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Procedures and Practices

Relevant to Parliamentary Scrutiny



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Introduction

This is the seventh bi-annual report from the COSAC secretariat.

COSAC's bi-annual reports

The XXX COSAC decided that the COSAC secretariat should produce factual bi-annual reports, to be published ahead of each plenary conference. The purpose of the reports is to give an overview of the developments in procedures and practices in the European Union that are relevant to parliamentary scrutiny.

All the bi-annual reports are available on the COSAC website <http://www.cosac.eu/en/documents/biannual/>

The four chapters of this report are based on information provided by the administrations of the national parliaments of the EU's Member States and the European Parliament. The COSAC Secretariat is grateful to them for their cooperation in this project.

Chapter one aims at evaluating the experience gained from the two subsidiarity and proportionality checks initiated by COSAC. This evaluation could prepare the ground for improvements regarding the procedure applied to future checks.

Chapter two reports on the measures national parliaments have taken with regard to the reception of, and response to, documents sent directly to them by the Commission since September 2006. In particular it looks at the experience parliaments have had with regard to the Commission's reactions to their comments.

Chapter three gives an overview on the state of the debate and the latest developments with regard to the constitutional process in order to prepare the discussion of this issue at the XXXVII COSAC meeting in Berlin.

Chapter four provides background information for the debate on climate change and climate protection and the role of the European Union which is also on the agenda for the XXXVII COSAC meeting in Berlin.

A note on numbers

Of the 27 Member States of the European Union, 14 have a unicameral parliament and 13 have a bicameral parliament. Due to this mixture of unicameral and bicameral systems, there are 40 national parliamentary chambers in the 27 EU Member States.

Although they have bicameral systems, the national parliaments of Austria, Ireland, Italy, Romania and Spain each sent a single response to the COSAC questionnaire. The COSAC secretariat received a response to its questionnaire from all national parliaments of the 27 Member States. These answers are published in a separate annex which is also available on the COSAC website.

Summary

- Almost all national parliaments reported that the subsidiarity and proportionality checks initiated by COSAC brought added value to the way they treat EU affairs. The overwhelming majority would welcome continuation of two checks per year.
- The selection mechanism should be similar to the one chosen for the first two subsidiarity and proportionality checks. Accordingly, the selection should be based on the European Commission's Legislative and Work Programme. Since the LWP for 2008 will most probably be published after the COSAC Conference in Lisbon, the decision whether and how to proceed should be combined with clear procedural arrangements.
- A large majority of parliaments consider that some form of further clarification of the interpretation and application of the principles of subsidiarity and proportionality is needed. Incoming presidencies could consider holding a discussion of subsidiarity and proportionality during one of the next COSAC meetings, aiming at a better understanding of the two principles on the one hand, and the procedure to be followed between the national parliaments and the European Institutions on the other.
- The new mechanism through which the Commission transmits all new proposals and consultation papers directly to national parliaments and responds to the comments it receives from them is perceived by a significant number of parliaments to bring added value, either by creating a specific framework for a dialogue with the Commission, or by influencing the way EU Affairs are dealt with.
- According to the information available, approximately 85 opinions were sent by parliaments to the Commission since 1 September 2006. The Commission has given 39 formal replies to those comments,
- Parliaments should be encouraged to make more intensive use of the interparliamentary information exchange website IPEX, and, most importantly, upload short summaries of their relevant findings in English and/or French.
- To date, 18 of the 27 Member States have ratified the Constitutional Treaty at least as far as the parliamentary stage is concerned; two of them after a positive referendum. In France and the Netherlands referenda had a negative outcome. The Czech Republic, Denmark, Ireland, Poland, Portugal, Sweden and the United Kingdom have not ratified the Treaty. The debate on how to proceed with the Constitutional Treaty will enter into a decisive phase with the report by the German presidency to the June European Council.
- Climate Change has risen to a major public concern in Europe. The EU is determined to take a leading role in the fight against climate change especially with regard to the negotiations of an international climate regime that will succeed the Kyoto Protocol. At the European Spring Council 2007, an agreement on the EU's first comprehensive policy in the field of climate protection and energy was reached. The EU committed to a 20% cut in greenhouse gas emissions by 2020 and expressed its willingness to rise this goal to 30% if other developed countries followed. The agreement is hoped to have a positive impact on the negotiations of an international post-Kyoto agreement.

Chapter 1: Evaluation of Subsidiarity and Proportionality Checks conducted by COSAC

The XXXVI COSAC in Helsinki suggested in its Conclusions that after the completion of its second subsidiarity and proportionality check, COSAC should undertake an evaluation of best practices in relation to the checks as well as on how national parliaments can improve cooperation in this regard.

The two subsidiarity and proportionality checks conducted by COSAC so far concerned a Commission proposal on jurisdiction and applicable law in matrimonial matters¹ and a Commission proposal on the liberalisation of postal services². The results of each of these checks are contained in a report of the COSAC Secretariat.³

The XXXVI COSAC in Helsinki concluded that parliaments regard the monitoring of the principles of subsidiarity and proportionality in the framework of COSAC as useful. It welcomed the decisions of the European Council of June 2006 as well as of the Conference of Speakers of July 2006 to encourage national parliaments to reinforce cooperation in the monitoring of subsidiarity issues under the auspices of COSAC.

1.1. AN ADDED VALUE FOR MOST NATIONAL PARLIAMENTS

Almost all the national parliaments that have participated in the subsidiarity and proportionality checks⁴ stated that the exercise provided added value to the way their parliament deals with EU matters.

One of the effects reported most often was the increase in awareness on the part of national parliamentarians towards the issues of subsidiarity and proportionality and the impact of EU legislation on national legislation in general. Another general point of importance was that the checks stimulated an exchange of views and useful practices between national parliaments.

For the national parliament of Cyprus, it was the first experience regarding scrutiny of subsidiarity and proportionality and a useful preparation for the new role of its EU Committee since the country joined the EU in 2004. Many others used the checks as an opportunity to assess the efficiency and effectiveness of their existing procedures, the speed in which comments can be elaborated, for the exchange of information with their governments and for the preparedness and adequacy of their respective parliamentary staff and resources.

Quite a number of parliaments have improved their existing procedures or introduced new elements in order to effectively conduct the subsidiarity and proportionality checks proposed by COSAC. In some cases, those were specific procedures with regard to subsidiarity and proportionality; in others they concerned parliamentary scrutiny of EU proposals in general. The subsidiarity and proportionality checks were an incentive to introduce these procedures and an opportunity to test them at the same time.

Many parliaments found that there was a need for better internal cooperation between their EU Affairs Committee and the sectoral committee competent for the matter under scrutiny.

¹ COM(2006) 399 final.

² COM (2006) 594 final.

³ Cf. the report on “matrimonial matters” at <http://www.cosac.eu/en/info/earlywarning/doc/results/> and the report on “postal services” at <http://www.cosac.eu/en/info/earlywarning/postal/results/>.

⁴ Romania, Bulgaria, Malta and Spain have not participated in the two checks.

Even parliaments with a lot of experience in parliamentary scrutiny of EU legislative proposals found an added value in this regard.

One important “lesson learnt” was that many parliaments found that they were not (yet) in a position to formulate within six weeks a statement on whether a Commission proposal complied with the principles of subsidiarity and proportionality. Also, it was found that the practical application of the subsidiarity and proportionality principles to a concrete example of proposed EU legislation proved more difficult than expected. Both these issues are dealt with in greater detail below.

In addition, it was often stated that there was room for improvement in the exchange of information between national parliaments on the results of their respective scrutiny procedures. The importance of an increased use of IPEX in order to gain a broader knowledge of the different reactions to a specific proposal and to compare different procedures and conclusions was stressed by several parliaments. Too few documents were translated in the EU working languages and placed on the IPEX website. It was suggested that parliaments should be encouraged to make short summaries of their relevant findings in English or French on IPEX.

Furthermore, the hope was expressed that a kind of “common spirit” or “case law” on subsidiarity and proportionality among national parliaments could evolve. Some parliaments expect that the concerted action of several parliaments may help to influence the outcome of European commission proposals.

Even though a number of parliaments reported that the subsidiarity and proportionality checks had not done much to improve their own scrutiny system, they still acknowledged that conducting a number of tests collectively could lead to an added value in itself. Only the Slovak *Národná rada* (National Council) found that the tests produced no particular added value, stating that their European Affairs Committee deals with EU matters in the same way as before the two checks.

1.2 AN INFLUENCE ON PROCEDURES?

Answers were mixed on the question of whether the joint subsidiarity and proportionality checks had effectively influenced the procedure under which national parliaments handle EU matters.

For some parliaments, the checks presented an incentive to introduce completely new procedures. The Belgian Senate, for example, has developed a new formal procedure for the control of EU affairs that did not exist before the subsidiarity and proportionality checks initiated by COSAC. It is now applied to all draft EU legislation. The French Senate has decided that it will examine all Commission proposals sent to national parliaments. It has created a specific procedure with regard to the principles of subsidiarity and proportionality. The French *Assemblée nationale* has used the checks as well as the new direct transmission of the documents of the European Commission to formalise its subsidiarity and proportionality control mechanisms.

However, a majority of parliaments reported that they had made use of their existing procedures for scrutiny of EU legislation. Others made use of specific procedures for testing whether proposed EU measures complied with the principles of subsidiarity and proportionality which they had introduced with a view to the draft Constitutional Treaty coming into force. For the Belgian *Chambre des Représentants* the checks provided new impetus to organize their scrutiny procedures in a more systematic way.

Although using their existing procedures, the national parliaments of Hungary and Lithuania found that they had to slightly adapt their “normal” procedures. Others developed new elements or additional mechanisms - like hearings, inviting in representatives of government or experts - and reported that they were likely to continue these procedures in the future. The Finnish *Eduskunta* reported that while using its “normal” scrutiny procedure, there was a greater focus on the issue of subsidiarity and proportionality. The EU Affairs Committee of the Danish *Folketinget* organized joint hearings with sectoral committees and decided to continue this practice afterwards.

After having tested their own procedures with the COSAC subsidiarity and proportionality checks, a number of parliaments are now evaluating the experience gained, and some are already considering changes for the future. Possible steps concern not only amendments to internal rules of procedure but also structural changes in the workings of the parliament. The German *Bundestag* for example has concluded an agreement with the Federal Government concerning improved information mechanisms with a view to subsidiarity and proportionality and increased the human resources available in the parliament’s administration for this purpose.

1.3 THE QUESTION OF TIMING

The issue of timing plays a particularly important role when trying to exert influence on upcoming EU legislation and other matters. The Protocol on the role of the national parliaments in the European Union which was attached to the Treaty of Amsterdam states that, except in cases of urgency, a six-week period shall elapse between a legislative proposal being made available in all languages by the Commission and the date when it is placed on a Council agenda for decision.⁵ This is intended to give national parliaments a minimum amount of time to take note of and possibly react to a legislative proposal. However, this delay is not always respected by the Council: some proposals have been adopted in a shorter time span. On the other hand, some sensitive legislative proposals can take years to be agreed.

Nevertheless, this period of six weeks is an integral part of the procedures for agreeing EU primary law and can be regarded as one of the few institutional guarantees for the effective participation of national parliaments in the European decision making process. A six-week period is also provided for in the “early warning mechanism” foreseen by the Constitutional Treaty.

For this reason, the subsidiarity and proportionality checks initiated by COSAC, which were based on the existing Treaties and the Protocol, were amongst other things a test whether national parliaments were in a position to complete a subsidiarity and proportionality check of a legislative proposal in a period of six weeks. If this was not the case, an incentive to adapt their procedures might have been created.

The result of both checks was that only a minority of parliaments had the capacity to react to a Commission proposal in six weeks after the translation into all EU languages.

The aim of asking national parliaments whether they considered that they should be in a position to react to Commission proposal within a period of the six weeks was to find out whether they considered it politically important to adapt their internal working methods in order to produce a reaction within a short time frame.

⁵ The text of the Protocol can be found at: <http://www.cosac.eu/en/documents/basic/>.

A clear majority of parliamentary chambers replied in the positive. However, most pointed out that a quick reaction could not always be assured; parliamentary recess during summer or winter holidays and an increased workload if many documents were under scrutiny at the same time were among the problems mentioned. Many parliaments also pointed to the problem of not receiving a translation of a document in due time. A significant number replied straightforwardly that six weeks is too short a time period for them.

The German *Bundesrat* reintroduced the written survey procedure in the Chamber for European Affairs, a special body which has the power to take decisions in the place of the plenary in EU matters. This was done in the context of the German federal reform of 2006 in order to ensure adherence to deadlines in the future with regard to the “early warning system”. It would be possible in the future to obtain an opinion from the *Bundesrat* on short notice even during a parliamentary recess.

The UK House of Commons stated that it seeks to report on all European documents as soon as possible or appropriate after they have been deposited in the UK Parliament for scrutiny. It pointed out, however, that Committee’s primary function is to keep the UK Government’s actions in Council under scrutiny. Therefore, it might only produce a final report on a document when it is satisfied with the Government’s position. A parliamentary scrutiny reserve applies to UK ministerial action on all legislative proposals in the Council until clearance has been given by both Houses of Parliament. Therefore, the Council should not come to an agreement on a document until the scrutiny procedures have been completed in both Houses of the UK Parliament.

Therefore, the question is not whether or not national parliaments consider that the period of six weeks is enough or too short: the question is whether they want to change their procedures in such a way that would enable them to react to EU proposals within a short time span, regardless of periods of recess and other obstacles.

It is suggested that in order to effectively exert influence on the EU decision making process, national parliaments must a) insist that the Council respects the six-week period provided for in the Protocol on the role of the national parliaments in the European Union, b) create a mechanism to find out whether a speedy decision by the Council is expected and c) enable themselves to react within a short time span if this is the case. If these conditions are not met, national parliaments may risk remaining limited to ex-post scrutiny of their governments’ actions in the Council.

An alternative would be to adopt procedures similar to the UK Parliament, namely to apply a general parliamentary scrutiny reserve to the actions of national governments in the Council. This could increase cooperation with parliaments and governments on EU matters independently of a fixed time frame, but may, in some Member States, necessitate a change in the constitution.

1.4 FURTHER CLARIFICATION OF THE SUBSIDIARITY AND PROPORTIONALITY PRINCIPLES NEEDED

The two subsidiarity and proportionality checks conducted by national parliaments on the draft regulation on matrimonial matters and the proposal for a directive on postal services established that the interpretation and application of both principles varies considerably from parliament to parliament. It became apparent that national parliaments have not yet developed a common understanding of either principle.

The principles of proportionality and subsidiarity are laid down in Article 5 of the Treaty Establishing the European Community. They are further explained in the “Protocol on the

Application of the Principles of Subsidiarity and Proportionality”, annexed to the Amsterdam Treaty in 1997 and part of the European Union's primary law.⁶

The Protocol requires the Organs of the European Community to state, for any proposed Community legislation, the reasons on which it is based with a view to justifying its compliance with the principles of subsidiarity and proportionality. The reasons for concluding that a Community objective can be better achieved by the Community must be substantiated by qualitative or, wherever possible, quantitative indicators.

These rather detailed guidelines could be used by national parliaments when checking whether a specific proposal meets the criteria of subsidiarity and proportionality. The survey conducted for the preparation of this report shows that most parliaments felt that the Protocol was helpful in scrutinising proposed EU legislation with regard to subsidiarity and proportionality. However, the overwhelming majority is of the opinion that some form of further clarification would be useful. Only the Polish *Sejm* is of the opinion that the protocol sufficiently clarifies the principle of subsidiarity.

For example, the Dutch *Eerste and Tweede Kamer* found that the principles of subsidiarity and proportionality are hard to differentiate from each other. The Italian Parliament said that it is very difficult to separate an examination of subsidiarity and proportionality from examining the substance of a proposal. The French *Assemblée nationale* made a similar remark, adding that the application of both principles is partly of a political nature and can therefore not be exhaustively defined.

The Belgian *Chambre des représentants* has the impression that the general opinion of national parliaments is that subsidiarity is a political and not a juridical concept and calls for a more rational or scientific approach in order to “operationalize” the subsidiarity principle by a set of indicators. It stresses that subsidiarity analyses can not be reduced to a subjective political feeling but acknowledges at the same time the complexity of such efforts; it points out that one cannot separate and consider subsidiarity and proportionality independently of each other.

The Czech Senate remarked that the Protocol does not define the procedural aspects in a sufficient way. It is of the opinion that an inter-institutional agreement between the Council and the European Commission defining how to proceed if a significant number of national parliaments raise concerns with regard to the subsidiarity principle could be helpful.

The Austrian parliament pointed out that the draft Constitutional Treaty despite setting up a procedure does not contain detailed information on the interpretation of the principles of subsidiarity and proportionality.

The Hellenic parliament demanded that proposals of legislative acts should be accompanied by more detailed and concrete justification concerning the principles of subsidiarity and proportionality. The UK House of Lords suggests holding a collective discussion of how the principles are interpreted during a future COSAC meeting.

The French Senate adopted a different stance: It found that the Protocol was not very helpful and thinks that the definition given in the Treaties is satisfactory. It hopes however that in examining proposals and in the dialogue with the Commission, more precise application criteria will be established in the future.

The German *Bundesrat* thinks that the guidelines set out in the Protocol should be further refined. With regard to the Commission's reaction to the opinions of the national parliaments,

⁶ The Protocol can be found at: <http://europa.eu.int/eur-lex/en/treaties/selected/livre345.html>.

it would be very important for parliaments to use comparable approaches to the scrutiny process. Critical opinions in particular would carry greater weight if a number of national parliaments expressed criticism on comparable grounds. In this respect, more precise scrutiny criteria would represent a real step forward and thought could be given to elaborating a review questionnaire for conducting subsidiarity checks. The German *Bundestag* is of the opinion that a standard subsidiarity and proportionality check list or a memo on the scrutiny procedures and the standards to be applied may be helpful.

It should also be noted that the Constitutional Treaty, if it enters into force, would give national parliaments a special role in testing whether a proposal complies with the principles of subsidiarity and proportionality and a special mechanism in case they find a breach of the subsidiarity principle, but it does *not* contain a protocol clarifying the exact meaning of those principles.

The principle of subsidiarity has been invoked several times before the European Court of Justice, but to date, no legislation has been annulled on this ground. Therefore, there would be room for national parliaments, possibly in the framework of COSAC, to develop a common understanding of the principles of subsidiarity and proportionality.

Thought could also be given to the procedures to be used in the dialogue between the Commission and the national parliaments on the issue. The Commission could be asked to increase efforts to explain how their proposals comply with the principles of subsidiarity and proportionality.

1.5. THE IMPORTANCE OF REVIEWING THE LEGAL BASE

According to Article 5 of the Treaty Establishing the European Community, the principle of subsidiarity applies only in areas which do not fall within the exclusive competence of the Community. Therefore, one of the first steps when scrutinizing a proposal should be to check the legal base upon which the proposal is founded in order to determine whether the proposed measure falls within an exclusive competence of the Community or not.

Indeed, almost all national parliaments reported that in conducting their subsidiarity and proportionality checks, scrutiny of the legal base was part of their general scrutiny of a proposal. A great number of them see it as an integral part of any subsidiarity and proportionality check. Most of the parliaments which did not explicitly check the legal base indicated a willingness to do so in the future.

It is worth noting that in checking the legal base of a legislative proposal, national parliaments have gone beyond what is provided for in the Protocol on the application of the principles of subsidiarity and proportionality⁷ which, in principle, only gives national parliaments the right to issue a reasoned opinion with regard to the principle of subsidiarity. As suggested above, scrutiny with regard to subsidiarity should not be separated from having a look at the Community competence invoked.

1.6. A CALL FOR THE CONTINUATION OF SUBSIDIARITY AND PROPORTIONALITY TESTS WITHIN COSAC

An overwhelming majority of national parliaments expressed support for continuing subsidiarity and proportionality checks under the auspices of COSAC. Only the two chambers of the Slovenian Parliament stated that they had no special interest in further checks. The German *Bundestag* said that the decision had to be taken at the political level at

⁷ The Protocol can be found at: <http://www.cosac.eu/en/documents/basic/>.

the next COSAC conference in Berlin. The response from the Swedish *Riksdagen* said that the question had not yet been discussed at the political level in their parliament.

The two Italian chambers expressed reservations about the notion of any collective action with regard to checking subsidiarity and proportionality and stressed that each parliament should carry out the checks following its own procedures and agenda. It nevertheless welcomed the opportunity to exchange views and best practices among parliaments and called for COSAC to conduct further subsidiarity and proportionality checks every six months.

The suggestions as to how many tests should be conducted ranged from at least one per year to at least six year. Most parliaments found two checks per year - possibly one for each COSAC - appropriate. The UK House of Lords said that it would be happy with however many checks other parliaments wanted to see conducted. The Dutch Chambers and the Lithuanian *Seimas* saw no need or possibility to fix the exact number in advance.

1.6.1 How to select proposals for the checks?

The majority of parliamentary chambers also opted for continuing the selection process along the tested lines. Most chambers said that the European Commission's Annual Legislative and Work Programme would be the most suitable basis for selecting proposals for future subsidiarity and proportionality checks. Many of them said that the procedure should be the same as before.

The Belgian Senate however suggested that the COSAC Secretariat should make the selection, taking into account comments by national parliaments. The French Senate said that the proposals should be selected by the presidency.

A number of parliaments suggested selection criteria to be followed by COSAC. The Belgian House of Representatives wishes for the selection process to be managed in such a way that after a period of two years most of the important policy fields would be covered, the aim being to involve as many sectoral committees as possible in the subsidiarity and proportionality checks.

The Dutch Senate and House of Representatives stressed that the selection process should leave it to the national parliaments whether they wanted to perform additional scrutiny checks. The French National Assembly wants to see assured that once the definitive text of a proposal becomes available, proposals which "a priori" presented no problem with subsidiarity and proportionality should be excluded.

1.6.2 Further action suggested

The Czech Chamber of Deputies recalls a statement of the UK House of Commons in answer to the questionnaire to the 6th biannual report which suggested that COSAC could consider the responses which have been submitted by national parliaments in respect of individual legislative proposals, and the observations which the Commission has made in reply. Should a significant number of COSAC delegations consider that the Commission response to the concerns of national parliaments was inadequate or poorly founded, it would be open to the Presidency to propose a follow-up debate in COSAC.⁸

1.7. CONCLUSIONS AND RECOMMENDATIONS

The subsidiarity and proportionality checks initiated by COSAC are not conducted "collectively" in the sense that there is no intent to establish COSAC as an additional body in

⁸ See Annex to the 6th biannual report of COSAC: National Parliaments' replies to the questionnaire, November 2006, p. 195 <http://www.cosac.eu/en/documents/biannual/>

the EU system. COSAC cannot determine how a national parliament should best scrutinise the actions of its government in relation to EU affairs. Its aim is to facilitate the exchange of experience and best practices in order to help national parliaments strengthen their capacities and their role in the decision making process of the European Union.

Naturally, the added value reported and the “lessons learnt” depended much upon the degree to which the respective parliament is currently involved in European Union affairs. Nevertheless, the simultaneous subsidiarity and proportionality checks brought added value to national parliaments with little experience in the scrutiny of EU measures as well as to parliaments with a stronger procedure and tradition in this regard.

1.7.1 On future subsidiarity and proportionality checks

According to the answers of an overwhelming majority of national parliaments, COSAC should continue to initiate two subsidiarity and proportionality check per year. National parliaments could also be explicitly invited to include the question of the legal base into their scrutiny.

The selection mechanism should be similar to the one chosen for the first two subsidiarity and proportionality checks.⁹ Accordingly, the draft legislation to be scrutinized should be selected from the European Commission’s Legislative and Work Programme which is published in fall each year. National parliaments would be invited to indicate to the COSAC Secretariat which of the measures announced in the Programme should be subject to the subsidiarity and proportionality checks.

The shortcomings of selecting proposals on the basis of the very short descriptions provided in the Legislative and Work Programme are obvious. There is also an argument that proposals to be checked should cover a wide range of policy areas in order to involve as many sectoral committees as possible. It may prove difficult, however, to find a mechanism that ensures an equal and timely participation of all parliaments concerned.

It should be noted that the Legislative and Work Programme for 2008 will most probably be published after the Lisbon COSAC in October 2007. A decision whether and how to proceed should therefore be combined with clear procedural arrangements for national parliaments.

1.7.2 On the principles of subsidiarity and proportionality

There is a strong call for some form of further clarification of subsidiarity and proportionality. Incoming presidencies could consider holding a discussion on the interpretation and application of the principles during a future COSAC meeting.

Such a discussion could focus on two separate aspects: on the one hand, parliaments could debate the substance of the principles, aiming at a better understanding of the subsidiarity and proportionality. On the other, the procedure to be followed between the national parliaments and the European Institutions could also be clarified.

1.7.3 On the exchange of best practices and information

Many parliaments have adapted their procedures in order to be able to conclude subsidiarity and proportionality checks of Commission proposals. Others have improved their general scrutiny procedure with a view to these principles or are thinking of doing so in the future. The question of producing a statement of parliament’s position before the Council has taken a final decision seems to present a particular difficulty to many parliaments. Therefore, the exchange of experience and best practises becomes increasingly important.

⁹ Cf. Contribution and Conclusions adopted by the XXXIV COSAC in London, 11 October 2005: <http://www.cosac.eu/en/documents/contributions/>

It is suggested that parliaments should be encouraged to make more use of the IPEX website. In order to facilitate the exchange of information, parliaments could give short summaries of their relevant findings in English and/or French on IPEX.

The question of whether draft EU legislation should be tested separately on the respect of the subsidiarity and proportionality principles or whether these issues are a part of the “normal” scrutiny procedure must be left to each national parliament and was not part of this evaluation. However, the issue may be a point of interest to many parliaments, especially for those currently adapting their procedures, and could be subject to an exchange of best practises.

1.7.4 Possible further action with regard to subsidiarity and proportionality

In a general way, the Commission could be asked to increase efforts to explain how their proposals comply with the principles of subsidiarity and proportionality.

It may also be worthwhile considering whether COSAC should examine the observations which the Commission makes in reply to the statements of national parliaments. For instance, should a significant number of national parliaments consider that the Commission’s response to their individual concerns was inadequate or poorly founded, the Presidency could propose a follow-up debate in COSAC.

Chapter 2: Evaluation of Cooperation with the European Commission

Cooperation and dialogue between national parliaments and the European Commission has gained a new dimension after the initiative announced officially in the Commission's Communication to the European Council "A Citizens' Agenda - Delivering Results for Europe" of 10 May 2006 (COM(2006) 211 final), stating that the Commission will transmit directly all new proposals and consultation papers to national parliaments and invite them to react so as to improve the process of policy formulation. In this Communication, the Commission furthermore expressed its commitment to take into account the views submitted by national parliaments.

The XXXVI COSAC in Helsinki suggested in its conclusions that COSAC should draw up an initial evaluation of this new dialogue between the Commission and national parliaments. This evaluation is based on the experience gathered with regard to the Commission's initiative of direct transmission of COM documents to national parliaments that came into force on 1 September 2006.

2.1 VALUE ADDED: INCREASED INFORMATION AND AWARENESS

A majority of parliaments consider that this new mechanism has brought added value to their dialogue with the Commission, particularly because it established a new formal channel of communication that did not exist before.

For a significant number of parliaments this initiative has also influenced the way in which they deal with European Affairs. The German *Bundesrat* highlights that for the first time it has had the opportunity to address the Commission directly, a fact that has had an influence on the *Bundesrat's* scrutiny procedure. The Bulgarian *Narodno Sabranie* underlines that the direct transmission has a positive influence on its scrutiny activities because it additionally motivates their sectoral committees to take part in this procedure.

The French Senate, both Chambers of the Italian Parliament and the Slovenian *Državni Zbor* (National Assembly) consider that one of the most important achievements is that the new mechanism raised the awareness of EU matters amongst parliamentarians. In the Slovenian Parliament this also applied to the staff and the integration of services that cooperate in this field. The Dutch *Eerste Kamer* (Senate) regards this procedure as a way of making the Commission more accountable for its initiatives, which results in a greater involvement of the Senate in the European legislative process and, as the Lithuanian *Seimas* underlined, is also in an achievement in terms of legitimacy.

In the Polish Senate, the direct transmission allows Senators to study the proposals before the government's position is available, even though the EU Affairs Committee has to get acquainted with the government's position before issuing an opinion. The Portuguese *Assembleia da República* emphasizes that this dialogue with the Commission will also contribute to a better mutual understanding between the Commission and national parliaments.

Some parliaments do not see any change of attitude towards European affairs but consider that their work is facilitated because they receive the documents at an earlier stage than before. The Czech *Poslanecká Sněmovna* (Chamber of Deputies) and the Slovak *Národná Rada* (National Council) also consider that the access to the documents in their national languages has been improved.

However, the Czech *Poslanecká Sněmovna* (Chamber of Deputies) says that the current mechanism does not enable them to fully exploit the potential of a direct dialogue with the Commission. The Czech Senate underlines that the extent of the value added will depend on the seriousness with which the European Commission will take into account the views expressed by national parliaments.

The German *Bundestag* considers that since the comments made by national parliaments are not legally binding for the Commission, the focus should be on contributing to the EU's policy formulation through the national government.

A minority of national parliaments consider that there has not been any added value in this new framework, namely because it has not changed the way their scrutiny systems work. The Finnish *Eduskunta* has decided that it will continue to follow its constitutional scrutiny system that guarantees the right of the Finnish Parliament to participate in the national preparation of EU Affairs. The *Eduskunta* also has some doubts whether any institutionalized dialogue between the Commission and national parliaments is compatible with the EU's institutional structure and the constitutional role of national parliaments. The Estonian *Riigikogu* sees no added value in this initiative nor considers that it had any influence in the attitude of the Estonian Parliament towards European Affairs.

The UK House of Commons also sees no major added value, stressing that the European Scrutiny Committee's primary function is to keep the UK Government's actions in Council under scrutiny. Nevertheless it welcomes the Commission's willingness to accept comments directly from national parliaments.

The Danish *Folketinget*, even though considering no major differences with the direct transmission, sees in the Commission's initiative a clear sign that national parliaments are considered to be co-players in the decision-making process of the EU, a point also made by the Hungarian Parliament.

2.1.1 Information received

A significant number of parliaments either receive new information through the new mechanism or have easier and earlier access to it.

Before 1 September 2006, the parliaments of Portugal, Greece, Malta, Cyprus and the Belgian Senate did not receive all Commission initiatives and proposals. Other parliaments appreciate this procedure since, even though they received the legislative proposals from their governments before, they now also receive discussion papers and consultation documents (Ireland, Hungary).

The Danish *Folketinget* highlights that the replies received from the Commission provide new information compared to the time before the mechanism was established.

The Czech Senate made a very specific remark, stating that this new mechanism represented no added value because they receive more documents directly from the Czech Government (namely the initiatives of Member States in the second and third pillars of the EU).

2.1.2. Types of documents scrutinized

Almost all parliaments are scrutinizing, or intend to do so, not only legislative proposals, but also consultation documents, working documents, green and white papers. The Polish Senate declares that its EU Affairs Committee has focused primarily on monitoring and evaluating green papers. In the Swedish *Riksdagen*, it is even mandatory for the committees to write reports on green and white papers.

2.1.3. Procedural changes needed or considered regarding the new mechanism

In some parliaments, the Commission's initiative has led to some changes - or reflections - with regard to their internal procedures for dealing with this new mechanism. The Portuguese *Assembleia da República* was drafting its new law for monitoring EU Affairs when this initiative was announced and thus the necessary procedures were enshrined in the law. The same is currently happening in the Bulgarian *Narodno Sobranie*.

In the Latvian *Saiema* this new mechanism prompted discussions within the Parliament, the Ministry of Foreign Affairs and the Ministry of Justice about how to conduct subsidiarity and proportionality checks in the future.

The German *Bundestag* signed an agreement with the German Government in September 2006 that provides for expanded cooperation in EU affairs, stating that under certain circumstances the Government is obliged to lodge a parliamentary scrutiny reserve in the Council, which may delay negotiations on that matter until the *Bundestag* has pronounced itself.

The French *Assemblée Nationale* has also established a new procedure. When scrutinizing subsidiarity and proportionality related matters, the EU Affairs Delegation prepares draft opinions and sends them to the Presidency of the *Assemblée Nationale*, which then forwards them to the relevant Committee(s), which should in turn reach a position within a delay of three weeks. If there is a difference of position between the EU Affairs delegation and the sectoral Committee, the opinion of the latter shall prevail.

Other parliaments are discussing what could be the most suitable system to deal with the directly transmitted documents, namely the Polish Senate, the Maltese *Il-Kamra Tad-Deputati*, the Slovenian *Državni Zbor*, the German *Bundesrat* and the Parliament of Cyprus.

The Czech Senate is currently assessing the need of establishing specific guidelines for communicating with the European Commission. The Latvian *Saiema*, together with the Ministry of Foreign Affairs, is working on how to set the priorities in order to be able to choose the relevant proposals to be scrutinized.

2.2. DIALOGUE WITH THE COMMISSION

An overall majority of parliaments see the possibility of addressing the Commission directly as one of the most important features of this new mechanism, since it might enhance their participation in the process of policy formulation.

2.2.1 Submission of opinions to the Commission

A significant number of parliaments have used the possibility to comment on the Commission's proposals, not only with regard to the two legislative proposals selected for the subsidiarity and proportionality checks conducted within the framework of COSAC, but also with other proposals and documents¹⁰.

Even though it is not easy to quantify an exact figure due to the diversity of sources (information uploaded on IPEX, answers from parliaments), approximately 85 opinions were sent by national parliaments to the Commission since this new mechanism was established.

In the context of the subsidiarity and proportionality checks conducted within the framework of COSAC, 16 chambers sent the Commission the results of their scrutiny on at least one of

¹⁰ Even though some parliaments decided not to send comments on these two checks, since no breach of subsidiarity or proportionality was found.

the two proposals analysed (Regulation on applicable law and jurisdiction in divorce matters and Postal Services Directive)¹¹.

A significant number of parliaments not only sent the findings of their scrutiny on these two proposals, but have also commented on several other proposals. The French Senate sent the Commission 24 opinions between 1 September 2006 and 28 February 2007. The German *Bundesrat* has commented on about 9 additional proposals since this mechanism was established. The UK House of Lords has sent comments on 7 other Commission documents so far and the Danish *Folketinget* has sent its reactions on 4 documents. The Dutch Senate has sent its reactions on 3 other proposals to the Commission.¹²

The Irish *Oireachtas* has sent a contribution concerning the Commission's Action Programme for Reducing Administrative Burdens in the EU. The Polish Senate has sent the joint position of its EU Affairs and Agriculture and Environmental Committees on the provisional anti-dumping duties on imports of frozen strawberries from China, which did not regard the question of subsidiarity or proportionality. Finally, the Czech Senate has sent comments to the Commission on the Commission's Annual Report on the Relations with National Parliaments.

Through this data it is possible to see that almost all national parliaments who have sent comments to the Commission did not limit their scope, in doing so, to matters relating only to proportionality and subsidiarity. Also documents other than the legislative proposals, such as consultation documents or reports from the Commission, have been commented upon.

The comments were sent through a letter from the Speaker or the Committee Chairman to the Commission¹³, through e-mail¹⁴ or both¹⁵. Information concerning this correspondence was uploaded into IPEX in most cases, but not systematically.

One other important aspect is that this dialogue with the Commission has also involved other players, because in a significant number of cases, the parliaments gave notice of the comments made to the Commission either to the Government¹⁶, or also to other European Institutions or to the COSAC Secretariat¹⁷.

2.2.2 Replies from the Commission

In total, and based on the data contained in the answers that parliaments gave to this Questionnaire, the Commission has sent 39 formal replies concerning the comments parliaments made since 1 September.

The following parliaments have received replies from the Commission so far: Dutch Parliament (*Eerste Kamer* and *Tweede Kamer*), French Senate, Belgian Senate and *Chambre*

¹¹ The Parliaments of Finland, Italy (*Camera dei Deputati*), Slovenia, Belgium (Senate), Denmark, Latvia, Portugal, Estonia, Netherlands, the Czech Chamber of Deputies, Germany and Luxembourg. The UK House of Lords and the French *Sénat* and *Assemblée Nationale* sent comments on only one of the checks.

¹² To have complete information about which were the proposals concerned:

<http://www.cosac.eu/en/info/earlywarning/nationalchecks/>

¹³ Parliaments of the Netherlands, Denmark, Italy, Lithuania the Polish Senate and the German Bundestag.

¹⁴ Parliaments of Ireland, Luxembourg, Portugal, French *Sénat*, Belgian *Sénat*, and Czech Chamber of Deputies

¹⁵ UK House of Lords, German *Bundesrat*, Estonian *Riigikogu* and Czech Senate.

¹⁶ Parliaments of Ireland, France, Denmark, Luxembourg, Latvia, Belgian *Sénat*, UK House of Lords, and German *Bundesrat*.

¹⁷ Dutch Senate, the Polish Senate that sent both to the Government and Polish MEPs, the German *Bundestag*, the Portuguese *Assembleia da República*, the Estonian *Riigikodu*, the Latvian *Saiema*, both chambers of the Czech parliament.. The Austrian Parliament, the Slovenian National Assembly and the Cyprus House of Representatives sent the results of their checks only to the COSAC Secretariat, and the Italian *Camera dei Deputati* sent the Comments only to the Commission.

des Députés, Danish *Folketinget*, UK House of Lords, German *Bundestag*, Lithuanian *Seimas*, German *Bundesrat*, and both Chambers of the Czech Parliament.

Some national parliaments like the German *Bundesrat*, the Danish *Folketinget*, the Lithuanian *Seimas* and the Belgian Senate found the content of the replies from the Commission satisfactory, although the latter underlined that one must wait for other responses to assess their real value and quality.

The Dutch Parliament appreciates the effort done by the Commission to respond to the content of its remarks, but nevertheless disagrees with some aspects of the reply given. The German *Bundestag* considered the answer it received as a rather preliminary one.

The French Senate was on the whole satisfied because the replies brought some important precisions and clarifications compared to the initial proposals, but even so the Senators have considered that some answers were not convincing enough. Therefore the *Sénat* has sent further comments, asking for more detailed, concrete and content related answers from the Commission.

The majority agreed that it is still soon to evaluate whether these replies have had or will have a real effect in terms of judging whether the Commission takes comments from national parliaments into account in the process of policy formulation.

2.2.3 Improving the cooperation with the Commission

Amongst those parliaments that made concrete suggestions for improving cooperation with the Commission, a large majority pointed out that both the comments sent by national parliaments and the replies given to it by the Commission should be made centrally available for consultation and information through IPEX.

A significant number of parliaments underlined that the time period for the Commission to respond to their comments should be shortened. The French Senate considers that this dialogue is only worthwhile if it takes place before the Council starts debating the proposals.

The Lithuanian *Seimas* argues that the Commission should provide a timely and quality translation of the documents in all official languages. The Czech *Poslanecká Sněmovna* (Chamber of Deputies) considers that each document sent by the Commission should be accompanied by a set of other relevant information, such as the originator of the process and the subject concerned, as it thinks that the system would be more efficient if it were to enable direct communication with the DG responsible for the issuing of a certain document.

Some parliaments stated that the real importance of this new mechanism lies in the effect that the input given by parliaments will have in the process of policy formulation by the Commission. In this sense, some suggested that progress reports on this procedure should be drafted by the Commission. The Portuguese *Assembleia da República* suggested September 2007 - one year after the establishment of the procedure - as a possible suitable timing for the first report of this nature.

Other parliaments presented very precise ways of improving their cooperation with the Commission. The Dutch Parliament considered that the Commission could transmit the outcome of their weekly meetings directly to national parliaments so that they are informed at an early stage. The Luxembourg *Chambre des Députés* proposed that the cooperation should be focused on more specific issues, such as defence, biotechnology or research institutes' networks.

Finally, the Slovak *Národná Rada* (National Council) believes that a uniform procedure for sending comments to the Commission, including possibly a standard form of document, would be very helpful.

2.3. CONCLUSIONS

For a significant number of parliaments, the new mechanism brought added value, either by creating a specific framework for a dialogue with the Commission, or by influencing the way European Affairs are dealt with.

An overwhelming majority has stated that it is still too early to assess whether this dialogue will produce a real effect, in terms of judging whether the Commission takes comments from national parliaments into account in the process of policy formulation.

Some national parliaments, through the Commission's initiative, receive more or earlier information than before. In many cases, the mechanism has led to changes in the parliament's internal procedures or to a current intention to do so. According to the information available, approximately 85 opinions were sent by national parliaments to the Commission, which has issued 39 replies.

The experience gathered with the two checks on subsidiarity and proportionality conducted within the framework of COSAC has shown that most parliaments tend to send comments to the Commission only when it considers that a Commission proposal breaches at least one of the two principles. However, it is equally valid for a national parliament to send reactions to the Commission even if no subsidiarity or proportionality issues are raised, since it would be also useful to assess whether parliaments agree with the proposals from the Commission.

Outside the scope of the two checks within the COSAC framework, those national parliaments that have sent comments to the Commission did not limit them only to questions of proportionality and subsidiarity.

The overwhelming majority will not, in current and future scrutiny procedures, limit their reactions to matters relating only to proportionality and subsidiarity, and will also react to documents other than those selected for the checks, such as consultation documents or reports from the Commission.

Concerning the ways to further improve this dialogue, a large majority has pointed out that both the comments sent by national parliaments and the replies given to it by the Commission should be made centrally available for consultation and information. This should be done through IPEX, a tool that is still not being used systematically for this purpose. It was also found that the Commission should send its replies within a shorter period.

An analysis of the correspondence between national parliaments and the Commission - as far as it was made available to the COSAC Secretariat - shows that the Commission has tried to provide parliaments with detailed and individual answers to their opinions. In some cases it has also added further explanations in order to better justify its initial proposal. Nevertheless, no case has yet been reported in which the Commission has actually amended one of its original proposals.

A preliminary conclusion might therefore be drawn that the new dialogue with the Commission is a means for the Commission to better explain its proposals, but still not necessarily a way for national parliaments to influence the Commission's final stance.

Chapter 3: State of the debate on the Future of Europe

This chapter gives an overview on the state of the debate and the latest developments with regard to the institutional reform process in order to prepare the discussion of the issue at the XXXVII COSAC meeting in Berlin.

3.1. STATE OF THE RATIFICATION PROCESS

The Treaty establishing a Constitution for Europe was signed in Rome on 29 October 2004. It was to enter into force on 1 November 2006 or, if not yet ratified by all signatory States, after the last State had ratified. In a Declaration to the Final Act of the Conference it was declared that if, two years after the signature of the Treaty four fifths of the Member States had ratified it and one or more Member States had encountered difficulties in proceeding with ratification, the matter would be referred to the European Council.

3.1.1 Ratification by Member States

To date, 18 of 27 Member States have ratified the Constitutional Treaty¹⁸ at least as far as the parliamentary stage is concerned. Two of these Member States ratified following a positive result in a referendum. Referendums on the question in France and the Netherlands had a negative outcome. The Czech Republic, Denmark, Ireland, Poland, Portugal, Sweden and the United Kingdom have not ratified the Treaty.

The process of ratification took place as follows:

Lithuania ratified first on 11 November 2004 followed by Hungary on 20 December 2004, Slovenia on 1 February 2005, Italy on 6 April, Greece on 19 April, Slovakia on 11 May, Spain on 19 May and Austria on 25 May 2005.

In Germany the two chambers of Parliament approved the Treaty on 12 and 27 May 2005. The ratification is not yet formally concluded as the law of approval is not yet promulgated due to legal actions pending before the Constitutional Court.

Spain held a referendum in February 2005. 76% of those voting voted in favour of ratification.

Bulgaria and Romania ratified the Treaty on 11 and 17 May 2005 respectively as part of their ratifications of the Treaty of Accession to the European Union. Their accessions, and therefore their ratifications, became effective on 1 January 2007.

The Treaty was rejected in referendums held in France (29 May 2005) and in the Netherlands (1 June 2005). The outcome in France was 55% 'no' and 45% 'yes'. The result of the consultative vote in the Netherlands was 61.8% 'no' and 38.2% 'yes'. It cannot be expected that the Treaty will now be submitted to the French or the Dutch parliaments for ratification, at least not in its present form. The incoming government in the Netherlands has confirmed that it does not intend to submit the existing text for further ratification.

Since these negative referendums, seven more Member States have ratified: Latvia on 1 June 2005, Cyprus on 30 June, Malta on 6 July and Luxembourg on 10 July; Belgium on 8 February 2006, Estonia on 9 May and Finland in December 2006. Luxembourg had held a referendum on 10 July 2005 with an outcome of 56.6% 'yes' and 43.5% 'no'.

¹⁸ Table giving overview on the ratification: <http://www.cosac.eu/en/info/ratification/ratification/>

3.1.2 Reaction to the rejection of the Constitutional Treaty

In a Declaration agreed at the European Council on 18 June 2005, the Heads of State or Government declared that the ratification process could continue and agreed that the original timetable for the entry into force of the Treaty would be extended. They decided on a “period of reflection ... to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties”.

The European Council of June 2006 considered that ‘in parallel with the ongoing ratification process, further work, building on what has been achieved since last June, is needed before decisions on the future of the Constitutional Treaty can be taken’ and decided that “the Presidency will present a report to the European Council during the first semester of 2007, based on extensive consultations with the Member States. This report shall contain an assessment of the state of discussion with regard to the Constitutional Treaty and explore possible future developments”. It furthermore called for the adoption, on 25 March 2007 in Berlin, of a “political declaration”¹⁹ by EU leaders, setting out Europe’s values and ambitions and confirming their shared commitment to deliver them, commemorating 50 years of the Treaties of Rome.

The European Council of 14 and 15 December 2006 heard an evaluation of the bilateral consultations on the Constitutional Treaty carried out by the Finnish Presidency. These consultations were considered as part of the preparations for the report to be presented by the following German Presidency with a view to “opening the way for a continuation of the reform process”.

On 26 January 2007, representatives of the governments of the eighteen Member States who had ratified, together with representatives of the governments of Ireland and Portugal met in Madrid. The co-convenors of the meeting, Alberto Navarro, Spanish Secretary of State for the EU and Nicolas Schmit, Minister Delegate for Foreign Affairs and Immigration of Luxembourg, issued a declaration saying that “an agreement which is limited to some institutional changes is not sufficient to meet citizens’ expectations” and that immigration, internal and external security and energy were areas where the EU needed powers to act.

The Berlin Declaration signed on 25 March 2007 does not contain an explicit reference to the Constitutional Treaty, though it concludes that “we are united in our aim of placing the European Union on a renewed common basis before the European Parliament elections in 2009”. It thus recognises the need for an overhaul of the existing treaties and spells out a commitment in terms of timing.

3.2. CONTRIBUTION OF THE EUROPEAN PARLIAMENT

The European Parliament endorsed the Constitutional Treaty on 12 January 2005 by a two-thirds majority. Its Resolution welcomed the Treaty as “a good compromise and a vast improvement on the existing treaties, which will, once implemented, bring about visible benefits for citizens (and the European Parliament and the national parliaments as their democratic representation), the Member States including their regions and local authorities) and the effective functioning of the European Union institutions, and thus for the Union as a whole”.²⁰

It accompanied the period of reflection by further resolutions urging the use of “the current period of reflection to re-launch the constitutional project on the basis of a broad public

¹⁹ http://www.eu2007.de/en/About_the_EU/Constitutional_Treaty/BerlinerErklaerung.html

²⁰ Resolution of 12 January 2005 on the Treaty establishing a Constitution for Europe, OJ C 247 E, 6.10.2005, p.88

debate about the future of European integration” and committing itself to playing a leading role in European dialogue, in association with national parliaments, in meetings in the form of interparliamentary forums.²¹ It warned against any attempt to unravel the global compromise achieved in the Constitutional Treaty and called on the European Council to move from the period of reflection to a period of analysis extending to mid-2007, with a view to reaching a clear proposal as to how to proceed with the Constitutional Treaty no later than the second half of 2007.²²

The committee of the European Parliament responsible for constitutional affairs contributed to this European dialogue through delegation visits to national parliaments and invitations extended to members of Member State Governments. Thus the Committee recently had an in depth exchange of views with the European Affairs Ministers of Luxembourg, Spain and the Netherlands. The chairman of the Delegation for the European Union of the French *Assemblée nationale* presented his proposals to the committee on 10 April of this year. The European Parliament’s Constitutional Affairs Committee has also suggested that a major hearing of civil society organisations on issues related to the institutional settlement should be organised to take place before June 2007

The European Parliament will adopt a position on “the roadmap for the Union’s Constitutional Process” in time for the June 2007 European Council.²³ In their draft report the Committee’s rapporteurs, Enrique Barón Crespo and Elmar Brok, have proposed that the European Parliament should “call on the European Council of June 2007 to take the necessary steps to convene an Inter-Governmental Conference (IGC) as soon as possible, with a clear mandate to reach a compromise by the end of the year”.

3.3. THE PARLIAMENTARY DIMENSION OF THE DISCUSSION ABOUT THE FUTURE OF THE EU

3.3.1 Joint Parliamentary Meetings on the Future of Europe

The European Parliament and the national parliaments of the Member States have so far held two Joint Parliamentary Meetings on the Future of Europe.²⁴ These meetings have been organised and conducted jointly by the European Parliament and the parliament of the Member State currently holding the EU Presidency. These meetings are intended to underscore the importance of a parliamentary dimension to the discussions on the future of Europe. They establish a forum for an extensive exchange of views among parliamentarians as well as with the Council of Ministers and the European Commission on issues related to the political and institutional future of the European Union. They are jointly chaired by the speakers of both Parliaments. The Head of Government of the Member State holding the EU Presidency and the President of the European Commission have take part in both the meetings to be held thus far.

In 2006 two Joint Parliamentary Meetings on the Future of the Europe took place in Brussels. The inaugural meeting, organised together with the Austrian Parliament, was held on 8 and 9 May 2006. This meeting focussed especially on issues such as the European Union’s role in the world and the EU’s borders, globalisation and the European economic and social model,

²¹ Resolution of 19 January 2006 on the period of reflection: the structure, subjects and context for an assessment of the debate on the European Union, OJ C 287 E, 24.11.2006, p. 306

²² Resolution of 14 June 2006 on the next steps for the period of reflection and analysis on the Future of Europe, *Texts adopted*, P6 TA(2006)0263

²³ Draft report under way in the Committee on Constitutional Affairs, Rapporteurs: Enrique Barón Crespo and Elmar Brok

²⁴ Website of the Joint Parliamentary Meeting containing all background information and materials: <http://www.futureofeurope.europarl.europa.eu/future/cms/lang/en/>

the prospects for the area of freedom, security and justice as well as the future financing of the European Union.

The second meeting, on 4 and 5 December, co-organised with the Parliament of Finland, aimed to stimulate parliamentary participation in an elaboration of political and institutional strategies for the future of the EU. After an opening plenary session the participants concentrated on three key issues in the working groups: the future financing of the EU, energy policy and the role of the EU in conflict prevention. This event was also intended to function as a parliamentary contribution to the discussions of the European Council on 14 and 15 December.

The Third Joint Parliamentary Meeting on the Future of Europe, which the European Parliament will organise with the German Bundestag, is due to take place on 11 and 12 June. This meeting will take into account the latest political developments, such as the Berlin Declaration and the declared objective of the German Presidency to adopt a road map for institutional reform at the June European Council.

3.3.1. Other interparliamentary activities

In the framework of the celebration of the 50th anniversary of the signing of the Rome Treaties, the Italian Parliament organised a special meeting on 22 and 23 March 2007 to which the Speakers and chairmen of European affairs committees of the Parliaments of the Member States, the European Parliament and the Parliaments of the candidate countries were invited.

The first part of the meeting took the form of a seminar organised in cooperation with the European University Institute in Florence entitled “What is Europe lacking?”. 36 delegations, representing 26 Parliaments, attended the seminar, which was divided into three sessions—political, economic and social. The seminar was followed by a celebration ceremony, “A Political Europe and Her Role in the World”, which took place in Rome. The ceremony was attended by 40 delegations representing 31 Parliaments.

3.5. FURTHER DEVELOPMENTS

Once the German Presidency has delivered its report to the June European Council the debate on how to proceed with the Constitutional Treaty will enter a decisive phase. The position taken by the German Presidency - which is in favour of reaching a settlement before the European elections in 2009 - has given renewed impetus to the institutional question and has returned the issue to the centre of the European agenda. This is shown by the increasing number of statements by political actors intended to shape the upcoming debate and indicates that a more precise and comprehensive picture of the respective positions of the Member States will soon be available. Many options are under discussion. They can roughly be summarised in the following categories:

3.5.1 The ‘treaty-plus’ option

The ‘treaty-plus’ option consists of keeping the text of the Treaty entirely intact while adding protocols to it, for example a social protocol, or declarations interpreting the Treaty text in order to respond to concerns that have been expressed. This would correspond to what was done after the negative referendums in Denmark in 1992 and Ireland in 2001. It would avoid requiring Member States which had already ratified having to go through a new ratification procedure. It would also mean that the text which had been rejected in popular votes in two Member States would have to be presented to the same electorates a second time.

3.5.2 The ‘substance approach’

The ‘substance approach’ starts from an assumption that consensus has been reached among the Member States on the most essential reforms contained in the Constitutional Treaty text, and focuses on identifying those elements on which a broad consensus still exists, in order to stay as close to the original text as possible. This option carries the risk of unravelling the global compromise and requires a rather comprehensive prior understanding on the points on which negotiations should not be reopened.

3.5.3 The ‘mini-treaty’ or ‘fundamental treaty’ option

The ‘mini-treaty’ or ‘fundamental treaty’ option entails the production of a shorter text comprising Part I of the present Treaty and the institutional reforms related to it, the text of the Charter of Fundamental Rights in Part II (either entirely or annexed by way of a reference clause) and some elements from the general and final provisions of Part IV. This text would enter into force as soon as could be arranged, whereas any desired revisions of the policies of the Union—Part III of the Constitutional Treaty—would either be negotiated in parallel or later and enter into force at a later stage, possibly by means of a simplified procedure. This approach would respond to the fact that much of the criticism expressed during the referendum campaigns in France and the Netherlands concerned the EU’s policies rather than its institutions or its decision-making procedures. It nevertheless raises difficult questions about the relationship between the four parts of the Constitutional Treaty, which were agreed upon as a whole, and about the continuing existence (or not) of the EU’s present ‘pillar’ structure of the Union.

3.5.4 Other options

A ‘cherry-picking’ option has also been proposed, consisting of leaving it to a further treaty, or a series of successive treaties, to amend individual elements of the existing Treaties to incorporate individual points from the Constitutional Treaty without integrating the existing Treaties into a single text. The choice of these points could be limited to some of the institutional reforms in the strict sense. The difficulty of this approach is that the preferences of the Member States for one reform or another differ, and the readiness of each Member State to accept certain reforms depends on the readiness of others to make corresponding concessions. The interdependence of different issues in terms of political bargaining would lead to complicated and lengthy negotiations.

Chapter 4: Climate Change and Climate Protection - An EU Policy

Since the publication of the February 2007 report of the UN Intergovernmental Panel on Climate Change (IPCC)²⁵, clearly linking the increase in global warming with man-made emission activity, the issue of climate change has risen to become a major public concern, if not *the* major public concern, in the European Union and worldwide.

A recent Eurobarometer opinion survey, which was released in March 2007, shows that the overwhelming majority of European Union citizens are worried about climate change. The results of the survey demonstrate that EU citizens feel the best way to tackle climate and energy-related issues is at EU level. It appears from this survey that EU citizens expect the EU to shape a common European policy in this field.

The EU has put climate change high on its political agenda since the beginning of the 1990s. As the EU as a whole is one of the world's major emitters of greenhouse gases, the EU's political leadership has decided to undertake a particular responsibility in shaping not only a common European climate policy, but also a global one.

Latest examples of the high importance presently given to climate protection policy by the EU are the Annual Policy Strategy (APS) of the European Commission for 2008 and the agenda of the German Presidency for the first half of 2007, both of which rank the issue as a top political priority. The Spring 2007 European Council — where for the first time a comprehensive agreement on energy and climate protection could be reached—has been hailed as an historic success. The ongoing political discussions on the possible inclusion of a separate chapter on climate change in a future Constitutional Treaty are also worth mentioning.

The Berlin Declaration²⁶ of March 2007 once more confirmed the political initiative taken by the EU in this field, namely a determination to lead the way in energy policy and climate protection and to make a contribution to averting the global threat of climate change.

The present chapter seeks to provide an overview of the evolution and latest developments in EU climate change and climate protection policy.

4.1. INTERNATIONAL BACKGROUND

The base for fighting climate change at the international level is the UN Framework Convention on Climate Change (UNFCCC)²⁷, together with the the Kyoto Protocol²⁸ to the UNFCCC.

4.1.1. The United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC was adopted at the Earth Summit in Rio de Janeiro in 1992 and entered into force in 1994; it was ratified by 189 parties, including the European Community. The

²⁵ A summary of the February 2007 report of the IPCC can be found at http://ipcc-wg1.ucar.edu/wg1/docs/WG1AR4_SPM_Approved_05Feb.pdf. On 6 April 2007 a second report on “Impacts, Adaptation and Vulnerability” has been released stating a direct effect of climate change on animals, plants and water; for a summary of the report see <http://www.ipcc.ch/SPM13apr07.pdf>.

²⁶ For the text of the Berlin Declaration see http://www.eu2007.de/en/About_the_EU/Constitutional_Treaty/BerlinerErklaerung.html

²⁷ For more information see the official website of the UNFCCC at <http://unfccc.int/2860.php>.

²⁸ For the text of the Kyoto Protocol see <http://unfccc.int/resource/docs/convkp/kpeng.html>.

UNFCCC mainly calls on governments to gather and share information on greenhouse gas emissions as well as to launch national strategies for addressing such emissions and adapting to expected impacts of climate change. The UNFCCC is based on the principle of ‘common but differentiated responsibilities and respective capabilities’. This principle recognises that while all countries have an interest in controlling climate change, the developed world is responsible for most of the historical build-up of greenhouse gases in the atmosphere and should therefore take the lead in reducing emissions. The Convention itself does, however, not set any mandatory limits on greenhouse gas emissions for individual nations. Such limits were only established at a later stage by the Kyoto Protocol to the UNFCCC.

4.1.2. The Kyoto Protocol

The Kyoto Protocol was adopted in 1997 and entered into force in February 2005. Under the Kyoto Protocol the majority of industrialised nations and some central European economies in transition agreed to legally binding reductions in greenhouse gas²⁹ emissions. These add up to a total cut of at least 5% compared to 1990 levels in the period of 2008–2012, defined as the first emissions budget period. In case of non-compliance, the failing party is obliged to compensate the difference during the second commitment period after 2012, with an added 30% penalty. The Kyoto targets only apply to developed countries.

The Protocol creates three innovative mechanisms, namely the “Clean Development Mechanism” (CDM), “Joint Implementation”(JI) and “International Emissions Trading” (IET), in order to help lower the costs of reducing emissions. The CDM and JI allow industrialised countries to achieve part of their emission reduction commitments by investing in emission-saving projects abroad³⁰ and counting the reductions achieved towards their own commitments. Under the IET a maximum account of emission rights (Assigned Amount Units) is assigned to each country; by using JI and CDM, a country can obtain additional emission units. Unused quota can be sold to countries that require more emission rights.

To date, the Kyoto Protocol has been ratified by 168 countries and the European Community. The US signed the Protocol, but did not ratify it and eventually rescinded its signature; Australia has refrained from ratifying the Protocol. Today 36 parties are bound by the Protocol’s reduction targets.³¹

At the time of the Protocol’s ratification by the EU in 2002, the 15 Member States of the EU took a commitment to reduce their combined greenhouse gas emissions to 8 % below the base year level of 1990. This collective target has been translated into differentiated, legally-binding national targets for each of the member states.³²

The 12 Member States to join the EU since ratification are not covered by the EU target but have their own reduction target of 6 % or 8 % under the protocol, except for Cyprus and Malta which have no targets. The base year for most of the new member states is an earlier year in the 1980s, when CO₂ emissions were higher than in 1990.

²⁹ The scope of the Kyoto Protocol comprises the greenhouse gases carbon dioxide (CO₂), methane, nitrous oxide, and the industrial gases hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

³⁰ JI covers projects in other industrialized countries with Kyoto targets, whereas CDM projects have to be implemented in developing countries. CDM is already operational as credits can be generated retrospectively from 2000 onwards; JI will only be operational when the first commitment period starts in 2008.

³¹ China and India have ratified the Protocol but do not fall under the category of developed countries and are thus not bound by the Protocol’s reduction target.

³² National targets are based on a legally binding burden-sharing agreement (Council Decision 2002/358/EC of 25 April 2002; for the text see http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_130/l_13020020515en00010020.pdf, they are ranking from e.g. minus 27% (Luxembourg), minus 21% (Denmark, Germany), minus 12.5% (United Kingdom), minus 6% (Netherlands), 0% (Finland) to plus 4% (Sweden), plus 13% Ireland and plus 27% Portugal.

EU Member States are committed under EC law to meet their targets, which are enforceable by the European Commission through the infringement procedures laid down in the EC Treaty.

4.1.3. Post-2012 Action

At the initiative of the EU and other countries, talks on post-2012 action were launched at the annual UNFCCC ministerial conference in Montreal in December 2005. Talks are taking place on two parallel tracks. On one track, the Parties to the Kyoto Protocol are discussing new emission targets for industrialised countries for the post-2012 commitment period; a comprehensive review of the Protocol is scheduled for 2008. On the second track, the UNFCCC Parties, including those that are outside Kyoto such as the USA and Australia, are conducting a dialogue on long-term cooperative action against climate change, aiming rather at technical cooperation than a legal framework. This dialogue is planned to conclude at the next UNFCCC annual ministerial meeting in December 2007 in Bali. The EU's view is that it should be followed up by negotiations on a comprehensive global agreement on post-2012 action. To ensure that a new agreement enters into force by the end of Kyoto's first commitment period, negotiations should be completed by the end of 2009 at the latest.³³

Accordingly, in its Annual Policy Strategy for 2008³⁴ the European Commission expresses its determination to push for new commitments by the EU and key stakeholders worldwide for the post-2012 period. The so-called Global Climate Policy Alliance is mentioned as a key element in this context; its aim is to engage developing countries on climate change, with a view to broadening participation in a post-2012 global climate regime.

The agreement on the reduction of greenhouse gases reached at the European Spring Council 2007 is expected to have a particularly positive effect on international negotiations: EU leaders agreed on cutting greenhouse gas emissions by at least 20 percent from 1990 levels over the next 13 years. The EU expressed their willingness to raise their cuts to 30% if other developed countries did the same.

The negotiation of a post-Kyoto agreement will also be subject of the G8 summit to take place from 6 to 8 June 2007 in Heiligendamm (Germany). G8 environmental ministers, at their meeting in March 2007, have already emphasised that the negotiation process under the United Nations, namely the UNFCCC and Kyoto Protocol, constitutes the appropriate forum for future agreements on international climate protection measures.³⁵

4.2. ACTION AT EU LEVEL

The EU has set up several policies to combat climate change and to deliver on its Kyoto target of reducing greenhouse gas emissions by 8% from the base year level of 1990 by 2010.

³³ Cp. European Council 9 March 2007, Presidency Conclusions, par. 29, for the text see http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf. Also note that in a bilateral declaration signed during the visit of Chinese Prime Minister Wen Jiabao on 11 April 2007 in Japan, China expressed for the first time its willingness to actively cooperate in the negotiations of a post-2012 agreement.

³⁴ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Annual Policy Strategy 2008, COM (2007) 65 final; for the text see http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0065en01.pdf.

³⁵ See Chair's conclusions, Environment Ministers Meeting, 15-17 March 2007, Potsdam http://unfccc.int/files/application/pdf/g-8_potsdam_conclusion.pdf.

Climate protection ranks as a political top priority in the EU's 6th Environmental Action Programme³⁶ for the period of 2002–2012, as well as in the EU Sustainable Development Strategy³⁷, which originally dates from 2001 but was adopted in a revised version in 2006. Climate protection has furthermore been integrated into key EU policy areas such as agriculture, energy, regional policy and research.

The following instruments deserve closer consideration:

4.2.1. EU Emissions Trading Scheme (EU-ETS)

The EU Greenhouse Gas Emissions Trading Scheme (EU-ETS)³⁸ commenced operation in January 2005; it is the world-wide largest multi-country, multi-sector greenhouse gas emissions trading scheme, covering up to 12,000 installations, either in the industry or in power and heat generation³⁹ responsible for roughly half of Europe's CO₂ emissions.

Under the scheme, a cap is placed in each Member State on the CO₂ emissions of the installations under the EU ETS. Each Member State distributes emission allowances to individual plants according to a National Allocation Plan (NAP). Every installation is required to monitor its emissions and, at year end, surrender a quantity of allowances to the government that is equal to its emissions. If it has emitted more CO₂ than what would be covered by the allowances received, it needs to buy allowances. If it had emitted less, it can sell the unused quantity to other installations. This in effect means that installations now have a financial incentive to reduce their emissions.

The EU-ETS consists of a “warm-up phase” from 2005 to 2007, followed by successive five-year periods that are designed to coincide with the Kyoto Protocol's compliance timeline. The current scheme only covers CO₂ emissions but is planned to be extended to other greenhouse gases and sectors including air and possibly ground transport after the end of the second trading phase by 2012. In December 2006 the Commission adopted a legislative proposal for the inclusion of aviation activities in the EU-ETS by 2012.⁴⁰

The Commission is currently assessing the National Allocation Plans for the second trading phase (2008–2012) which Member States were required to submit by the end of June 2006. To date the assessment of 19 NAPs has been concluded⁴¹. From the Commission's NAP decisions adopted so far it is clear that there will be a much smaller amount of EU allowances in the 2008–2012 period than had been available in the 2005–2007 period. This is also anticipated by the market, where 2005–2007 allowances currently trade at a price below 1 EUR, while 2008–2012 allowances fetch a price of around 17 EUR.

³⁶ For the text of the Sixth Environment Action Programme of the European Community ‘Environment 2010: Our future, Our choice’, COM (2001) 031 final see http://europa.eu.int/eur-lex/en/com/pdf/2001/en_501PC0031.pdf

³⁷ For the revised version of the strategy see <http://register.consilium.europa.eu/pdf/en/06/st10/st10117.en06.pdf>.

³⁸ The EMTS is based on Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

³⁹ The current EU-ETS covers the following industrial sectors: energy, ferrous metals, mineral industry, pulp, paper and board.

⁴⁰ Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community, COM (2006) 818 final, for the text see http://ec.europa.eu/environment/climat/pdf/aviation_ets_com_2006_818-21273_en.pdf.

⁴¹ The draft NAPs for 2008–2012 of the following member states are still to be assessed: Bulgaria, Cyprus, Denmark, Estonia, Finland, Italy, Portugal and Romania.

In October 2006 the Commission released a report on the progress of the EU-ETS⁴² which identified the need for a review process with a view to the third trading period starting in 2013. Priority areas of this review are *inter alia* the scope of the EU-ETS, as well as further harmonisation and increased predictability with regard to allocation and auctioning of emission credits. A working group⁴³ set up in the context of the European Climate Change Programme (ECCP) will submit a report on the review of the EU-ETS by June 2007. Based on this report the Commission intends to present a formal legislative proposal to review the EU-ETS in the second half of 2007.

4.2.2. European Climate Change Programme (ECCP)

In 2000 the Commission launched the European Climate Change Programme (ECCP)⁴⁴. The ECCP is the Commission's main instrument to discuss and prepare the further development of the EU's climate policy. Under its umbrella the Commission, Member States and stakeholders have developed and implemented a range of cost-effective measures to reduce emissions. These include legislative initiatives to promote *inter alia* renewable energy sources, the use of biofuels, improvements to the energy performance of buildings, a voluntary agreement with car producers to reduce CO₂ emissions, and, last but not least the EU Emissions Trading Scheme (EU-ETS). A second European Climate Change Programme (ECCP II) was started in October 2005 to identify further cost-effective measures to reduce emissions up to and beyond 2012. ECCP II focuses *inter alia* on the development of a legislative framework for the environmentally safe use of carbon capture and geological storage technology as well as on the inclusion of the transport sector in the EU-ETS. A further aim is to develop strategies for adapting to climate change as well as the review of the EU Emissions Trading Scheme.

4.2.3. Comprehensive Energy-Climate Change Package

In January 2007, the Commission put forward an integrated package of measures to establish a new energy policy for Europe aimed at stepping up the fight against climate change and strengthening the EU's energy security and competitiveness. The package consists of two Communications from the Commission, namely "An energy policy for Europe"⁴⁵ and "Limiting global climate change to 2 degrees Celsius"^{46 47}.

⁴² For the text of the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Building a global carbon market – Report pursuant to Art. 30 of Directive 2003/87/EC, COM (2006), 676 final see http://ec.europa.eu/environment/climat/emission/pdf/com2006_676final_en.pdf.

⁴³ The working group on the revision of the EU-ETS consists of representatives of Member States, industry, NGOs as well as academia and research.

⁴⁴ For the Communication from the Commission on the implementation of the first phase of the European Climate Change Programme, COM (2001) 580 final, see http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0580en01.pdf.

⁴⁵ For the Communication from the Commission to the European Council and the European Parliament - An energy policy for Europe", COM (2007), 001 final see http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0001en01.pdf.

⁴⁶ For the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Limiting Global Climate Change to 2 degrees Celsius – The way ahead for 2020 and beyond", COM (2007) 002 final see http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0002en01.pdf.

⁴⁷ The energy package is based on the Green Paper – A European Strategy for Sustainable, Competitive and Secure Energy, COM (2006) 105 final of March 2006; for the text see http://ec.europa.eu/energy/green-paper-energy/doc/2006_03_08_gp_document_en.pdf. The Green Paper was supported by the European Council in March 2006 that explicitly called on the development of an Energy Policy for Europe. The European Council also welcomed the Commission's proposal to present Strategic EU Energy Reviews to the Council and the European Parliament on a regular basis, beginning in 2007.

4.2.3.1 An energy policy for Europe/Limiting global climate change to 2 degrees Celsius

The package sets a range of ambitious targets to be met by 2020. Energy efficiency⁴⁸ would be improved by 20%, the market share of renewable energy sources increased to 20% and the share of biofuels in transport fuels raised to 10%. On greenhouse gas emissions the Commission proposed that, as part of a new global agreement to prevent climate change from reaching dangerous levels, developed countries should cut their emissions by an average of 30% from 1990 levels. As a concrete first step towards this reduction, the EU would make a firm independent commitment to cut its emissions by at least 20% even before a global agreement is reached. Further objectives would be the restriction of deforestation, the completion of the internal market for energy and gas, the development of a common external energy policy and the establishment of a European Strategic Energy Technology Plan to focus research and development efforts on low carbon technologies.

The European Council on 9 March 2007 largely backed the Commission proposals on energy and climate change. EU leaders underlined the importance of limiting the global average temperature increase to not more than 2 degrees Celsius above pre-industrial levels. They set a firm target of cutting 20% of the EU's greenhouse gas emissions by 2020 and underlined their willingness to raise this goal to 30% provided that other developed countries make similar commitments. The Presidency Conclusions furthermore call on developed countries to reduce their emissions by 60% to 80% by 2050 compared to 1990.⁴⁹ On top of that a binding overall goal of 20% for renewable energy sources by 2020 was set, compared to the present 6.5%, as well as a binding minimum target of 10% for the share of biofuels in overall transport petrol and diesel consumption by 2020. Furthermore, an Energy Action Plan for the period 2007-2008 was adopted, mainly focusing on the internal market on gas and electricity, the security of supply, the development of an international energy policy as well as on energy efficiency⁵⁰ and renewable energies.

In order to implement the package, the Commission will negotiate with each Member State over its emissions and energy mix. Draft implementing legislation is scheduled to be presented by the end of 2007. A problem in this context might be that under the current Treaties the Commission does not have a specific competence in the field of energy policy, in contrast to the specific competence granted under the Constitutional Treaty.

4.2.3.2 Reducing CO2 emissions from light-duty vehicles and passenger cars

On 7 February 2007 the Commission also adopted a Communication outlining a comprehensive new strategy to reduce carbon dioxide emissions from new cars and vans sold in the European Union.⁵¹ The new strategy, together with a revision of EU fuel quality

⁴⁸ See also "Communication from the Commission - Action Plan for Energy Efficiency: Realising the Potential", COM (2006) 545 final, which has as an overall objective to outline a coherent framework of policies and measures with a view to saving a substantial part of the 20% of EU annual primary energy consumption by 2020. For the text of the Action Plan see http://ec.europa.eu/energy/action_plan_energy_efficiency/doc/com_2006_0545_en.pdf.

⁴⁹ On March 13, 2007, the UK government published a draft Climate Change Bill to put in place a framework to achieve a mandatory 60% cut in the UK's carbon emissions by 2050 compared to 1990 levels, with an intermediate target of between 26% and 32% by 2020. If approved, the United Kingdom is likely to become the first country to set such a long-range and significant carbon reduction target into law. The draft Bill is to be examined by a Joint Committee of both Houses of Parliament, which has been instructed to report its findings by 25 July 2007.

⁵⁰ Energy efficiency, especially with regard to sustainability of traffic and buildings as well as clean fossil fuels, will also be on the agenda of the Heiligendamm G8 summit in June 2007.

⁵¹ Communication from the Commission to the Council and the European Parliament - Results of the review of the Community Strategy to reduce CO2 emissions from passenger cars and light-commercial vehicles, COM (2007) 19 final, for the text see http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0019en01.pdf.

standards proposed on 31 January 2007, underline the Commission's determination to ensure the EU meets its greenhouse gas emission targets under the Kyoto Protocol and beyond. The strategy is designed to enable the EU to reach its long-established objective of limiting average CO₂ emissions from new cars to 120 grams per km by 2012—a reduction of around 25% from current levels. By improving fuel efficiency, the revised strategy aims to deliver substantial fuel savings to drivers. To encourage the car industry to compete on the basis of fuel efficiency instead of size and power, the Commission has invited manufacturers to sign an EU code of good practice on car marketing and advertising.

A legislative framework to reduce CO₂ emissions from new cars and vans will be proposed by the Commission by the end of 2007 or by mid-2008 at the latest.⁵²

4.2.3.3. Market-based instruments for environment and related policy purposes

As a further step, on 28 March 2007 the Commission adopted a Green Paper on the use of market-based instruments for environment and related policy purposes.⁵³ Since market-based instruments have been demonstrated to be a cost-effective means of achieving policy goals, the paper aims to stimulate a broad public debate on how taxes, tradable emissions rights and other market-based instruments could be used more widely and effectively for environmental and energy policy purposes at Community and national level. The Green Paper covers a wide range of areas where market-based instruments, mainly taxes and emissions trading rights, can be further promoted. These are in particular the areas of energy use, transport's impact on the environment and in other specific areas of environmental policy such as sustainable management of water, waste management, protection of biodiversity and reduction of air pollution. It especially focuses on possible ways to make the Energy Taxation Directive⁵⁴ more directly supportive of the Community's energy and environmental objectives.

The Commission has conducted an impact assessment on its climate policy, according to which the foreseen action against climate change is fully compatible with sustaining economic growth. Investment in a low carbon economy would require around 0.5% of total global GDP over the period 2013–2030, which would reduce GDP growth by just 0.19% per year up to 2030, a fraction of the expected annual GDP growth of 2.8%. The cost of inaction, meanwhile, could reach 20% of GDP, according to the Commission's analysis.⁵⁵

⁵² The current EU strategy for reducing CO₂ emissions from cars is based on voluntary commitments by the car industry, consumer information (car labelling) and fiscal measures to encourage purchases of more fuel-efficient cars. Under the voluntary commitments, European manufacturers have said they will reduce average emissions from their new cars to 140g CO₂/km by 2008, while the Japanese and Korean industries will do so by 2009. However, the strategy has brought only limited progress towards achieving the target of 120g CO₂/km by 2012; from 1995 to 2004 average emissions from new cars sold in the EU-15 fell from 186g CO₂/km to 163g CO₂/km.

⁵³ Green Paper on the use of market-based instruments for environment and related policy purposes, COM (2007), 140 final, for the text see http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0140en01.pdf.

⁵⁴ The "Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity" sets up a system of minimum rates for the taxation of energy products and electricity.

⁵⁵ Commission Staff Working Document, Accompanying document to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Limiting Global Climate Change to 2 degrees Celsius - The way ahead for 2020 and beyond/Impact Assessment, SEC(2007) 8; for the text see http://ec.europa.eu/environment/climat/pdf/future_action/ia_sec_7_en.pdf.

4.4. PARLIAMENTARY DIMENSION

In April 2007 the European Parliament⁵⁶ resolved to set up a temporary committee on climate change. Its mandate is to submit proposals on the EU's future integrated climate change policy and to coordinate the European Parliament's position in relation to the negotiations for a post-2012 international climate policy framework. To this end it is mandated to analyse and assess latest evidence on climate change and provide analysis on new and potential developments in the field of fighting climate change as well as on the implementation of Community law in the field of climate protection. The term of office of the temporary committee will be twelve months from May 2007, at the end of which it will submit a report to the Parliament, including, if necessary, recommendations for further actions or initiatives to be taken.

Climate change and climate protection issues have also been broadly discussed at interparliamentary level. At the Third Joint Parliamentary Meeting on the Lisbon Strategy, hosted by the European Parliament and the German Presidency in Brussels in February 2007, climate protection was one of the main topics raised in the context of a discussion on a common EU energy policy. Several delegates expressed their commitment to a functioning internal market in energy as well as to increasing efforts to fighting climate change at European and international level. In this context, many delegates expressed their support for the Commission's proposals on emission reduction, renewable energy and energy efficiency contained in its comprehensive energy and climate change package.

A Joint Parliamentary Meeting on climate change will take place under the Portuguese Presidency in the second half of 2007. It will be hosted by the European Parliament and the Portuguese *Assembleia da Republica*.

The Swedish *Riksdagen* plans a meeting of parliamentary officials responsible for climate change and energy issues. This meeting, which representatives from Commission and Council are to attend, will take place in Stockholm on 1 June 2007.

⁵⁶ In this context also see the European Parliament resolution on climate change of 18 January 2007 which can be found at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0038+0+DOC+XML+V0//EN>.