

## **Framework Agreement on relations between the European Parliament and the Commission**

The European Parliament and the Commission of the European Communities (hereinafter referred to as "the two Institutions"),

- having regard to the Treaty on European Union, the Treaty establishing the European Community, and the Treaty establishing the European Atomic Energy Community, (hereinafter referred to as "the Treaties"),
  - having regard to the Inter-institutional Agreements and texts governing relations between the two Institutions,
  - having regard to Parliament's Rules of Procedure<sup>1</sup>, and in particular Rules 98, 99 and 120 as well as Annex VII,
- A. whereas the Treaties strengthen the democratic legitimacy of the European Union's decision-making process,
- B. whereas the two Institutions attach the utmost importance to the effective transposition and implementation of Community law,
- C. whereas this Framework Agreement does not affect the powers and prerogatives of Parliament, the Commission or any other institution or organ of the European Union but seeks to ensure that those powers and prerogatives are exercised as effectively as possible,
- D. whereas it is appropriate to update the Framework Agreement concluded in July 2000<sup>2</sup> and to replace it by the following text,

agree as follows:

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<sup>1</sup> OJ L 44, 15.2.2005, p. 1.

<sup>2</sup> OJ C 121, 24.4.2001, p. 122.

## **I. SCOPE**

1. The two Institutions agree on the following measures to strengthen the political responsibility and legitimacy of the Commission, extend constructive dialogue, improve the flow of information between the two Institutions and improve the coordination of procedures and planning.

They also agree on specific implementing measures for the forwarding of confidential Commission documents and information, as set out in Annex 1 and on the timetable for the Commission's legislative and work programme, as set out in Annex 2.

## **II. POLITICAL RESPONSIBILITY**

2. Each Member of the Commission shall take political responsibility for action in the field of which he or she is in charge, without prejudice to the principle of Commission collegiality.

The President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Member of the Commission unable to perform his or her duties.

The President of the Commission shall likewise be responsible for any subsequent action taken in such circumstances; if an individual case has been re-allocated, the President shall inform the President of Parliament thereof immediately and in writing.

3. If Parliament decides to express lack of confidence in a Member of the Commission, the President of the Commission, having given serious consideration to that decision, shall either request that Member to resign, or explain his or her decisions to Parliament.

4. Where it becomes necessary to arrange for the replacement of a Member of the Commission during his or her term of office pursuant to Article 215 of the Treaty establishing the European Community, the President of the Commission shall immediately contact the President of Parliament in order to reach agreement on the manner in which the President of the Commission intends to ensure the presentation of the future Member before Parliament without delay and in full compliance with the prerogatives of the Institutions.

Parliament shall ensure that its procedures are conducted with the utmost dispatch, in order to enable the President of the Commission to be informed of Parliament's position in due time before the Member is called upon to exercise duties as the Commission's representative.

5. The President of the Commission shall immediately notify Parliament of any decision concerning the allocation of responsibilities to a Member of the Commission. Where the responsibilities of a Member of the Commission are changed substantially, that Member shall appear before the relevant parliamentary committee at Parliament's request.

6. Any changes to the provisions of the Code of Conduct for Members of the Commission relating to conflict of interest or ethical behaviour shall be sent immediately to Parliament.

The Commission shall take into account the views expressed by Parliament in that regard.

7. In conformity with Rule 99 of its Rules of Procedure, Parliament shall communicate with the President-designate of the Commission in good time before the opening of the procedures relating to the approval of the new Commission. Parliament shall take into account the remarks expressed by the President-designate.

The procedures shall be designed in such a way as to ensure that the whole Commission-designate is assessed in an open, fair and consistent manner.

The Members of the Commission-designate shall ensure full disclosure of all relevant information, in conformity with the obligation of independence laid down in Article 213 of the Treaty establishing the European Community.

### **III. CONSTRUCTIVE DIALOGUE AND FLOW OF INFORMATION**

#### **(i) General provisions**

8. The Commission shall keep Parliament fully and promptly informed about its proposals and initiatives in the legislative and budgetary fields.

In all fields where Parliament acts in a legislative capacity, or as a branch of the budgetary authority, it shall be informed, on a par with the Council, at every stage of the legislative and budgetary process.

9. In the areas of the Common Foreign and Security Policy, police cooperation and judicial cooperation in criminal matters, the Commission shall take measures to improve the involvement of Parliament in such a way as to take Parliament's views as far as possible into account.

10. The President of the Commission and/or the Vice-President responsible for inter-institutional relations will meet the Conference of Presidents every three months to ensure regular dialogue between the two Institutions at the highest level. The President of the Commission will attend meetings of the Conference of Presidents at least twice a year.

11. Each Member of the Commission shall make sure that there is a regular and direct flow of information between the Member of the Commission and the chairperson of the relevant parliamentary committee.

12. The Commission shall not make public any legislative proposal or any significant initiative or decision before notifying Parliament thereof in writing.

On the basis of the Commission's legislative and work programme and of the multi-annual programme, the two Institutions shall identify in advance, by common agreement, the proposals and initiatives of particular importance, with a view to presenting them at a plenary sitting of Parliament.

Similarly, they shall identify those proposals and initiatives for which information is to be provided before the Conference of Presidents or conveyed, in an appropriate manner, to the relevant parliamentary committee or its chairperson.

These decisions shall be taken in the framework of the regular dialogue between the two Institutions, as provided for in point 10, and shall be updated on a regular basis, taking due account of any political developments.

13. If an internal Commission document - of which Parliament has not been informed pursuant to points 8, 9 and 12 - is circulated outside the Institutions, the President of Parliament may request that the document concerned be forwarded to Parliament without delay, in order to communicate it to any Member of Parliament who may request it.

14. The Commission shall provide regular information in writing on action taken in response to specific requests addressed to it in Parliament's resolutions, including in cases where it has not been able to follow Parliament's views.

As regards the discharge procedure, the specific provisions laid down in point 26 shall apply.

The Commission shall take account of any requests made, pursuant to Article 192 of the Treaty establishing the European Community, by Parliament to the Commission to submit legislative proposals, and shall provide a prompt and sufficiently detailed reply thereto.

At the request of Parliament or the Commission, information on the follow-up to Parliament's significant requests shall also be provided before the relevant parliamentary committee and, if necessary, at a plenary sitting of Parliament.

15. Where a Member State presents a legislative initiative pursuant to Article 34 of the Treaty on European Union, the Commission shall inform Parliament, if so requested, of its position on the initiative before the relevant parliamentary committee.

16. The Commission shall inform Parliament of the list of its expert groups set up in order to assist the Commission in the exercise of its right of initiative. That list shall be updated on a regular basis and made public.

Within this framework, the Commission shall, in an appropriate manner, inform the competent parliamentary committee, at the specific and reasoned request of its chairperson, on the activities and composition of such groups.

17. The two Institutions shall hold, through the appropriate mechanisms, a constructive dialogue on questions concerning important administrative matters, notably on issues having direct implications for Parliament's own administration.

18. Where confidentiality is invoked as regards any of the information forwarded pursuant to this Framework Agreement, the provisions laid down in Annex 1 shall be applied.

## **(ii) External relations, enlargement and international agreements**

19. In connection with international agreements, including trade agreements, the Commission shall provide early and clear information to Parliament both during the phase of preparation of the agreements and during the conduct and conclusion of international negotiations. This information covers the draft negotiating directives, the adopted negotiating directives, the subsequent conduct of negotiations and the conclusion of the negotiations.

The information referred to in the first subparagraph shall be provided to Parliament in sufficient time for it to be able to express its point of view if appropriate, and for the Commission to be able to take Parliament's views as far as possible into account. This information shall be provided through the relevant parliamentary committees and, where appropriate, at a plenary sitting.

Parliament undertakes, for its part, to establish appropriate procedures and safeguards as regards confidentiality, in accordance with the provisions of Annex 1.

20. The Commission shall take the necessary steps to ensure that Parliament is immediately and fully informed of:

- (i) decisions concerning the provisional application or the suspension of agreements; and
- (ii) a Community position in a body set up by an agreement.

21. Where the Commission represents the European Community, it shall, at Parliament's request, facilitate the inclusion of Members of Parliament as observers in Community delegations negotiating multilateral agreements. Members of Parliament may not take part directly in the negotiating sessions.

The Commission undertakes to keep Members of Parliament who participate as observers in Community delegations negotiating multilateral agreements systematically informed.

22. Before making, at donors' conferences, financial pledges which imply new financial undertakings and require the agreement of the budgetary authority, the Commission shall inform the budgetary authority and examine its remarks.

23. The two Institutions agree to cooperate in the area of election observation. The Commission shall cooperate with Parliament in providing the necessary assistance to delegations of Parliament participating in Community election observation missions.

24. The Commission shall keep Parliament fully informed of the progress of accession negotiations and in particular on major aspects and developments, so as to enable it to express its views in good time through the appropriate parliamentary procedures.

25. When Parliament adopts a recommendation on matters referred to in point 24, pursuant to Rule 82 of its Rules of Procedure, and when, for important reasons, the Commission decides that it cannot support such a recommendation, it shall explain the reasons before Parliament, at a plenary sitting or at the next meeting of the relevant parliamentary committee.

### **(iii) Budgetary implementation**

26. In connection with the annual discharge governed by Article 276 of the Treaty establishing the European Community, the Commission shall forward all information necessary for supervising the implementation of the budget for the year in question, which the chairperson of the parliamentary committee responsible for the discharge procedure pursuant to Annex VI of the Parliament's Rules of Procedure requests from it for that purpose.

If new aspects come to light concerning previous years for which discharge has already been given, the Commission shall forward all the necessary information on the matter with a view to arriving at a solution which is acceptable to both sides.

## **IV. COOPERATION AS REGARDS LEGISLATIVE PROCEDURES AND PLANNING**

### **(i) Commission political and legislative programmes and the European Union's multi-annual programming**

27. The Commission shall present proposals for the European Union's multi-annual programming, with a view to achieving consensus on inter-institutional programming between the Institutions concerned.

28. An incoming Commission shall present, as soon as possible, its political and legislative programme.

29. When the Commission prepares its legislative and work programme, the two Institutions shall cooperate in accordance with the timetable set out in Annex 2.

The Commission shall take into account the priorities expressed by Parliament.

The Commission shall provide sufficient detail as to what is envisaged under each point in the legislative and work programme.

30. The Vice-President of the Commission responsible for inter-institutional relations undertakes to report to the Conference of Committee Chairs every three months, outlining the political implementation of the legislative and work programme for the year in question and any updating rendered necessary by topical and important political events.

**(ii) General legislative procedures**

31. The Commission undertakes to carefully examine amendments to its legislative proposals adopted by Parliament, with a view to taking them into account in any amended proposal.

When delivering its opinion on Parliament's amendments under Article 251 of the Treaty establishing the European Community, the Commission undertakes to take the utmost account of amendments adopted at second reading; should it decide, for important reasons and after consideration by the College, not to adopt or support such amendments, it shall explain its decision before Parliament, and in any event in its opinion on Parliament's amendments by virtue of point (c) of the third subparagraph of Article 251(2).

32. The Commission shall give Parliament and the Council prior notification before withdrawing its proposals.

33. For legislative procedures not entailing codecision, the Commission:

- (i) shall ensure that Council bodies are reminded in good time not to reach a political agreement on its proposals before Parliament has adopted its opinion. It shall ask for discussion to be concluded at ministerial level after a reasonable period has been given to the members of the Council to examine Parliament's opinion;
- (ii) shall ensure that the Council adheres to the rules developed by the Court of Justice of the European Communities requiring Parliament to be re-consulted if the Council substantially amends a Commission proposal. The Commission shall inform Parliament of any reminder to the Council of the need for re-consultation;
- (iii) undertakes, if appropriate, to withdraw a legislative proposal that Parliament has rejected. If, for important reasons and after consideration by the College, the Commission decides to maintain its proposal, it shall explain the reasons for that decision in a statement before Parliament.



34. For its part, in order to improve legislative planning, Parliament undertakes:
- (i) to plan the legislative sections of its agendas, bringing them into line with the current legislative programme and with the resolutions it has adopted on that programme;
  - (ii) to meet reasonable deadlines, in so far as is useful for the procedure, when adopting its opinion at first reading under the cooperation and codecision procedures and under the consultation procedure;
  - (iii) as far as possible to appoint rapporteurs on future proposals as soon as the legislative programme is adopted;
  - (iv) to consider requests for reconsultation as a matter of absolute priority provided that all the necessary information has been forwarded to it.

### **(iii) Specific legislative and implementing powers of the Commission**

35. The Commission shall give full and timely information to Parliament concerning acts which it adopts which fall within the scope of its own legislative powers.

The implementation of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>1</sup> shall be governed by the Agreement between the European Parliament and the Commission<sup>2</sup> on the procedures for implementing that decision.

As regards implementing measures relating to the securities, banking and insurance sector, the Commission confirms the undertakings that it gave at the plenary sitting of 5 February 2002 and which were reaffirmed on 31 March 2004. In particular, the Commission commits itself to taking the utmost account of Parliament's position and any resolutions that it might adopt with regard to implementing measures exceeding the implementing powers provided for in the basic instrument; in such cases, it shall endeavour to reach a balanced solution.

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<sup>1</sup> OJ L 184, 17.7.1999, p. 23.

<sup>2</sup> OJ L 256, 10.10.2000, p. 19.

#### **(iv) Monitoring the application of Community law**

36. In addition to specific reports and the annual report on the application of Community law, the Commission shall, at the request of the responsible parliamentary committee, keep Parliament informed orally of the stage reached in the procedure as from the stage when the reasoned opinion is sent and, where procedures have been initiated for failure to communicate the measures implementing a directive, or for failure to comply with a judgment of the Court of Justice, as from the stage of formal notice.

### **V. COMMISSION'S PARTICIPATION IN PARLIAMENTARY PROCEEDINGS**

37. Parliament shall seek to ensure that, as a general rule, items falling under the responsibility of a Member of the Commission are grouped together.

The Commission shall seek to ensure that, as a general rule, Members of the Commission are present at plenary sittings for agenda items falling under their responsibility, whenever Parliament so requests.

38. With a view to ensuring the presence of Members of the Commission, Parliament undertakes to do its best to maintain its final draft agendas.

Where Parliament amends its final draft agenda, or where it moves items within the agenda within a part-session, Parliament shall immediately inform the Commission. The Commission shall use its best endeavours to ensure the presence of the Member of the Commission responsible.

39. The Commission may propose the inclusion of items on the agenda not later than the meeting of the Conference of Presidents that decides on the final draft agenda of a part-session. Parliament shall take the fullest account of such proposals.

40. As a general rule, the Member of the Commission responsible for an item under consideration in a parliamentary committee shall be present at the relevant committee meeting, when invited.

Members of the Commission shall be heard at their request.

Parliamentary committees shall seek to maintain their draft agendas and agendas.

Whenever a parliamentary committee amends its draft agenda or its agenda, the Commission shall be immediately informed thereof.

Where the presence of a Member of the Commission is not explicitly required at a parliamentary committee meeting, the Commission shall ensure that it is represented by a competent official at an appropriate level.

## **VI. FINAL PROVISIONS**

41. The two Institutions undertake to reinforce their cooperation in the field of information and communication.

42. The implementation of this Framework Agreement and its Annexes shall be assessed periodically by the two Institutions, and their revision shall be considered, in the light of practical experience, at the request of one of them.

43. This Framework Agreement shall be reviewed following the entry into force of the Treaty establishing a Constitution for Europe.

Done in Brussels on the twenty-sixth day of May in the year two thousand and five.

**For the European Parliament**

**For the Commission**

J.P. BORRELL FONTELLES

José Manuel DURÃO BARROSO

## **Forwarding of confidential information to the European Parliament**

### **1. Scope**

- 1.1. This Annex shall govern the forwarding to Parliament and the handling of confidential information from the Commission in connection with the exercise of parliamentary prerogatives concerning the legislative and budgetary procedures, the procedure for giving discharge and the exercise in general terms of Parliament's powers of scrutiny. The two Institutions shall act in accordance with their mutual duties of sincere cooperation, in a spirit of complete mutual trust and in the strictest conformity with the relevant Treaty provisions, in particular Articles 6 and 46 of the Treaty on European Union and Article 276 of the Treaty establishing the European Community.
- 1.2. 'Information' shall mean any written or oral information, whatever the medium and whoever the author may be.
- 1.3. The Commission shall ensure that Parliament is given access to information, in accordance with the provisions of this Annex, whenever it receives from one of the parliamentary bodies set out in point 1.4. a request relating to the forwarding of confidential information.
- 1.4. In the context of this Annex, the following may request confidential information from the Commission: the President of Parliament, the chairperson of the parliamentary committees concerned, the Bureau and the Conference of Presidents.
- 1.5. Information on infringement procedures and procedures relating to competition, in so far as they are not covered by a final Commission decision on the date when the request from one of the parliamentary bodies is received, shall be excluded from this Annex.

- 1.6. These provisions shall apply without prejudice to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry<sup>1</sup> and the relevant provisions of Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF)<sup>2</sup>.

## 2. General rules

- 2.1. At the request of one of the bodies referred to in point 1.4., the Commission shall forward to that body with all due despatch any confidential information required for the exercise of Parliament's powers of scrutiny. In accordance with their respective powers and responsibilities, the two Institutions shall respect:

- fundamental human rights, including the right to a fair trial and the right to protection of privacy;
- provisions governing judicial and disciplinary procedures;
- protection of business secrecy and commercial relations;
- protection of the interests of the Union, in particular those relating to public safety, international relations, monetary stability and financial interests.

In the event of a disagreement, the matter shall be referred to the Presidents of the two Institutions so that they may resolve the dispute. Confidential information from a State, an institution or an international organisation shall be forwarded only with its consent.

- 2.2. In the event of any doubt as to the confidential nature of an item of information, or where it is necessary to lay down the appropriate arrangements for it to be forwarded in accordance with one of the options set out in point 3.2., the chairperson of the parliamentary committee concerned, accompanied, where necessary, by the rapporteur, shall consult the Member of Commission with responsibility for that area without delay. In the event of a disagreement, the matter shall be referred to the Presidents of the two Institutions so that they may resolve the dispute.

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<sup>1</sup> OJ L 113, 19.5.1995, p. 2.

<sup>2</sup> OJ L 136, 31.5.1999, p. 20.

- 2.3. If, at the end of the procedure referred to in point 2.2., no agreement has been reached, the President of Parliament, in response to a reasoned request from the parliamentary committee concerned, shall call on the Commission to forward, within the appropriate deadline duly indicated, the confidential information in question, selecting the arrangements from among the options laid down in section 3 of this Annex. Before the expiry of that deadline, the Commission shall inform Parliament in writing of its final position, in respect of which Parliament reserves the right, if appropriate, to exercise its right to seek redress.

### **3. Arrangements for access to and the handling of confidential information**

- 3.1. Confidential information forwarded in accordance with the procedures set out in point 2.2. and, where appropriate, point 2.3. shall be forwarded, on the responsibility of the President or of a Member of the Commission, to the parliamentary body which submitted the request.
- 3.2. Without prejudice to the provisions of point 2.3., access and the arrangements designed to preserve the confidentiality of the information shall be laid down by common accord between the Member of the Commission with responsibility for the area involved and the parliamentary body concerned, duly represented by its chairperson, who shall select one of the following options:
- information intended for the chairperson of and the rapporteur for the relevant parliamentary committee;
  - restricted access to information for all members of the relevant parliamentary committee in accordance with the appropriate arrangements, possibly with the documents being collected after they have been studied and a ban on the making of copies;
  - discussion in the relevant parliamentary committee, meeting in camera, in accordance with arrangements which may vary by virtue of the degree of confidentiality involved and in accordance with the principles set out in Annex VII to Parliament's Rules of Procedure;
  - communication of documents from which all personal details have been expunged;
  - in instances justified on absolutely exceptional grounds, information intended for the President of Parliament alone.

The information in question may not be published or forwarded to any other addressee.

- 3.3. In the event of non-compliance with these arrangements, the provisions relating to sanctions set out in Annex VII to Parliament's Rules of Procedure shall apply.
- 3.4. With a view to the implementation of the provisions set out above, Parliament shall ensure that the following arrangements are actually put in place:
  - a secure archive system for documents classified as confidential;
  - a secure reading room (without photocopying machines, telephones, fax facilities, scanners or any other technical equipment for the reproduction and transmission of documents, etc.);
  - security provisions governing access to the reading room, including the requirements of signature in an access register and a solemn declaration not to disseminate the confidential information examined.
- 3.5. The Commission shall take all the measures required for the implementation of the provisions of this Annex.

### **Timetable for the Commission legislative and work Programme**

1. In February, the President of the Commission and/or the Vice-President responsible for inter-institutional relations shall present the Annual Policy Strategy decision (APS) for the following year to the Conference of Presidents.
2. At the February-March part-session, the Institutions concerned shall take part in a debate on the main lines of the political priorities, based on the APS decision for the following year.
3. Following that debate, the competent parliamentary committees and the relevant Members of the Commission shall conduct a regular bilateral dialogue throughout the year to assess the state of implementation of the current Commission legislative and work programme and discuss the preparation of the future programme in each of their specific areas. Each parliamentary committee shall regularly report on the outcome of those meetings to the Conference of Committee Chairs.
4. The Conference of Committee Chairs shall hold a regular exchange of views with the Commission Vice-President responsible for inter-institutional relations, in order to assess the state of implementation of the current Commission legislative and work programme, discuss the preparation of the future programme, and take stock of the results of the on-going bilateral dialogue between the parliamentary committees concerned and relevant Members of the Commission.
5. In September, the Conference of Committees Chairs shall submit a summary report to the Conference of Presidents, which shall inform the Commission thereof.
6. At the November part-session, the President of the Commission shall present before Parliament the Commission's legislative and work programme for the following year, with the College taking part. This presentation shall include an assessment of the implementation of the current programme. The presentation shall be followed by the adoption of a Parliament resolution at the December part-session.



7. The Commission's legislative and work programme shall be accompanied by a list of legislative and non-legislative proposals for the following year, in a form to be decided<sup>1</sup>. The programme shall be forwarded to Parliament in sufficient time before the part-session at which it is to be debated.
8. This timetable shall be applied to each regular programming cycle, except for Parliament election years coinciding with the end of the Commission's term of office.
9. This timetable shall not prejudice any future agreement on inter-institutional programming.

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<sup>1</sup> To be included: calendar and, where appropriate, legal basis and budgetary implications.