



The Folketing's European Affairs Committee

THE FOLKETING'S
SCRUTINY OF
GOVERNMENT
EU POLICY



The Folketing's European Affairs Committee plays a central role in Danish EU policy. This is because it scrutinizes the Danish Government's policy in EU matters. It meets almost every Friday all year round to discuss a wide variety of matters on which agreement must be reached among the 27 EU Member States. These can range from rules on the transport of pigs on German autobahns and the EU's position on military dictatorship in Burma to cod quotas in the Baltic Sea and the correct definition of vodka.

The European Affairs Committee's most important task is to scrutinize the Danish Government's EU policy. Before departing for meetings in Brussels with their colleagues from the other EU Member States, Danish Ministers must present the items on the Council agenda in the European Affairs Committee. This allows the Government to ensure that there is no majority in the Folketing against the Government's EU policy and the matters to be debated in Brussels.

The Folketing's scrutiny of Government EU policy is particularly important in Denmark because of the long-standing Danish tradition of minority governments.

Some history

Ever since the first discussions on Danish membership of the European Economic Community (the EEC), now the EU, politics have focussed on safeguarding the power of the Folketing to scrutinize Danish EU policy and Government participation in the meetings of the Council of Ministers (or Council, as it is commonly known).

As early as 1961, the Folketing set up its Market Negotiation Committee in order to follow the Government's negotiations on Denmark's accession to the EEC. When Denmark joined the European Economic Community on 1 January 1973, the Committee's name was changed to the Market Committee; it is now known as the European Affairs Committee.

FROM MARKET COMMITTEE TO EUROPEAN AFFAIRS COMMITTEE

The Market Committee changed its name to the European Affairs Committee in 1994 because, from 1973 to the 1990s, European cooperation developed into more than just cooperating on the economy and market organisation.

The competence of the European Affairs Committee

The Danish Constitution contains no description of the competence of the European Affairs Commit-

tee. The Folketing's consideration of European affairs is fundamentally based on the Danish Accession Act from 1972 (Act on Denmark's Accession to the European Communities) and on the reports issued by the European Affairs Committee since 1973. In addition, the Standing Orders of the Folketing establish guidelines on the consideration of EU matters in the European Affairs Committee.

The European Affairs Committee's working procedures and competence are regulated on an ongoing basis by a series of reports embodying political agreements between the Committee and the Government. The decision to establish the Committee's working procedures and competence in reports rather than through legislation was based on a desire to secure maximum flexibility, allowing the Committee's procedures to adapt continuously to changing conditions in the EU.

The crucial provisions about the Committee's powers were established in the Committee's first report from 29 March 1973:

- 1) "The Government shall consult the Folketing's Market Committee on matters of market policy of considerable importance; this consultation shall respect both the influence of the Folketing and the freedom of the Government to negotiate."

THE DANISH ACCESSION ACT AND REPORTS

The Accession Act governing Denmark's accession to the European Communities (Section 6, subsection 2) stipulates that the Government shall "inform the Folketing's European Affairs Committee of proposals for Council decisions which will apply directly in Denmark or whose implementation requires the participation of the Folketing".

This duty to inform has been clarified and extended considerably through the adoption of reports from the European Affairs Committee. The reports are political agreements between the Committee and the Government. The reports contain, inter alia, the key provisions for negotiating mandates, often referred to as proposed mandates or simply mandates.



2) “Prior to negotiations in the Council of the European Communities about decisions of major significance, the Government shall present its proposed negotiating position orally to the Committee. Provided there is no majority in the Committee against this mandate, the Government shall negotiate on this basis.”

Although the Market Committee has changed its name to the European Affairs Committee and the EEC has become the EU, the provisions remain in force.

The two passages from the report mean that the Government presents matters to the European Affairs Committee orally, either for information or with a view to securing a mandate. The Government must inform the Committee about matters

of considerable importance, while it presents its proposed negotiating position in the case of decisions of major significance. The Government decides which EU matters fall within each of the two categories.

The first passage imposes a dual obligation when the Government presents matters in the European Affairs Committee as both the influence of the Folketing on Government policy and the freedom of the Government to negotiate through its Ministers participating in meetings in Brussels must be taken into consideration.

Tasks

The European Affairs Committee is concerned with the EU and the WTO: the Folketing’s Standing Orders state that the European Affairs Committee is responsible for “Matters which are the subject of proceedings in the European Union and the WTO, and the coordination of the proceedings in the Folketing concerning such matters.” WTO, the World Trade Organisation, is the body which draws up rules on international trade cooperation. The Government must submit WTO matters to the European Affairs Committee on the basis of the same criteria as for EU matters.

The European Affairs Committee is one of the 25 Standing Committees of the Folketing. However, there are significant differences between the European Affairs Committee and many of the other Standing Committees, the so-called Sectoral Committees. Consideration of Bills (draft legislation) and draft resolutions accounts for much of the work done by the Sectoral Committees, whereas the European Affairs Committee only rarely considers draft legislation and draft resolutions.

MATTERS OF MAJOR SIGNIFICANCE

The Danish Government presents some 100 matters annually to the European Affairs Committee on which it seeks a mandate. One of the matters considered to be of major significance in 2006 concerned the European Commission’s proposal to change the directive with the long-winded title “Coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities”. Its long title led to the proposal soon coming to be known as “TV without frontiers”. The proposal involved, inter alia, drawing up common rules on television advertising in the EU and common rules on product placement – also known as surreptitious advertising – in certain programmes. The matter was presented by the Minister for Culture on 10 November 2006.

LEGISLATION CONSIDERED IN THE EUROPEAN AFFAIRS COMMITTEE

The Bills whereby Denmark adopted the Treaties of Maastricht, Amsterdam and Nice were considered in the European Affairs Committee. The Committee also considered the Bill on the accession to the EU of 10 new countries in 2004 and the Bill on the accession of Romania and Bulgaria in 2006. Consideration of the Bill on the Lisbon Treaty also fell within the province of the European Affairs Committee.

The most important task of the European Affairs Committee is parliamentary scrutiny of the Danish Government's EU policy. This means that the Committee follows and considers the items on the agenda when ministers from the 27 EU Member States gather at Council meetings in Brussels.

Who are the members of the European Affairs Committee?

Like the other Sectoral Committees of the Folketing, the European Affairs Committee comprises 17 members and a number of deputies. When distributing seats on the Committee, efforts are made to ensure that all parties in the Folketing are represented by a member or a deputy. This is important when the Committee Chair determines whether there is a majority against the Government's position in the European Affairs Committee.

Meetings of the European Affairs Committees

As a rule, the European Affairs Committee meets every Friday throughout the year, with the exception of August, when the EU institutions are closed for the summer holiday. The Committee thus follows the calendar of the European Union institutions and not that of the Folketing. Extraordinary meetings may also be called.

As a consequence of a June 2006 report, meetings of the European Affairs Committee have, in principle, been open to the public since October

2006. From October 2007 it has also been possible to watch the open meetings on the Internet via the Folketing's or the EU Information Centre's websites at www.ft.dk or www.euo.dk. Finally, it is possible to follow the work of the European Affairs Committee by reading the minutes which are taken at its meetings and published about a week later. In addition to the detailed minutes, brief minutes of the decisions are also published. These show which parties have opposed a proposed Government negotiating position, but not what the negotiating position concerned.

Occasionally, an item on the agenda will be considered behind closed doors. This might be the case, for instance, if considering it in public was though likely to jeopardise the Danish negotiating position in relation to the other EU Member States. Both the Government and individual members may ask for the committee to sit in camera.

Presentation of Council meetings

As already mentioned, the presentation of Council meetings is a central part of the Committee's work. These presentations are made as follows. When a Council meeting has been planned, e.g. for the EU environment ministers, the Danish Minister for the Environment will appear before the Committee to present the agenda for discussion at the Environment Council in Brussels the following week. The same applies to all other Danish Ministers before they attend Council meetings in Brussels.

Ministers will present all the matters on the agenda which the Government considers to be of considerable importance or of major significance. If the matters are of considerable importance, they are submitted to the Committee for information. If the agenda contains items involving the adoption of proposals of major significance, the Minister will give an oral presentation of the mandate sought by the Danish Government in the matter, and indicate how far the Government will go to defend its position in the forthcoming negotiations.

After the Minister's presentation, Committee members may question the Minister and state their party's position on one or more of the agenda items. After each round of questions, the Chair gives the floor to the Minister to respond. At

the end, the Committee Chair sums up and draws their conclusion.

The negotiating mandate

Items of major significance require the Minister to secure a negotiating mandate from the European Affairs Committee before a Council meeting.

The Minister will present the proposed negotiating position orally, providing a detailed review of the matter and stating the consequences of a Council decision for Denmark. The Minister reviews the most important unresolved issues and clarifies the Government's position. In some cases, the Minister will inform the Committee of the negotiating situation in the Council, which could have a bearing on whether some EU Member States might muster

DRAFT RESOLUTIONS CONSIDERED IN THE EUROPEAN AFFAIRS COMMITTEE

Nine draft resolutions were referred to the European Affairs Committee for consideration during the 2006-07 session. One of them concerned the preparation of a strategy for phasing out the EU's agricultural subsidies. It was tabled by Lone Dybkjær, EU spokeswoman for the Social-Liberal Party. Another was tabled by Morten Messerschmidt, EU spokesman for the Danish People's Party, proposing the rejection of plans for a European Union Agency for Fundamental Rights.

THE EUROPEAN AFFAIRS COMMITTEE AND THE FOLKETING'S OTHER SECTORAL COMMITTEES

The Folketing's Sectoral Committees have the option of early consideration of EU matters within their respective spheres of competence. The Committees have technical expertise in their individual areas and receive all relevant EU memoranda from the Government concerning these areas. The Sectoral Committees themselves decide how to consider relevant EU matters. This can be done, for instance, by summoning a Minister to a consultation ahead of a Council meeting, by putting questions in Committee to the Government, or by contacting the Danish Members of the European Parliament. The Sectoral Committees can also issue statements on individual Bills to support the European Affairs Committee in its subsequent consideration of the Government's position on a particular matter. The Sectoral Committees and the European Affairs Committee can also issue joint consultation responses to Green and White Papers from the Commission.

EARLY PRESENTATION

In a meeting of the European Affairs Committee on 2 May 2007, the Minister for Justice presented a request for a mandate on the proposed regulation prohibiting the marketing, import and export of dog and cat furs in the EU. This was an instance of early presentation as the matter was not on the agenda of the following week's Council meeting which the Minister for Justice would be attending. However, the memorandum from the Government to the Committee did contain the information that the proposal on dogs' and cats' furs was expected to be adopted through a first-reading agreement between the Council and the European Parliament in the near future. This made it important to have a mandate from the European Affairs Committee at an early stage.

a blocking minority. The Minister may also give a brief account of any criticism of the proposal, e.g. from interest groups, before finishing the oral presentation by summing up the proposed mandate.

When the debate between the Minister and the Committee has finished, the Committee Chair will conclude whether there is a majority for or against the mandate sought by the Government. Although there is no actual vote in the Committee, the Chair will still count how many members oppose the Government's proposed mandate. In doing so, the Committee Chair will take account of the number of seats in the Folketing represented by the respective parties of each Committee member. The proposed mandate will only be rejected if Committee members representing parties with a total of 90 seats or more have stated their opposition to it. Thus, at the end of the debate between the Committee and the Minister, one may often hear the Committee Chair say that the mandate has been granted, enabling the Minister to go Brussels to negotiate.

It is comparatively rare for the Committee to reject the Government's proposed mandate. However, this does not mean that the Committee has no influence on the Government's EU policy. On the one hand, the Government may amend or adapt its original proposal during Committee discussions, while on the other the Danish civil servants taking

part in Council negotiations at an early stage (often before a proposal has been formally tabled by the European Commission) will take account of the fact that the Government must have the outcome approved by the European Affairs Committee at some stage.

Early presentation of proposed mandates

Formerly, the Government would present its proposed negotiating position to the European Affairs Committee when the matter was on the Council agenda in order to achieve political consensus. However, developments in EU cooperation mean that an increasing number of matters are now being settled by civil servants in working groups and concluded without actual political negotiations in the Council. Many of these matters are settled early on in the process through an agreement at first reading between the European Parliament, the Council, and the European Commission. This has brought about a need to include the European Affairs Committee in the decision-making process at an earlier stage. Consequently, the Government will ask the Committee for a mandate well in advance of the matter going on a Council meeting agenda.

In order to take account of these developments, a June 2006 report made it clear that ministers must seek a mandate in the European Affairs Committee on proposals of major significance "...

before the Danish position is established (e.g. in connection with a first-reading agreement between the Council and the European Parliament)". Furthermore, it may be necessary to seek a new mandate in the European Affairs Committee if the proposal changes fundamentally during the negotiations.

What happens after a Minister has been to a Council meeting?

When Ministers return from a Council meeting in Brussels, they must submit a written report on the meeting to the European Affairs Committee not later than five working days after the meeting, indicating what happened at the meeting in

relation to matters of political interest, and the results of any votes.

The European Affairs Committee and meetings of the European Council

The leaders of the 27 EU Member States meet in the European Council twice during each six-month EU Presidency. These meetings are often referred to as European Summits. Before the summits, the Prime Minister and the Minister for Foreign Affairs will inform the European Affairs Committee about the subjects for discussion at the summit, setting out the Government position. As a rule, the Heads of State and Government simply lay down general guidelines in the European Council which are later

THE EUROPEAN COUNCIL AND THE COUNCIL OF MINISTERS

It is easy to confuse the Council and the European Council, but there is a major difference between the two.

The Council, or the Council of Ministers, as it is also known, is a central legislative and decision-making body in the EU. The Council comprises a ministerial level representative from each Member State with the authority to commit the Government. The composition of government representatives on the Council depends on which items are on the agenda. If the item concerns, e.g. the environment or agriculture, the Minister for the Environment or the Minister for Agriculture, respectively, will attend the meeting.

The European Council comprises Heads of State and Government from the EU Member States and the President of the Commission. The Ministers for Foreign Affairs from the Member States and another member of the Commission will assist the European Council. The European Council is responsible for laying down the general political guidelines for the European Union, and makes the final decisions on, e.g. treaty amendments.

THE FOLKETING'S EU SECRETARIAT

A number of staff members in the Folketing's EU Secretariat service the European Affairs Committee. The Secretariat is responsible for arranging Committee meetings and activities in general and will, for example, advise Committee members on the rules and procedures for the business of the European Affairs Committee. The Secretariat can be contacted on weekdays on telephone number +45 3337 3610 and by e-mail at europaudvalget@ft.dk.

followed up by individual Councils of Ministers in the form of proposed legislation.

In general, summits make no formal decisions. It is therefore rare for the Government to seek mandates in the European Affairs Committee in connection with these meetings. If the Government feels that it needs a mandate, e.g. in connection with discussions on treaty amendments, recent practice has been for the Minister for Foreign Affairs to present the proposed mandate at a Committee meeting before informing about the summit. In this case, a proposed negotiating position will typically be presented ahead of a Council meeting (General Affairs and External Relations), at which the forthcoming summit will be prepared. The Prime Minister may also decide to present a proposed negotiating position when informing the European Affairs Committee about the European summit.

The week following a summit in the European Council, the Government will give the European Affairs Committee an oral presentation on the meeting and the outcome, the so-called debriefing.

The role of the European Affairs Committee in connection with Intergovernmental Conferences and treaty amendments

In connection with negotiations preparing an amendment of the treaty, also known as Inter-

governmental Conferences (IGCs), the Government will conduct a continuous dialogue with the European Affairs Committee on how the conference is progressing. The Minister for Foreign Affairs will provide information in ordinary meetings of the European Affairs Committee, and also invite the European Affairs Committee to informal meetings at the Ministry of Foreign Affairs along with the civil servants in charge of negotiations. The European Affairs Committee will also receive a continuous flow of written information. All papers presented at Intergovernmental Conferences must be submitted to the Committee and the specific written Danish proposals presented to the European Affairs Committee before being submitted to the IGC. In the case of Danish initiatives of major significance, these are presented with a view to securing a mandate.

As a rule, the Government will only present its proposed negotiating position in the final stage when the overall picture of the negotiations emerges. Items on the IGC agenda are also discussed at meetings of the European Council; the Prime Minister briefs the Committee on progress at the Conference.

Intergovernmental Conferences may also be discussed during Folketing debates following parliamentary questions, during which the Government's mandate can be established on the basis of a draft decision, as it is termed. The Prime



Minister often summons the leaders of parties which support Danish EU policy to confidential meetings at the Prime Minister's Office ahead of important Danish initiatives.

The European Affairs Committee's decision-making basis

The European Affairs Committee receives more than 1,000 memoranda and other documents each year. Much of the Folketing's written information on EU matters is submitted by the Government in the form of annotated memoranda.

The Government's memoranda to the European Affairs Committee are drawn up by the relevant ministry, from where they are submitted to the Sectoral Committee. The memoranda are also

submitted to the European Affairs Committee via the Ministry of Foreign Affairs, which is responsible for coordinating Denmark's relations with the EU. The bulk of the papers for the European Affairs Committee are therefore submitted by the Ministry of Foreign Affairs, although the Committee also receives written inquiries from interest groups etc. The work of the Committee also includes committee matters, Council meeting reports, etc.

In addition to the information which the European Affairs Committee receives from the Ministry of Foreign Affairs, the Folketing's EU Secretariat will prepare the so-called EU memoranda. These contain background material and analyses of Commission proposals, information on debates on proposals in the European Parliament, and analyses

WHAT ABOUT COMITOLOGY?

Comitology is the term used for the procedures that apply between the Commission, regulatory and/or management committees, and the Council when the Commission exercises its implementing powers through the so-called implementing decisions.

Matters regarding Commission implementing decisions must be presented to the European Affairs Committee when the Government feels they are important. Consideration in the Committee follows the same guidelines as for matters adopted in Council. Due to the tight deadlines, information concerning matters not related to a decision of major significance is generally submitted to the Committee in writing only. However, in the case of comitology matters which do entail decisions on matters of major significance, the Government must present its proposed mandate orally at a European Affairs Committee meeting.

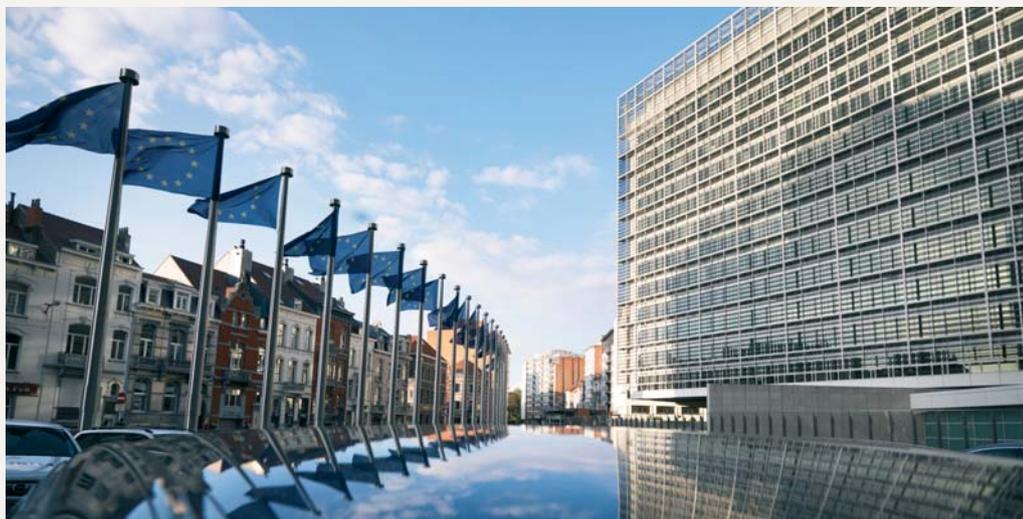
of European Court of Justice judgments and other important matters in relation to the EU or the WTO.

Memoranda for Committee meetings

Eight days before the weekly meeting of the European Affairs Committee, the Government will submit to the Committee an annotated memorandum describing each of the items the Minister(s) intend(s) to present at the meeting of the European Affairs Committee. The memoranda are designed to provide sufficient information for Committee members to read only the memoranda, and not the actual European Commission proposal, when preparing for a meeting. The memoranda are called summary memoranda

because they summarise the current memoranda on each item on the agenda of the Council meetings.

As these summary memoranda are often very long, an official in the Folketing's EU Secretariat will prepare a so-called annotated agenda for the Committee members in advance of each Committee meeting. The annotated agendas provide an account of most of the items on the agenda in the briefest and most comprehensible manner possible. The memoranda are solely for the internal use in the Folketing and are therefore not made public, nor are they accessible on the EU Information Centre website.



COOPERATION WITH THE DANISH MEMBERS OF THE EUROPEAN PARLIAMENT

The Danish members of the European Parliament receive all of the public Government memoranda and EU memoranda submitted to the European Affairs Committee, as well as the agendas from the European Affairs Committee. On a personal level, cooperation with the Danish MEPs takes place both within the individual parties and in regular meetings between the members of the European Affairs Committee and the Danish MEPs. At these informal meetings, current European affairs of common interest are the subject of discussion. In addition, the MEPs may also attend the open meetings and hearings in the European Affairs Committee.

International cooperation

Every six months, representatives from the European Affairs Committees in the EU Member States and applicant countries gather for a COSAC meeting. COSAC is the cooperation body for European Affairs Committees. Hosted by the country holding the EU Presidency, the biannual COSAC meetings include a delegation from the European Parliament. The meeting debates current European political issues, and participants exchange their experience of the work in their respective national European Affairs Committees.

The European Parliament and the country holding the Presidency also regularly invite representatives from national parliaments to meetings and conferences in Brussels and in the capital of the country holding the Presidency. As far as possible, a delegation of Members of the Folketing from the relevant Sectoral Committees and/or from the European Affairs Committee will also participate in these conferences, as they present Danish politicians with an opportunity to make contact with parliamentarians from other EU Member States dealing with similar matters.

In addition, the Danish members of the Committee of the Regions, the European Economic and Social Committee (EESC) and the European Parliament meet a couple of times a year with members of the European Affairs Committee at informal meetings where current European affairs are discussed.

The European Affairs Committee often receives visiting politicians and civil servants from other EU Member States and applicant countries. These may include speakers of parliament, members of European Affairs Committees, ministers or commissioners.

The members of the European Affairs Committee usually visit the capital of the country holding the EU Presidency, where they will have discussions with equivalent committees, ministers, and civil servants representing the Presidency. In recent years, the members of the Committee have also been on study tours. In 2006, for instance, the members visited Mexico and the USA where they studied areas such as WTO cooperation and EU-US relations in general. In 2007, the Committee visited Moscow and Kiev.

In addition, the members of the European Affairs Committee and members of the relevant Sectoral Committees take part in the WTO Ministerial Conferences, which take place every other year. The participating members of the European Affairs Committee and Sectoral Committees form part of the Danish Government delegation. At the Ministerial Conferences, representatives from the European Affairs Committee and Sectoral Committees meet Members of Parliament from the other participating countries.

Glossary

THE EUROPEAN COUNCIL: SEE PAGE 9 **THE EUROPEAN COMMISSION**

The European Commission comprises 27 commissioners, one from each of the EU Member States. They are appointed by the governments of their respective countries for a period of five years. Each commissioner is responsible for a number of sectors. The Commission administration comprises a number of Directorates General and several specialised services.

The Commission's three main tasks entail:

- Proposing own-initiative legislation
- Ensuring the correct application of EU legislation
- Administering, through its executive powers, the various policies and negotiating international trade agreements

THE EUROPEAN PARLIAMENT:

The European Parliament comprises politicians from the EU Member States elected in direct elections in each country. The parliamentary term is five years. Until the 2009 elections, the European Parliament will have 785 members, 14 of whom are Danish. The most important tasks of the European Parliament can be divided into three parts:

- Participation in the legislative process in the EU
- Adoption of the EU budget
- Exercising democratic control by scrutinizing the Executive in the EU

DEBATES BASED ON PARLIAMENTARY QUESTIONS

By putting questions to one or more ministers, Members of the Folketing can have a public issue debated in the Folketing. After the Folketing has approved the question, it is subsequently answered by the minister during a debate. Party groups appoint spokespersons to take part in the debate. Such a debate often ends with a vote on one or more draft decisions.

GREEN PAPERS AND WHITE PAPERS

A Green Paper is a document from the Commission analysing questions and providing possible solutions at a European level. Green Papers serve as a basis for discussion. Their purpose is to start a debate and initiate a hearing procedure within a particular area. The hearings may later form the basis for the publication of a White Paper containing specific proposals for the area in question.

THE COUNCIL: SEE PAGE 9.

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**The Folketing's
EU Information Centre**

Christiansborg
DK-1240 København K

Tlf. +45 3337 3337
Fax +45 3337 3330

www.eu-oplysningen.dk
euopl@ft.dk