

<p style="text-align: center;">Reply of the European Commission to the Contribution of the XLIII COSAC Madrid, 30 May - 1 June 2010</p>
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The Climate challenge – preparing for Cancun

The Commission welcomes COSAC's continued support for the EU's objective in international climate negotiations. The Commission is determined to play a proactive part in preparing and in representing the EU in the next UN Climate Conference "COP 16" in Cancun, Mexico on 29 November 2010 to 10 December 2010. Indeed, the Commissioner for Climate Action, Connie Hedegaard, pursues an ambitious outreach programme to our international partners in order to ensure a better understanding of the positions, concerns, and expectations of our partners on key issues; and to explain clearly what the EU requires of an agreement in terms of its ambition, comprehensiveness, and environmental integrity. Our goal remains to reach a global and comprehensive legal agreement with the objective, agreed in the Copenhagen Accord, of keeping the increase in temperature below 2° C compared to preindustrial levels. In order to achieve it, everybody needs to contribute.

A continuation of the Kyoto Protocol without other major economies' contributions to solve the global climate challenge will not be a sustainable solution.

In a world where competitiveness is inextricably linked to sustainability and energy efficiency, we need to continue to work on implementing the climate-energy package, an effort that is central to the renewed Europe 2020 strategy for sustainable growth and employment.

The institutional framework

The Commission welcomes the COSAC support to the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Already on 17 March last the Commission has submitted a Recommendation to that effect to the Council. On 4 June 2010 the Council adopted a decision authorizing the Commission to negotiate the Accession Agreement of the European Union to the Convention. The negotiations between the European Union (represented by the Commission) and the 47 existing State Parties to the Convention will be taken up in July.

The Commission shares the view that the European Union may take part as a co-respondent in proceedings before the European Court of Human Rights in cases brought against a Member State where there is an intrinsic link between the alleged violation of the Convention and a provision of Union law.

As to the involvement of national Parliaments, the Commission would point out that its Recommendation for a Council decision authorizing the Commission to negotiate the Accession Agreement is not a "draft legislative act" within the meaning of Protocol n° 1 on the Role of National Parliaments in the European Union and of Protocol n° 2 on the application of the principles of subsidiarity and proportionality.

However, the negotiations will be conducted in consultation with a special committee composed by representatives of the Member States, in accordance with Article 218 (4) of the Treaty on the Functioning of the European Union. The involvement of national Parliaments is therefore an internal matter for each Member State, bearing in mind, however, that governments of Member States are bound to ensure confidentiality both of the Council decision authorizing the Commission to negotiate the Accession Agreement and of the underlying Recommendation from the Commission.

The EU institutional balance

As the "Guardian of the Treaties", the Commission upholds the institutional balance foreseen by the Treaties. The recent revision of the Framework Agreement on relations between the European Parliament and the Commission seeks to ensure that the powers and prerogatives of both institutions are exercised effectively and transparently within the framework established by the Treaties, and in full respect of the institutional balance therein.

This includes the independence of the Commission, which is one of the key features of the Community method that the Commission has always strongly defended.

The Commission recognises that the acts of the Council have a particular significance for national Parliaments which exercise control of this body through their respective Governments. Therefore, the Commission would like to reassure COSAC Members that the special partnership between the Commission and the Parliament that President Barroso has been calling for, and the revised Framework Agreement between the two institutions, aim at implementing new Treaty provisions and promoting efficient and productive collaboration between the institutions. In this context, the Commission can only reiterate that it regrets that the Council decided not to join the negotiations.

Definition of draft legislative acts

The Commission is aware of the concern expressed by some national Parliaments as far as the definition of a "draft legislative act" is concerned. However, the Treaty leaves no room for interpretation regarding the definition of a legislative act: Article 289 states that legislative acts are legal acts adopted by legislative procedure. The same article makes it clear that a legislative procedure is either the ordinary legislative procedure or a special legislative procedure.

Therefore, where a Treaty legal base does not explicitly refer to a legislative procedure, be it ordinary or special, the relevant act is not a legislative one. The scope of the Protocol 2 covers only draft legislative acts, i.e. draft acts to be adopted either

under ordinary or under special legislative procedure, as long as they do not fall under the Union's exclusive competences.

The Commission sees the subsidiarity control mechanism as part of a wider political relationship between the Commission and national Parliaments. In the context of our political dialogue, national Parliaments will continue to receive all legislative and non legislative proposals, which are also sent to the European Parliament. By this means they will continue to have the possibility to express their views on all aspects of these documents. For its part, the Commission will continue its practice to examine carefully any comments it receives from national Parliaments in the context of the political dialogue.

The future role of COSAC

Over the last years, the Commission has considerably strengthened its relations with national Parliaments, also by intensifying contacts between Commissioners and national Parliaments. Members of the Commission regularly visit national Parliaments in order to present specific files for which they are competent and/or the Commission's Work Programme.

The Commission is of course open to regularly discuss its Work Programme with the COSAC, in the framework of COSAC institutional role and respecting the competences of different institutions as foreseen in the Treaties. It therefore suggests that practical modalities and timing be further discussed between the Commission and the COSAC Presidency in the light of the future interinstitutional programming cycle of the Commission.