

**MINUTES OF THE
XXXIV COSAC
LONDON,
10-11 OCTOBER 2005**

AGENDA:

1. Opening of proceedings and adoption of Agenda
2. Debate on scrutiny in national parliaments of the EU's Common Foreign and Security Policy
3. Debate on scrutiny of impact assessments, with the participation of Mr Moavero Milanesi, Deputy Secretary General, European Commission
4. Address by the Rt Hon John Prescott MP, UK Deputy Prime Minister (followed by questions)
5. In the light of developments on ratification of the Constitutional Treaty, Debate on parliamentary aspects of the Treaty including the Council meeting in public and enhanced scrutiny of subsidiarity
6. Debate (under Article 7 of the Rules of Procedure) on possible future topics for discussion by COSAC
7. Decision on the secretariat
8. Decision on the definition of Special Guest
9. Adoption of contribution and conclusions

PROCEEDINGS OF THE SITTING

10 October 2005:

JOINTLY IN THE CHAIR: JIMMY HOOD MP, Chairman of the European Scrutiny Committee, House of Commons; and LORD GRENFELL, Chairman of the European Union Committee, House of Lords.

1. Opening of proceedings and adoption of Agenda:

The Chairman, Mr Jimmy Hood, welcomed all participants and opened the proceedings of the XXXIV COSAC. The agenda as shown above was adopted.¹

2. Debate on Common Foreign and Security Policy scrutiny in national parliaments.

The Chairman, Lord Grenfell, gave a short introduction and opened the floor for interventions.

An exchange of views and information took place between delegates.

¹ An audio recording of the XXXIV COSAC will be available on the COSAC website.

At the end of discussions Lord Grenfell concluded that delegates felt that it was important to reconcile the need for speed in the decision-making process of the Council in the area of CFSP with the need for parliamentary scrutiny. But, by exchanging information and best practices, national parliaments would be in a better position to improve the timing and quality of their scrutiny in this field. The Chairman noted there was agreement that relations between national parliaments and the European Parliament in the area of CFSP should be co-operative and not competitive.

3. Debate on scrutiny of impact assessments, with the participation of Mr Moavero Milanesi, Deputy Secretary General, European Commission

The Chairman, Lord Grenfell, opened the floor for interventions. An exchange of views and information took place between delegates. The Chairman, Lord Grenfell, suspended debate on the agenda item due to the arrival of the UK Deputy Prime Minister.

4. Address by the Rt Hon John Prescott MP, UK Deputy Prime Minister (followed by questions)

The UK Deputy Prime Minister, the Rt Hon John Prescott MP, gave a short account of his thoughts on parliamentary scrutiny of European affairs, in which he said that national parliaments had a crucial role to play.²

An exchange of views took place, during which the Deputy Prime Minister informed delegates that the UK Presidency and the Government of the Netherlands planned to organise a conference on subsidiarity in The Hague on 17 November 2005. Mr Prescott also said that the UK Presidency would put proposals forward for the financial perspectives at the December summit of the European Council.

3. Debate on scrutiny of impact assessments, with the participation of Mr Moavero Milanesi, Deputy Secretary General, European Commission, continued

After lunch the Deputy Secretary General of the European Commission, Mr Milanesi, gave a presentation of the latest developments inside the Commission on conducting impact assessments. Mr Milanesi underlined that the Commission had improved procedures in the course of 2004 and had decided that all initiatives from the Commission's Annual Work Programme would be submitted for an in-depth impact assessment. He found it informative to have a dialogue with national parliaments in this field, because of their role in transposing EU directives into national law.³

A further exchange of views took place among delegations.

COSAC called on the Commission to publish its impact assessments and roadmaps in all the official Community languages. The Commission should furthermore produce one-page summaries of the impact assessments in all EU official languages and send them directly to national parliaments without delay. COSAC stressed the need for impact assessments to be objective and to focus on the three elements of the Lisbon Strategy, namely, the economic, social and environmental aspects. Finally, COSAC requested the Commission to produce impact assessments for those legislative proposals it has proposed to withdraw and to create a public database to

² A copy of Mr Prescott's speech is available on the COSAC website.

³ A copy of Mr Milanesi's speech will be available on the COSAC website.

include all the proposals in the annual legislative and work programme, with links to their impact assessments and roadmaps.

5. In the light of developments on ratification of the Constitutional Treaty, Debate on parliamentary aspects of the Treaty including the Council meeting in public and enhanced scrutiny of subsidiarity

The Chairman, Mr Jimmy Hood, opened the floor for interventions.

An exchange of views and information took place on the different parliamentary aspects of the Constitutional Treaty.

COSAC agreed to encourage national parliaments to conduct a “subsidiarity check” on a forthcoming EU legislative proposal or proposals on the basis of the provisions of the Amsterdam Treaty. It was agreed to start the check following the initiative "raising European awareness" wherein it was planned that national parliaments would debate the Commission’s annual work programme.

COSAC also agreed that a series of meetings should seek to stimulate, steer and synthesise the different debates taking place during the pause for reflection to facilitate further decisions on the future of the Constitutional Treaty. Both the incoming Austrian COSAC Presidency and the European Parliament announced that they would organise such meetings.

11 October 2005:

6. Debate (under Article 7 of the Rules of Procedure) on possible future topics for discussion by COSAC.

The Chairman, Lord Grenfell, opened the floor for a debate on possible future topics for discussion by COSAC as provided for by Article 7 of COSAC Rules of Procedure. In doing so, he stressed that the paper from the COSAC secretariat only contained suggestions from national parliaments. It would be up to future COSAC presidencies to draw up a draft agenda for the COSAC meeting to be held under their presidency. However, the debate would hopefully be helpful for Austria and Finland when preparing the draft agendas for their meetings.

The heads of delegations of Austria and Finland announced that they had together planned a timetable for meetings for the whole of 2006. They added that items such as the Hague/Tampere programme, the Constitutional Treaty, Lisbon Process, demographical developments, EU’s neighbourhood policy, and the European social model would be covered, but that they would listen very carefully to the proposals from delegates.

An exchange of views took place.

Delegations proposed a number of themes for forthcoming COSAC meetings. These included: the EU’s new neighbourhood policy, the free movement of workers and services, the principle of subsidiarity, transparency, the EU Agency for Fundamental Rights, the area of freedom, security and justice, and the state of discussions in Member States on the future of Europe in the period of reflection.

Finally, the head of the Austrian delegation, Mr Werner Fasslabend, representing the in-coming COSAC presidency, announced the dates of all parliamentary meetings to be organised by the Austrian and Finnish Presidencies in the course of 2006.

Meeting dates for COSAC:

- 20 February 2006: Meeting of COSAC Chairpersons in Vienna
- 22-23 May 2006: XXXV meeting of COSAC in Vienna
- 11 September 2006: Meeting of COSAC Chairpersons in Helsinki.
- 20-21 November XXXVI meeting of COSAC in Helsinki.

7. Decision on the secretariat

The Chairman, Mr Jimmy Hood, asked delegates to take the floor for comments on the proposal from the UK Presidency that the COSAC secretariat should continue to operate. A short exchange of views took place.

COSAC decided that the secretariat should continue to operate after the expiration of the trial period on 14 January 2006. Ms Sarita Kaukaja was appointed by the Chairpersons to the post of permanent member of the secretariat for a period of two years from 15 January 2006 to replace the current permanent member, Mr Morten Knudsen. It was agreed that modification of COSAC's Rules of Procedure regarding the secretariat should be discussed within the period of two years from 15 January 2006. And it was decided that the question of the financing of the post needed to be further examined.

8. Decision on the definition of Special Guest

The Chairman, Lord Grenfell, reminded delegates that the XXXIII COSAC agreed in Luxembourg that the XXXIV COSAC in London should address the question of how the notion of "special guests" in Article 4.3 of COSAC's Rules of Procedure should be interpreted.

COSAC agreed the recommendation from the Chairpersons that Article 4.3 should not be amended, because it already gave Presidencies the necessary flexibility regarding special guests. COSAC urged Presidential Troikas to give particular attention in the future to possible invitations to special guests when subjects of definite clear interest to them were on COSAC's agenda.

COSAC noted that at the Chairpersons meeting a number of discrepancies had emerged between the different language versions of Article 4.2 of COSAC's Rules of Procedure; and that the current wording was unclear and didn't reflect the current practice of COSAC. COSAC agreed to the proposal from the UK Presidency that the wording of the Rules of Procedure should be corrected so that Article 4.2 was standardised across the different language versions to read as follows:

"Observers from the parliaments of candidate and acceding countries.

Three observers from the parliaments of each candidate and acceding country shall be invited to ordinary and extraordinary meetings."

COSAC instructed the secretariat to ensure that the Official Journal was corrected accordingly.

9. Contribution and Conclusions of the XXXIV COSAC

The UK presidency put forward a draft contribution and draft conclusions of the meeting, which had been revised following the discussions at the meeting of the COSAC Chairpersons the previous day. An exchange of views took place, and amendments to the draft were agreed to.

The contribution and the conclusions were adopted as attached to these minutes.

10. Any other business

The Chairman, Mr Jimmy Hood, thanked delegations for contributing to a constructive COSAC and closed the meeting.

ANNEX

Contribution and conclusions agreed by the XXXIV COSAC
(London, 10 and 11 October 2005)

COSAC CONTRIBUTION ADDRESSED TO THE EU INSTITUTIONS

Scrutiny of CFSP

1. COSAC welcomes the Council's decision to publish information regarding which Member States participate in which CFSP/ESDP missions and calls on the Council to continue this good practice, which improves openness and helps parliamentary scrutiny.

Better regulation: Impact assessments

2.1 COSAC welcomes the better regulation initiative and calls on the Commission to produce an integrated impact assessment for all major initiatives in its work programme, as proposed in the Communication, "Better Regulation for Growth and Jobs in the European Union" (COM(2005) 97 final).

2.2 COSAC calls on the Commission to produce one-page summaries of all its impact assessments to assist in understanding of the material quickly and efficiently; to translate these summaries into all the official Community languages; and to send them directly to the national parliaments without delay.

2.3 COSAC calls on the Commission to send all impact assessments and roadmaps directly to national parliaments and to publish its impact assessments and roadmaps in all the official Community languages. Commission documents should be made available to the public as soon as possible following their adoption by the College.

2.4 COSAC calls on the EU institutions and Member States to develop a common approach to assessing administrative costs.

2.5 COSAC encourages the European Parliament and the Council of Ministers to produce impact assessments for their proposals for substantial amendments to legislative proposals. COSAC suggests that the Commission, the European Parliament and the Council agree under what circumstances a proposed amendment requires an impact assessment. COSAC requests that under the co-decision procedure the Commission update its impact assessments following first reading in the European Parliament, a common position from the Council and second reading in the European Parliament and before the meeting of a conciliation committee.

2.6 COSAC stresses the need for impact assessments to be objective.

2.7 COSAC calls on the Commission to focus its impact assessments on the three elements of the Lisbon Strategy, that is, the economic, social and environmental impacts.

2.8 COSAC requests the Commission to produce impact assessments for those legislative proposals that it proposes to withdraw.

2.9 COSAC calls on the Commission to create a public database to include all the proposals in the annual legislative and work programme, with links to their impact assessments and roadmaps.

Openness in the Council

3. COSAC calls on the Council of Ministers immediately to change its Rules of Procedure so as to provide for its meetings to be in public whenever it considers and votes on draft legislation, in order to reduce the gap between citizens and the Union, to make possible more effective scrutiny of Ministers' decisions by national parliaments and to remedy the intolerable situation whereby legislation is discussed and agreed to in secret.

Subsidiarity and proportionality

4. Those national parliaments which wish to participate shall conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals, developing their existing scrutiny role as recognised in the Protocol on the Role of National Parliaments attached to the Treaty of Amsterdam, allowing them to test their systems for reaching decisions on subsidiarity and proportionality, enabling an assessment of the justifications presented by the Commission and stressing to the Commission national parliaments' role in relation to subsidiarity.

Debate on the future of Europe

5. COSAC agrees that overcoming the current EU crisis requires a wide debate involving the citizens of the Union, not only its institutions and elites. Such a debate should take place at all levels - local, regional, national and European. Special responsibility for this endeavour lies with national parliaments and the European Parliament. A series of meetings should seek to stimulate, steer and synthesize the different debates, raise European awareness and lead to a clear definition of the role and objectives of the EU, understood and accepted by European citizens. This would in turn facilitate further decisions on the future of the Constitutional Treaty.

CONCLUSIONS OF XXXIV COSAC

CFSP Scrutiny

1.1 COSAC notes that scrutiny of the Common Foreign and Security Policy and European Security and Defence Policy (CFSP/ESDP) can require fast-track processes due to fast decision-making in the Council. Such procedures in the Member States have included informal contact between officials of the scrutiny committee and the relevant government department; governments alerting scrutiny committees to a proposal before a formal text is agreed; scrutiny committees calling extra meetings; and use of written procedures to allow the consideration of documents during parliamentary recesses.

1.2 COSAC further notes that, for parliaments that operate document-based scrutiny systems, formal agreements between governments and parliaments concerning the type of CFSP and ESDP non-legislative documents to be deposited for scrutiny would help to make CFSP decision-making in the Council more transparent, particularly in respect of political decisions made in advance of formal legislative acts.

1.3 Noting that up-stream scrutiny of CFSP is difficult, COSAC points out that the governments of Member States can assist national parliaments by alerting scrutiny committees to policy reviews being undertaken by Council working groups.

Subsidiarity and proportionality

2. The XXXIV COSAC, recalling the existing scrutiny role of national parliaments, the provisions on subsidiarity in the Amsterdam Treaty and the fact that the Protocol on the Role of National Parliaments gives COSAC a role specifically in relation to subsidiarity, decided to encourage national parliaments to conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals. The check should be carried out with due respect for national parliaments' internal work programmes, legal frameworks and traditions. COSAC agreed that, for those national parliaments which wish to participate, the check should operate as follows:

- i. Within two weeks after the examination by national parliaments of the European Commission's annual work programme, as envisaged in the initiative "Raising European Awareness", participating national parliaments should inform the COSAC Presidency of the proposals they wish to be subject to the subsidiarity and proportionality check; they may also make additional proposals at any time; the Presidential Troika should designate the most frequently mentioned proposals to be subject to the check; the list will be distributed to the national parliaments and the European Parliament;
- ii. the IPEX database should, if possible, be used in connection with the subsidiarity and proportionality check;
- iii. participating national parliaments should seek to complete their scrutiny within a six-week period;
- iv. the six-week period should begin when the proposal has been published in all languages;
- v. participating national parliaments or chambers should send any comments on subsidiarity or proportionality directly to the Commission, the European Parliament and the Council within the six-week period, copying those comments to the COSAC Presidency; and
- vi. it would be helpful if national parliaments could indicate clearly whether their comments relate to subsidiarity or proportionality.

Future suggestions for debate (under Article 7 of the Rules of Procedure)

3.1 Noting that Article 7 of the Rules of Procedure provides for discussion at COSAC of subjects which delegations have indicated they might wish to see discussed at COSAC during the following year, COSAC held a debate on the basis of a paper prepared by the Secretariat which is available on the COSAC website at: <http://www.cosac.org/en/meetings/next/ordinary/meetingdocuments/>

3.2 The topics proposed for consideration by the Presidential Troika will be listed in the minutes of the XXXIV COSAC.

New Financial Perspectives

4. COSAC appeals to the governments of the 25 Member States to make an attempt to work out a compromise by the end of 2005 on the EU Financial Perspectives for 2007-13 and to the UK Presidency to make the necessary arrangements to facilitate this aim.

COSAC Secretariat

5.1 Further to the review of the functioning of the Secretariat conducted by the UK Presidency in accordance with the decision of the XXX COSAC (the Rome Mandate), and the recommendation of the COSAC Chairpersons, and noting that the evidence gathered by the Presidency demonstrates that the work of the Secretariat has contributed to the effectiveness of COSAC, especially through the compiling of reports which have informed COSAC debates, COSAC has agreed that the Secretariat, with a permanent member, should continue to operate.

5.2 COSAC records its appreciation of the work of Morten Knudsen. COSAC thanks the Folketing of Denmark for facilitating and funding the secondment of Morten Knudsen to the post.

5.3 COSAC welcomes the decision of the chairpersons to appoint Ms Sarita Kaukaoja, the Eduskunta's permanent representative in Brussels since June 2000, to the post of permanent member of the COSAC secretariat for a period of two years from 15 January 2006.

5.4 COSAC thanks the Eduskunta of Finland for facilitating and funding the secondment of Ms Sarita Kaukaoja to the post.

5.5 COSAC notes the case made for the co-financing of the permanent post and has decided that the question of the financing of the post needs to be further examined. Modification of COSAC's Rules of Procedure regarding the secretariat should also be discussed within the period of two years from 15 January 2006.

Special Guests

6.1 COSAC recalls the debate in Luxembourg at the XXXIII COSAC on the Polish proposal that Ukraine should be invited to attend COSAC meetings as a special guest. COSAC also recalls the provision in Article 4.3 of the Rules of Procedure that "The Presidency ... may invite ... after consulting the Presidential Troika, specialists and special guests." It notes the chairpersons' agreement that, under that Rule, COSAC presidencies could, after consulting the Presidential Troika, issue invitations on a case-by-case basis to the national parliament of States which are not members of the European Union or to outside institutions to participate in COSAC meetings as special guests if there is an item on the agenda of definite clear interest to them. COSAC endorses this view of the chairpersons.

6.2 COSAC accordingly agrees the recommendation from the chairpersons that Article 4.3 should not be amended, because it already gives Presidencies the necessary flexibility regarding special guests, and urges Presidential Troikas to give particular attention in the future to possible invitations to special guests when subjects of definite clear interest to them are on COSAC's agenda.

6.3 Noting further that at the chairpersons meeting a number of discrepancies emerged between the different language versions of Article 4.2 of COSAC's Rules of Procedure; and that the current wording is unclear and does not reflect the current practice of COSAC, COSAC agrees to the proposal from the UK Presidency that the wording of the Rules of Procedure should be corrected so that Article 4.2 is standardised across the different language versions to read as follows:

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COSAC instructs the secretariat to ensure that the Official Journal is corrected accordingly.