including time frames, for its transposition into national law.

## **Annex II: Measures concerning the structure and functioning of the Council**

With a view to improving the functioning of the Council in the run-up to enlargement, the European Council has adopted the following conclusions, which will be reflected to the extent necessary by the relevant amendments to the Council's Rules of Procedure, to be made by 31 July 2002.

### **Opening Council meetings to the public when the Council is acting in accordance with the procedure for codecision with the European Parliament**

Council debates on acts adopted in accordance with the procedure for codecision with the European Parliament shall be open to the public under the following circumstances:

- during the initial stage of the procedure: opening to the public of the presentation by the Commission of its main codecision legislative proposals and the ensuing debate. The list of proposals concerned shall be drawn up by the Council at the beginning of each six-month period;
- during the final stage of the procedure: opening to the public of the vote and explanations of voting.

The debates shall be made public by providing the public with a room to which the deliberations of the Council will be transmitted live, including the indication by visual means of the outcome of the vote. The public will be informed in advance by the appropriate means (for example, on the Council's Internet site) of the days and times at which such transmissions will take place.

### **Programming of Council activities**

In keeping with the role conferred upon it by the Treaty of defining the general political guidelines of the Union, the European Council shall adopt, on the basis of a joint proposal drawn up by the Presidencies concerned in consultation with the Commission and acting on a recommendation by the General Affairs Council, a multiannual strategic programme for the three years to come. The first such strategic programme will be adopted in December 2003.

In the light of the multiannual strategic programme referred to above, an annual operating programme of Council activities shall be submitted to the General Affairs Council in December each year. This programme shall be proposed jointly by the next

two Presidencies in line and shall have regard, inter alia, to relevant points arising from the dialogue on the political priorities for the year, conducted at the Commission's initiative. The final version of the annual programme shall be drawn up on the basis of the General Affairs Council's discussions.

With a view to implementing these arrangements as quickly as possible and by way of derogation from the first subparagraph, the first annual operating programme of Council activities shall be drawn up in December 2002.

This programme shall be accompanied by a list of indicative agendas for the various Council configurations for the first six months of the year. The list of indicative agendas for the second six months shall be submitted by the Presidency concerned before 1 July, following the appropriate consultations, in particular with the following Presidency.

### **Measures relating to the Presidency**

#### *Cooperation between Presidencies*

Where it is clear that a dossier will essentially be dealt with during the following six-month period, the representative of the Member State holding the Presidency during that six-month period may, during the current six-month period, chair meetings of committees (other than Coreper) and working parties at which the dossier is discussed. The practical implementation of this provision shall be the subject of an agreement between the two Presidencies concerned.

Thus, in the specific case of the examination of the budget for a given financial year, meetings of Council preparatory bodies other than Coreper shall be chaired by a representative of the Member State holding the Presidency during the second six-month period of the year prior to the financial year in question. The same arrangement shall apply, with the agreement of the other Presidency, to the chairing of Council meetings at the time when the items in question are discussed.

For the preparation of meetings of Council configurations meeting once every six months, where such meetings are held during the first half of the six-month period, meetings of committees other than Coreper and working party meetings taking place during the previous six-month period shall be chaired by a delegate of the Member State which will chair the Council meetings in question.

#### *Chairing of certain working parties by the General Secretariat of the Council*

In addition to cases where the General Secretariat of the Council already acts as chairman, the following working parties shall be chaired by a member of the General Secretariat of the Council:

- Working Party on Electronic Communications;
- Working Party on Legal Information;
- Working Party on Codification of Legislation;
- Working Party on Information;
- Working Party on New Buildings.

## 4 ANNEX

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### INTERINSTITUTIONAL AGREEMENT

#### on better law-making

(2003/C 321/01)

THE EUROPEAN PARLIAMENT,  
THE COUNCIL OF THE EUROPEAN UNION  
AND THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community and, in particular, to Article 5 thereof and the Protocol on the application of the principles of subsidiarity and proportionality annexed thereto,

Having regard to the Treaty on European Union,

Drawing attention to Declaration No 18 on the estimated costs under Commission proposals and to Declaration No 19 on the implementation of Community law, both of which are annexed to the Maastricht Final Act,

Drawing attention to the Interinstitutional Agreements of 25 October 1993 on the procedures for implementing the principle of subsidiarity (1), of 20 December 1994 on accelerated working method for the official codification of legislative texts (2), of 22 December 1998 on common guidelines for the quality of drafting of Community legislation (3), and of 28 November 2001 on a more structured use of the recasting technique for legal acts (4),

Noting the Presidency Conclusions of the meetings of the European Council held on 21 and 22 June 2002 in Seville and on 20 and 21 March 2003 in Brussels,

Emphasising that this Agreement is concluded without prejudice to the outcome of the Intergovernmental Conference which will be held following the Convention on the Future of Europe,

HAVE AGREED AS FOLLOWS:

#### **Common commitments and objectives**

1. The European Parliament, the Council of the European Union and the Commission of the European Communities hereby agree to improve the quality of law-making by means of a series of initiatives and procedures set out in this inter-institutional agreement.

2. In exercising the powers and in compliance with the procedures laid down in the Treaty, and recalling the importance which they attach to the Community method, the three Institutions agree to observe general principles such as democratic legitimacy, subsidiarity and proportionality, and legal certainty. They further agree to promote

simplicity, clarity and consistency in the drafting of laws and the utmost transparency of the legislative process. They call on the Member States to ensure a proper and prompt transposition of Community law into national law within the prescribed time limits, pursuant to the Presidency Conclusions of the European Council at its Stockholm, Barcelona and Seville meetings.

#### **Better coordination of the legislative process**

3. The three Institutions agree to ensure that general coordination of their legislative activity is improved, thereby providing an essential foundation for better law-making within the European Union.

4. The three Institutions agree to improve the coordination of their preparatory and legislative work in the context of the co-decision procedure and to publicise it in appropriate fashion.

The Council will inform the European Parliament in good time of the draft multiannual strategic programme which it recommends for adoption by the European Council. The three Institutions will forward to each other their respective annual legislative timetables with a view to reaching agreement on joint annual programming.

In particular, the European Parliament and the Council will seek to establish, for each legislative proposal, an indicative timetable for the various stages leading to the final adoption of that proposal.

Wherever multiannual programming has an interinstitutional impact, the three Institutions will initiate cooperation through the appropriate channels.

As far as possible, the Commission's annual law-making and work programme will include indications as to the choice of legislative instrument and the legal basis envisaged for each measure to be put forward.

5. The three Institutions will, in the interests of efficiency, ensure as far as possible a better synchronisation of the treatment of common dossiers by the preparatory bodies (1) of each branch of the legislative authority (2).

6. The three Institutions will keep each other permanently informed about their work throughout the legislative process. This information will be based on appropriate procedures, including dialogue between the European Parliament, in committee and plenary, and the Council Presidency and the Commission.

7. The Commission will submit an annual progress report on its legislative proposals.

8. The Commission will ensure that, as a general rule, Commissioners are present for discussions at European Parliament committee meetings and plenary sittings on draft legislation for which they are responsible. The Council will continue the practice of maintaining intensive contact with the European Parliament by means of regular participation in plenary debates, as far as possible by the Ministers concerned. The Council will also endeavour to participate regularly in the work of the parliamentary committees and in other meetings, preferably at ministerial level or at some other appropriate level.

9. The Commission will take account of requests made by the European Parliament or the Council, on the basis respectively of Article 192 or Article 208 of the EC Treaty, for the submission of legislative proposals. It will reply rapidly and appropriately to the parliamentary committees concerned and to the Council's preparatory bodies.

### **Greater transparency and accessibility**

10. The three Institutions confirm the importance which they attach to greater transparency and to the increased provision of information to the public at every stage of their legislative work, whilst taking into account their respective rules of procedure. They will ensure in particular that public debates at political level are broadcast as widely as possible through the systematic use of new communication technologies such as, inter alia, satellite broadcasting and Internet video-streaming. They will also ensure that the public has greater access to EUR-Lex.

11. The three Institutions will hold a joint press conference to announce the successful outcome of the legislative process in the codecision procedure, once they have reached agreement, whether after first reading, second reading or conciliation.

### **Choice of legislative instrument and legal basis**

12. The Commission will explain and justify to the European Parliament and to the Council its choice of legislative instrument, where possible as part of its annual work programme or of the normal dialogue procedures and, at all events, in the explanatory memoranda attached to its initiatives. It will consider any request in this connection from the legislative authority, and it will take account of the results of any consultations which it has undertaken before tabling its proposals.

It will ensure that the action it proposes is as simple as is compatible with the proper attainment of the objective of the measure and the need for effective implementation.

13. The three Institutions recall the definition of the term 'directive' (Article 249 of the EC Treaty) and the relevant provisions of the Protocol on the application of the principles of subsidiarity and proportionality. In its proposals for directives, the Commission will ensure that a proper balance is struck between general principles and detailed provisions, in a manner that avoids excessive use of Community implementing measures.

14. The Commission will provide a clear and comprehensive justification for the legal basis used for each proposal. In the event of a change being made to the legal basis after any Commission proposal has been presented, the European Parliament will be duly re-consulted by the Institution concerned, in full compliance with the case-law of the Court of Justice of the European Communities.

15. In the explanatory memoranda to its proposals, the Commission will, in every instance, set out the legal arrangements which currently exist at Community level in the area affected by the proposal. The Commission will also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality. The Commission will also give an account of the scope and the results of the prior consultation and the impact analyses that it has undertaken. Use of alternative methods of regulation

16. The three Institutions recall the Community's obligation to legislate only where it is necessary, in accordance with the Protocol on the application of the principles of subsidiarity and proportionality. They recognise the need to use, in suitable cases or where the Treaty does not specifically require the use of a legal instrument, alternative regulation mechanisms.

17. The Commission will ensure that any use of co-regulation or self-regulation is always consistent with Community law and that it meets the criteria of transparency (in particular the publicising of agreements) and representativeness of the parties involved. It must also represent added value for the general interest. These mechanisms will not be applicable where fundamental rights or important political options are at stake or in situations where the rules must be applied in a uniform fashion in all Member States. They must ensure swift and flexible regulation which does not affect the principles of competition or the unity of the internal market.

#### *Co-regulation*

18. Co-regulation means the mechanism where by a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, non-governmental organisations, or associations).

This mechanism may be used on the basis of criteria defined in the legislative act so as to enable the legislation to be adapted to the problems and sectors concerned, to reduce the legislative burden by concentrating on essential aspects and to draw on the experience of the parties concerned.

19. The legislative act must abide by the principle of proportionality defined in the EC Treaty. Agreements between social partners must comply with the provisions laid down in Articles 138 and 139 of the EC Treaty. In the explanatory memoranda to its proposals, the Commission will explain to the competent legislative authority its reasons for proposing the use of this mechanism.

20. In the context defined by the basic legislative act, the parties affected by that act may conclude voluntary agreements for the purpose of determining practical arrangements. The draft agreements will be forwarded by the Commission to the legislative authority. In accordance with its responsibilities, the Commission will verify whether or not those draft agreements comply with Community law (and, in particular, with the basic legislative act). At the request of inter alia the European Parliament or of the Council, on a case-by-case basis and depending on the subject, the basic legislative act may include a provision for a two-month period of grace following notification of a draft agreement to the European Parliament and the Council. During that period, each Institution may either suggest amendments, if it is considered that the draft agreement does not meet the objectives laid down by the legislative authority, or object to the entry into force of that agreement and, possibly, ask the Commission to submit a proposal for a legislative act.

21. A legislative act which serves as the basis for a co-regulation mechanism will indicate the possible extent of co-regulation in the area concerned. The competent legislative authority will define in the act the relevant measures to be taken in order to follow up its application, in the event of non-compliance by one or more parties or if the agreement fails. These measures may provide, for example, for the regular supply of information by the Commission to the legislative authority on follow-up to application or for a revision clause under which the Commission will report at the end of a specific period and, where necessary, propose an amendment to the legislative act or any other appropriate legislative measure.

#### *Self-regulation*

22. Self-regulation is defined as the possibility for economic operators, the social partners, non-governmental organisations or associations to adopt amongst themselves

and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements). As a general rule, this type of voluntary initiative does not imply that the Institutions have adopted any particular stance, in particular where such initiatives are undertaken in areas which are not covered by the Treaties or in which the Union has not hitherto legislated. As one of its responsibilities, the Commission will scrutinise self-regulation practices in order to verify that they comply with the provisions of the EC Treaty.

23. The Commission will notify the European Parliament and the Council of the self-regulation practices which it regards, on the one hand, as contributing to the attainment of the EC Treaty objectives and as being compatible with its provisions and, on the other, as being satisfactory in terms of the representativeness of the parties concerned, sectoral and geographical cover and the added value of the commitments given. It will, nonetheless, consider the possibility of putting forward a proposal for a legislative act, in particular at the request of the competent legislative authority or in the event of a failure to observe the above practices. Implementing measures (committee procedure)

24. The three Institutions emphasise the important role played by implementing measures in legislation. They note the outcome of the Convention on the Future of Europe relating to the establishment of rules governing the exercise by the Commission of the implementing powers conferred on it. The European Parliament and the Council emphasise that, in accordance with their respective powers, they have begun consideration of the proposal which the Commission adopted on 11 December 2002 with a view to amending Council Decision 1999/468/EC (1).

### **Improving the quality of legislation**

25. The three Institutions, exercising their respective powers, will ensure that legislation is of good quality, namely that it is clear, simple and effective. The Institutions consider that improvement of the pre-legislative consultation process and more frequent use of impact assessments (both ex ante and ex post) will help towards this objective. They are committed to the full application of the Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation. (a) Pre-legislative consultation

26. During the period preceding the submission of legislative proposals, the Commission will, having informed the European Parliament and the Council, conduct the widest possible consultations, the results of which will be made public. In certain cases, where the Commission deems it appropriate, the Commission may submit a pre-legislative consultation document on which the European Parliament and the Council may choose to deliver an opinion. (b) Impact analyses

27. Pursuant to the Protocol on the application of the principles of subsidiarity and proportionality, the Commission will take due account in its legislative proposals of their financial or administrative implications, for the Union and the Member States in particular. Furthermore, each of the three Institutions will take into account the objective of ensuring that application in the Member States is appropriate and effective.

28. The three Institutions agree on the positive contribution of impact assessments in improving the quality of Community legislation, with particular regard to the scope and substance thereof.

29. The Commission will continue to implement the integrated advance impact assessment process for major items of draft legislation, combining in one single evaluation the impact assessments relating inter alia to social, economic and environmental aspects. The results of the assessments will be made fully and freely available to the European Parliament, the Council and the general public. In the explanatory memorandum to its proposals, the Commission will indicate the manner in which the impact assessments have influenced them.

30. Where the codecision procedure applies, the European Parliament and Council may, on the basis of jointly defined criteria and procedures, have impact assessments carried out prior to the adoption of any substantive amendment, either at first reading or at the conciliation stage. As soon as possible after this Agreement is adopted, the three Institutions will carry out an assessment of their respective experiences and will consider the possibility of establishing a common methodology.

### **Consistency of texts**

31. The European Parliament and the Council will make all appropriate arrangements for improving the scrutiny carried out by their respective departments of the wording of texts adopted under the codecision procedure, with a view to avoiding any inaccuracies or inconsistencies. To this end, the Institutions may agree on a short period of grace in order to allow such legal verification to be performed before the act is finally adopted. Better transposition and application

32. The three Institutions emphasise the need for Member States to comply with Article 10 of the EC Treaty, they call upon the Member States to ensure that Community law is properly and promptly transposed into national law within the prescribed deadlines; and they deem such transposition to be essential to the consistent and effective application of that legislation by the courts, the administrations, members of the public and economic and social operators.

33. The three Institutions will ensure that all directives include a binding time limit for the transposition of their provisions into national law. They will insert into directives a time limit for transposition that is as short as possible and that generally does not exceed two years. The three Institutions hope that the Member States will make a renewed effort as regards the transposition of directives within the time limits which they specify. In this connection, the European Parliament and the Council note that the Commission is proposing to step up cooperation with the Member States. The three Institutions point out that, under the EC Treaty, the Commission has the power to initiate an infringement procedure in instances where a Member State fails to transpose legislation within the stipulated time limit; and the European Parliament and Council note the commitments given by the Commission on this subject (1).

34. The Commission will draw up annual reports on the transposition of directives in the various Member States, with tables showing transposition rates. Those reports will be communicated to the European Parliament and to the Council, and will be made public. The Council will encourage the Member States to draw up, for themselves and in the interests of the Community, their own tables which will, as far as possible, illustrate the correlation between the directives and the transposition measures and to make them public. It calls on those Member States which have not yet done so to appoint a transposition coordinator as soon as possible. Simplifying and reducing the volume of legislation

35. In order to make Community law easier to read and to apply, the three Institutions agree, firstly, to update and condense existing legislation and, secondly, significantly

to simplify it. They will take the Commission's multiannual programme as a basis for this task.

Legislation will be updated and condensed inter alia through the repeal of acts which are no longer applied and through the codification or recasting of other acts. The purpose of legislative simplification is to improve and adapt legislation by amending or replacing acts and provisions which are too unwieldy and too complex to be applied. Such simplification will be carried out through the recasting of existing acts or by means of new legislative proposals, whilst maintaining the substance of Community policies. In this connection, the Commission will select the areas of current law which are suitable for simplification, on the basis of criteria laid down once the legislative authority has been consulted.

36. Within six months of the date upon which this Agreement comes into force, the European Parliament and the Council, whose task it would be as legislative authority to adopt at the final stage the proposals for simplified acts, need to modify their working methods by introducing, for example, ad hoc structures with the specific task of simplifying legislation. Implementation and monitoring of the Agreement

37. The implementation of this Agreement will be monitored by the High-Level Technical Group for Interinstitutional Cooperation.

38. The three Institutions will take the necessary steps to ensure that their staff have the means and resources required for the proper implementation of the provisions of this Agreement.

12.2003 Official Journal of the European Union C 321/5

## 5 ANNEX

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### TREATY OF AMSTERDAM: PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS

#### THE HIGH CONTRACTING PARTIES

RECALLING that scrutiny by individual national parliaments of their own government in relation to the activities of the Union is a matter for the particular constitutional organization and practice of each Member State,

DESIRING, however, to encourage greater involvement of national parliaments in the activities of the European Union and to enhance their ability to express their views on matters which may be of particular interest to them,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union:

#### **I. Information for national Parliaments of Member States**

1. All Commission consultation documents (green and white papers and communications) shall be promptly forwarded to national parliaments of the Member States.
2. Commission proposals for legislation as defined by the Council in accordance with Article 151.3 of the Treaty establishing the European Community, shall be made available in good time so that the Government of each Member State may ensure that its own national parliament receives them as appropriate.
3. A six-week period shall elapse between a legislative proposal or a proposal for a measure to be adopted under Title VI of the Treaty on European Union being made available in all languages to the European Parliament and the Council by the Commission and the date when it is placed on a Council agenda for decision either for the adoption of an act or for adoption of a common position pursuant to article 189b or 189c, subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or common position.

#### **II. The Conference of European Affairs Committees**

4. The Conference of European Affairs Committees, hereinafter referred to as COSAC, established in Paris on 16-17 November 1989, may make any contribution it deems appropriate for the attention of the EU institutions, in particular on the basis of draft legal texts which representatives of Governments of the Member States may decide by common accord to forward to it, in view of the nature of its subject matter.
5. COSAC may examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct

bearing on the rights and freedoms of individuals. The European Parliament, the Council and the Commission shall be informed of any contribution made by COSAC under this paragraph.

6. COSAC may address to the European Parliament, the Council and the Commission any contribution which it deems appropriate on the legislative activities of the Union, notably in relation to the application of the principle of subsidiarity, the area of freedom, security and justice as well as questions regarding fundamental rights.

7. Contributions made by COSAC shall in no way bind national parliaments or prejudice their position.

## 6 ANNEX

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### ANNUAL POLICY STRATEGY FOR 2005

These cycles include the European Council's Multi-Annual Objectives 2004-2006, the Commission's Legislative and Work Program for 2004 and the Annual Policy Strategy for 2005. The summary of each of these policy statements are set out below for ease of reference.

#### 6.1.1 The European Council's Multi- annual Objectives 2004-2006

Shaping the future of the Union

The Council will continue to facilitate the progress of the new constitutional framework. The Council aims to have the constitutional treaty signed by all 25 Member States as soon as possible after the May 1st enlargement and commence the ratification processes shortly thereafter. The goal is to have the treaty enter into force no later than the beginning of 2006.

The Union will facilitate the effective integration of new Member States by:

Monitoring the implementation of the *acquis* by the acceding states;

Contributing to the development of the requisite administrative capacity in the new members, focusing on the integration of the Lisbon Strategy, the Schengen *acquis*, economic policy co-ordination and the Stability and Growth Pact, and on an individual basis, the Euro-zone.

The Council will also address issues dealing with Cyprus, Turkey, Croatia, and Bulgaria and Romania.

Decision on the principles and guidelines of the new Financial Perspective will likely be reached by the European Council in December 2004, following the Commission's submission of the package no later than July 2004. Political agreement on the Financial Perspective is scheduled to be decided in the June 2005 European Council. The framework and detailed legislation that will implement the financial package should be adopted by the end of 2005.

#### *Prioritising the political agenda*

- A mid-term review will be conducted on the progress of the Lisbon Strategy in spring 2005. In addition, the Union will pursue an "integrated strategy for competitiveness," continue to consult interested parties and assessments of the economic, social, environmental and regulatory impact on all major legislative proposals. The Council has identified the following Lisbon objectives as priorities in the Union's policy-making:
  1. Boosting growth;
  2. Creating a wider and more effective economic area;
  3. Creating more and better jobs and modernising the European social welfare model;

4. Fostering a knowledge-based economy and society through education and training;
  5. Promoting sustainable development and decoupling growth from environmental damage.
- The Council will also seek to modernise the agricultural and fisheries policies. The focus for agriculture will be on the transition to new policy frameworks following the reform of the Common Agricultural Policy (CAP), rural development policy, reform of specific Common Market Organisations, and to ensure the smooth integration of new states into CAP. In the area of fisheries, the priorities will be set on the implementation of new policies on sustainable fishing, environmental and social impact, and regional development with stakeholder involvement.
  - The Council will work to adopt legislative measures required by the Treaty of Amsterdam to implement the Tampere agenda no later than May 2004. In the programme, the Council underscored the importance of greater co-operation between Member States in stemming illegal immigration, human trafficking, and other cross-border crimes. Furthermore, the Union will develop a "comprehensive policy on the integration of legally-residing immigrants, with a view of granting those rights and obligations comparable to EU citizens."<sup>7</sup> Lastly, two directives establishing the criteria for refugee qualifications and minimum standards for granting or withdrawing refugee status will be finalised. An assessment on the Tampere programme will be initiated by the June 2004 European Council. The Council will continue to elaborate Justice and Home Affairs policies and integrate JHA agenda's into the Union's external policies.

*The Union as a global player*

- The implementation of the European Security Strategy will require the Union to further develop conflict prevention and crisis management capacities in the overall European Security and Defence policy and foster closer ties with regional organisations and bilateral partners.
- The Union will continue to work on defining a range of policies towards the its neighbours in the East and South; continuing the Union's strong commitment in the Western Balkan region; developing a new neighbourhood policy, facilitating the Arab/Israeli peace process; and assisting the reconstruction of Iraq.
- Effective multilateralism will include the strengthening the Union's solidarity, coherence and visibility on policies in the UN; refining the Union's policies on human rights; increasing co-operation with the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe in the realms of conflict prevention, crisis management and human rights; implementing the EU-NATO permanent arrangement; and completing and executing the Doha Development Agenda.
- The Union will continue to fight against terrorism. Additionally, work will progress in the improvement of the Union's military and civilian capabilities to ensure timely response to a range of crisis management operation and implement the Strategy and Action Plan on the non-proliferation of weapons of mass destruction.
- The Union will continue to take steps towards achieving the Millennium Development Goals by 2015. The Council will also review whether to start negotiations on amendments to the Cotonou Agreement in 2004/2005.

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<sup>7</sup> *Multi-annual Strategic Programme of the Council 2004-2006*, page 17, Para. 30.

## 6.1.2 The Commission's Legislative and Work Program<sup>8</sup>

### *Commission Priorities for 2004*

#### **Accession:**

- To successfully finalise accession in the new 10 member states by 1 May 2004 including using all of the *acquis communautaire*). This includes the application and monitoring of Community legislation and the enforcement of the *acquis*, specifically in food safety, agriculture, environment, customs union, internal market, justice & home affairs, and maritime safety.
- High priorities are: implementation of new legislation, extension of existing programmes, providing the instruments to new member states, developing administrative capacity, and to construct an economic convergence strategy.
- To continue negotiations with candidate countries, namely, Bulgaria and Romania; determine a recommendation with the possibility of accession negotiations with Turkey in accordance to the Copenhagen European Council; and to produce an opinion on Croatia's application for EU membership

#### **Stability:**

- Generally, to outline a political framework for neighbouring countries to create peace, stability, and prosperity without creating a new division in Europe following accession. Needs to begin with the creation of a series of action plans with up to eight countries from Eastern Europe and the Mediterranean. Secondly, the implementation of the May 2003 decision of the EU-Russia summit at St.Petersburg for four common spaces (economic, justice & home affairs, security, and research/culture). Thirdly, to follow the agenda agreed in Thessaloniki with the Balkan countries by preparing a partnership agreement, and feasibility studies on Bosnia-Herzegovina and Serbia-Montenegro in view of the spring 2004 European Council.
- **Development of internal EU policy to support stability, security** (adapt a policy for security of communications networks and information), by creating an area of freedom, justice, and security. Generally, to take action against illegal immigration. Secondly, to fight against crime and international terrorism and bio-terrorism. Thirdly to establish an agency to manage control of the newly extending external borders. Finally, to establish legal framework for the second generation Schengen information system (Sis II) and the visa information system.

#### **Sustainable growth:**

- To continue to strengthen the positive outcome of previously set policy goals for the enlarged European Union. In order to stimulate growth, competitiveness and employment with investment in networks (increasing interconnectivity) and knowledge with the strategy set out in **Lisbon**. Secondly, to review the internal and external strategy of the EU's Sustainable Development Strategy outlined at the Göteborg European Council in June 2001. Thirdly, to invoke the initiatives for water and energy set out at the Johannesburg World Summit. Generally, to improve the quality of life for European citizens, to improve the economic and budgetary policy co-ordination between Member States. The continuance of combating poverty and to promote sustainable growth on a global level.

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<sup>8</sup> Com(2003) 645 final.

- With regard to external sustainable growth, to take part in WTO negotiations and to start/keep pursuing regional/bilateral trade negotiations with partners such as Mercosur, Canada, the Gulf Co-operation countries, and ACP countries within the scope of the regional Economic Partnership Agreement.

*Extended Impact Assessment of Selected Proposals:*

A new procedure was introduced on 5 June 2002 for Impact Assessment of all of the Commission's major initiatives, i.e. those outlined in the Annual Policy Strategy or the annual Legislative and Work Programme.

The objective of extended Impact Assessment is to improve the quality and coherence of the policy development process and to increase transparency and communication with the citizens of Europe on calculated impacts of European initiatives.

There are three basic criteria for which a proposal might have to undergo an Extended Impact Assessment:

1. Whether the proposal will result in substantial economic, environmental and/or social impacts on a specific sector or several sectors;
2. Whether the proposal will have a significant impact on a major interested parties;
3. Whether the proposal represents a major policy reform in one or several sectors.

*Parliamentary Debate on the Commission's Legislative and Work Programme 2004:*

The European Parliament debated the programme at its meeting on. While expressing appreciation for the "structured dialogue" between the Commission and the Parliament and Council bilaterally Mr. Prodi nevertheless announced that the Commission would be seeking improvements next year in respect of discussions on the 2005 Programme. The main forum for these discussions would be an exchange of views in April between the EP's Conference of Presidents and V.P. Loyola de Palacio. The incoming Commission must adopt the programme for 2005 and would most likely do so in December 2004. Minister Antonione expressed agreement with the main priorities set out in the Commission's text and went on to comment favourably on the availability of the impact assessments and with the inter-institutional dialogue which had informed the preparation of the Programme. He encouraged the Commission to publish the Annual Policy Strategy as early as possible in the year to facilitate the structured dialogue process. He confirmed that the Presidency would take this programme into account in the Multi Annual Strategic Objectives, which was subsequently sent to the European Council in December 2003.

The following are a selection of the contributions made during the parliamentary debate:

- The three main political headings were so open-ended that it was impossible to disagree with them, and it was impossible to imagine any proposal, which could not be linked to them. The priorities were therefore not reflective of any real political choice.

- There did not appear to be any discernible link between the vague priorities announced and the list of proposals contained in the annexes. Under the Inter Institutional Agreement on Better Lawmaking the Commission was committed to provide a full explanation of the choices of legal instruments and legal base for all legislative proposals on publication of the programme. While there was some indication

### 6.1.3 The Annual Policy Strategy<sup>9</sup>

*The Union's situation in 2005* – 2005 is a vital year for ensuring the competent operation of the newly-enlarged Union and could be a turning point of the ratification of the draft Constitutional Treaty, therefore efforts need to be made in order for institutional and political changes derived from the IGC.

Internal policies need to be reviewed in regards to the following:

- Mid-term review of the Lisbon Strategy;
- Strategy for sustainable development set out in Göteborg European Council;
- Formulation of a new Social Agenda following 2006;
- Solidification of the European area of freedom, security and justice resulting from the Tampere Programme, as it will be necessary to adopt new legislative instruments;
- Preparation for the accession of Romania and Bulgaria, and the pre-accession negotiation of Turkey, including monetary support, and the possible start of pre-accession for Croatia.

At an external or international level, peace, security and stability, the global fight against poverty, and the results of the Iraq conflict:

- There will be a newly elected or re-elected President of the United States;
- A Palestinian state is to be established;
- With regard to development and trade relations, meetings are planned, particularly the UN review on achieving Millennium Development Goals and the Cotonou Agreement. Also, January 2005 is the target date for the conclusion of the Doha negotiations.

*The policy priorities for 2005* – there is one fundamental operational priority for the Commission, which is to ensure the success of enlargement and shape the future of Europe. This includes ensuring the proper functioning of the enlarged Europe and the full application of the policies and rules within all the Member States. This will include the allocation of increased human resources until 2008. Other policy priorities for 2005 include the following:

- A central objective is to regain a cycle of economic growth on enhanced competitiveness and cohesion;
- An objective of stability and security preserved, to improve security and European citizenship;
- A new external responsibility, with emphasis on the neighbourhood dimension.

The detail programmes for each of the policy areas are outlined in Annex 6.

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<sup>9</sup> Com (2004) 133 of 25 February 2004

*Selection of initiatives for extended impact assessment* — a new integrated procedure for impact assessment was introduced to improve the quality and coherence of the policy development process and to increase transparency and communication with Europe's citizens on the expected impact of Europe-wide initiatives and legislation.

The following criteria helps the Commission determine in the APS or at the latest the Legislative and Work Programme which proposals should undergo an extended impact assessment:

- If the proposal has a substantial economic, environmental and/or social impact on a specific sector or several sectors;
- If the proposal has a significant impact on major interested parties;
- If the proposal represents a major policy reform in one or several sectors.

*General framework for human and financial resources for 2005* — In the Communication, "Activities and human resources of the Commission in the enlarged European Union," it was estimated that the Commission with the new Member States fully operational (in 2008) would require the recruitment of 3900 additional staff members. The increase must occur between 2004 and 2008 reflecting the Financial Perspective adjustments for an enlarged Community. This request has been satisfied by the Budgetary Authority and the Commission would like to ask the Budgetary Authority to endorse this pledge to enable the Commission to fulfil its institutional responsibilities. Recruitment of 700 new posts will be required for 2005. 1280 posts were made in 2004, to frontload human resources. Half of the new positions will be in the language services. The Commission wants to improve co-ordination between departments, make them more independent, and strengthen the overall audit capability. A possible creation of a European Administration school could aid in integrating the new officials. Internal redeployment of employees will continue to strengthen priorities.

## 7 ANNEX

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### **DRAFT TREATY ESTABLISHING A CONSTITUTION FOR EUROPE: PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION**

(CONV 850/03)

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which individual National Parliaments scrutinise their own governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State,

DESIRING, however, to encourage greater involvement of National Parliaments in the activities of the European Union and to enhance their ability to express their views on legislative proposals as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

#### **I. Information for Member States' National Parliaments**

1. All Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to Member States' National Parliaments upon publication. The Commission shall also send Member States' National Parliaments the annual legislative programme as well as any other instrument of legislative planning or policy strategy that it submits to the European Parliament and to the Council of Ministers, at the same time as to those Institutions.
2. All legislative proposals sent to the European Parliament and to the Council of Ministers shall simultaneously be sent to Member States' National Parliaments.
3. Member States' National Parliaments may send to the Presidents of the European Parliament, the Council of Ministers and the Commission a reasoned opinion on whether a legislative proposal complies with the principle of subsidiarity, according to the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.
4. A six-week period shall elapse between a legislative proposal being made available by the Commission to the European Parliament, the Council of Ministers and the Member States' National Parliaments in the official languages of the European Union and the date when it is placed on an agenda for the Council of Ministers for its adoption or for adoption of a position under a legislative procedure subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or position of the Council of Ministers. Save in urgent cases for which due reasons have

been given, no agreement may be established on a legislative proposal during those six weeks. A ten-day period shall elapse between the placing of a proposal on the agenda for the Council of Ministers and the adoption of a position of the Council of Ministers.

5. The agendas for and the outcome of meetings of the Council of Ministers, including the minutes of meetings where the Council of Ministers is deliberating on legislative proposals, shall be transmitted directly to Member States' National Parliaments, at the same time as to Member States' governments.

6. When the European Council intends to make use of the provision of Article I-24(4), first subparagraph of the Constitution, National Parliaments shall be informed in advance. When the European Council intends to make use of the provision of Article I-24(4), second subparagraph of the Constitution, National Parliaments shall be informed at least four months before any decision is taken.

7. The Court of Auditors shall send its annual report to Member States' National Parliaments, for information, at the same time as to the European Parliament and to the Council of Ministers.

8. In the case of bicameral National Parliaments, these provisions shall apply to both chambers.

## **II. Interparliamentary co-operation**

9. The European Parliament and the National Parliaments shall together determine how interparliamentary co-operation may be effectively and regularly organised and promoted within the European Union.

10. The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament, the Council of Ministers and the Commission. That Conference shall in addition promote the exchange of information and best practice between Member States' Parliaments and the European Parliament, including their special committees. The Conference may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy and of common security and defence policy. Contributions from the Conference shall in no way bind National Parliaments or prejudice their positions.

## 8 ANNEX

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### **DRAFT TREATY ESTABLISHING A CONSTITUTION FOR EUROPE: PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY**

8.1.1 (CONV 850/03)

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union,

RESOLVED to establish the conditions for the Application of the Principles of Subsidiarity and Proportionality, as enshrined in Article I-9 of the Constitution, and to establish a system for monitoring the application of those principles by the Institutions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

1. Each Institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-9 of the Constitution.
2. Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for the decision in its proposal.
3. The Commission shall send all its legislative proposals and its amended proposals to the National Parliaments of the Member States at the same time as to the Union legislator. Upon adoption, legislative resolutions of the European Parliament and positions of the Council of Ministers shall be sent to the National Parliaments of the Member States.
4. The Commission shall justify its proposal with regard to the principles of subsidiarity and proportionality. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level must be substantiated by qualitative and, wherever possible, quantitative indicators. The Commission shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments,

regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

5. Any National Parliament or any chamber of a National Parliament of a Member State may, within six weeks from the date of transmission of the Commission's legislative proposal, send to the Presidents of the European Parliament, the Council of Ministers and the Commission a reasoned opinion stating why it considers that the proposal in question does not comply with the principle of subsidiarity. It will be for each National Parliament or each chamber of a National Parliament to consult, where appropriate, regional parliaments with legislative powers.

6. The European Parliament, the Council of Ministers and the Commission shall take account of the reasoned opinions issued by Member States' National Parliaments or by a chamber of a National Parliament.

The National Parliaments of Member States with unicameral Parliamentary systems shall have two votes, while each of the chambers of a bicameral Parliamentary system shall have one vote.

Where reasoned opinions on a Commission proposal's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the Member States' National Parliaments and their chambers, the Commission shall review its proposal. This threshold shall be at least a quarter in the case of a Commission proposal or an initiative emanating from a group of Member States under the provisions of Article III-165 of the Constitution on the area of freedom, security and justice.

After such review, the Commission may decide to maintain, amend or withdraw its proposal. The Commission shall give reasons for its decision.

7. The Court of Justice shall have jurisdiction to hear actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article III-270 of the Constitution by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the same Article of the Constitution, the Committee of the Regions may also bring such actions as regards legislative acts for the adoption of which the Constitution provides that it be consulted.

8. The Commission shall submit each year to the European Council, the European Parliament, the Council of Ministers and the National Parliaments of the Member States a report on the application of Article I-9 of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

## 9 ANNEX

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### **COPENHAGEN PARLIAMENTARY GUIDELINES**

Text adopted at the XXVIII. Conference of Committees for European and Community Affairs of the European Union Parliaments (COSAC)

*Brussels, 27 January 2003*

#### **“COPENHAGEN PARLIAMENTARY GUIDELINES”**

Guidelines for relations between governments and Parliaments on Community issues  
(instructive minimum standards)

(2003/C 154/01)

#### **I. The European Convention and COSAC**

The protocol on the role of national Parliaments, annexed to the Amsterdam Treaty, points out clearly that each national parliament's scrutiny of its own government in relation to Community activities falls under the particular constitutional system and practice of the member country in question.

The report from the working group on the role of the national Parliaments (dated 22 October 2002) under The European Convention contains a recommendation that COSAC should prepare a code of conduct or guidelines for relations between governments and Parliaments in connection with Community issues. The purpose of this is to provide all the national Parliaments with the opportunity to scrutinise and have an influence on governments' Community policy. As stated in the protocol on national Parliaments it is up to each Parliament to decide the extent to which the guidelines should be implemented.

At the COSAC meeting in Copenhagen from 16 to 18 October 2002 these guidelines were referred to as the ‘Copenhagen Guidelines’, and they enable scrutiny of and insight into the government's Community policy and Community policy in general.

In this connection COSAC has decided to indicate certain instructive principles (or a kind of minimum standard) which will help to ensure that all national Parliaments have the opportunity to participate in and have an influence on Community policy in an active manner.

Three elements in relations between government and Parliament can be pointed out which will help to ensure that the national Parliaments gain an influence on Community policy.

These three elements are the quantity and quality of information to the national Parliament, the timing of information exchange, and finally the opportunities that the

national Parliaments has to use the information it has received to gain an influence on Community policy.

The following basic principles can be recommended on the basis of the above:

- the national Parliament shall receive relevant information on Community initiatives, both from the government and Community institutions, in good time so that the national Parliament has an opportunity to take them into consideration before decisions are made,
- the national Parliament shall have a real opportunity to use the information received to gain an influence on its own country's European policy and thereby the common decisions made in the Community,
- the national Parliament shall have an opportunity to follow up on its government's decisions in the Community system.

## **II. Recommendations on general guidelines (Copenhagen Parliamentary Guidelines)**

The following general guidelines can be recommended on the basis of the basic principles above:

1. A Member country's government should ensure, in consultation with the Community's institutions, that the national Parliament receives all Community documents regarding legislation and other Community initiatives as soon as they become available.
2. The government should prepare easily accessible, clearly-worded material on Community legislation, etc., for the national Parliaments.

Examples:

- the government can regularly forward lists of current Community Bills, documents for hearings, messages, etc., to the national Parliament,
- the government can draw up explanatory notes on all important Community matters for Parliaments within a given deadline.

3. Opportunities should be provided for meetings with ministers in the national Parliaments well in advance of Community meetings. The government should give an account of its attitude to Community proposals at such meetings.

Examples:

- it should be possible for the Parliament to ask questions of ministers well in advance of Council meetings in order to obtain clarification of the government's attitude to specific issues,
- it should be possible for the Parliament's European Affairs Committee and expert committee to hold a suitable number of meetings with the participation of a minister and adapted to the Council meetings so that the Parliament can consider the content of the Council meetings at a concrete level.

4. The national Parliament should be informed by the government well in advance as regards decisions to be made in the EU and concerning the government's proposals regarding decisions. This concerns ordinary meetings of the Council, summit meetings, and intergovernmental conferences. The national Parliaments should also subsequently be informed of the decisions made.

Examples:

- the government can forward agendas of forthcoming Council meetings with relevant references to Community legislation documents,
- the government must forward minutes of Council meetings within a short time frame after the meetings.

5. Concerning administrative assistance in the national Parliament, it is the responsibility of each national Parliament to ensure maximum benefit from the guidelines, *inter alia*, by strengthening the administrative and expert assistance to the Parliament in EU matters and adapting this assistance to Parliament's real needs.

### **III. Publication**

It is proposed that these guidelines, which are not legally binding, should be published in the *Official Journal of the European Union*, C (1) Series. The C Series contains communications and information of a non-binding nature.

(1) See also 'Note concerning new voting rules in COSAC' as regards publication of COSAC contributions in the *Official Journal of the European Union*, C Series.

