

Working Group IV

Working document 24

Working group IV – "Role of National Parliaments"

Subject: "The European Affairs Committee of the Folketing - Parliamentary control of government policy in the EU"
- Document presented by Mr Henrik Dam Kristensen, member of the Convention, during the meeting on the 11 September 2002

Members of Working Group IV will find hereafter a document presented by
Mr Henrik Dam Kristensen, representative of the Danish Parliament, member of the Convention.

July 2002

The European Affairs Committee of the Folketing

Parliamentary control of government policy in the EU

At regular intervals Danish Ministers travel to Brussels to make decisions at the EU's Council of Ministers. Before a Minister heads off to make decisions with far-reaching consequences, he will have been to the European Affairs Committee of the Folketing to obtain what is known as a mandate for negotiation. This means that a majority of the Committee's members must not be opposed to the Minister's position to a given proposal on the Council's agenda. The European Affairs Committee therefore plays a central role in Danish EU policy.

This booklet deals with the European Affairs Committee of the Folketing, how it works, what areas it covers, its authority and its historical development.

Some history

Ever since Denmark first considered joining the Common Market there has been a political emphasis on ensuring that that Folketing has control over the participation of the Danish Government in the EU's law-making process conducted by the Council of Ministers. As long ago as 1961 the Folketing appointed an ad hoc committee to monitor the Government's negotiations concerning Denmark's accession to the EEC. It was called the Market Negotiation Committee and it considered the bill relating to Denmark's accession to the EEC, which was passed by a referendum on 2 October 1972 and led to Denmark joining the EEC on 1 January 1973. After Denmark's accession to the EEC, the Committee's name was changed to the Market Committee.

The Committee kept its name until 1994, when it was rechristened the European Affairs Committee as a result of the Maastricht Treaty, which had given European cooperation a distinctly political dimension, making it more than just a cooperation on free trade. Throughout this time the European Affairs Committee has played a vital role in the Folketing's ongoing control of the Government with regard to its EU policy.

In 1972 consideration was given to putting the powers and authority of the European Affairs Committee into statutory form. This was not done, however, as the Folketing wanted the greatest possible flexibility to adapt the Committee's method of working constantly to changing circumstances in the EU. As a consequence of this, the detailed definition of the authority of the European Affairs Committee has not been a matter for the assembled Folketing, with it largely being up to the Committee itself to satisfy the framework provisions of the Danish Accession Act.

THE LEGAL BASIS FOR THE EUROPEAN AFFAIRS COMMITTEE IN BRIEF

The Danish Constitutional Act does not mention the European Affairs Committee as it does the Foreign Policy Committee. In order to find the basis for the activities of the European Affairs Committee, it is necessary to look in the *Danish Accession Act* (section 6 (2)). This Act states that the Government has a duty to inform "*the European Affairs Committee of the Folketing of proposals for Council resolutions that will be directly applicable in Denmark or for whose fulfilment the assistance of the Folketing is required*". No statute has been passed in Denmark to regulate the procedures of the European Affairs Committee, but its methods of working and authority are, on the other hand, laid down in reports, which are agreements between the European Affairs Committee and the Government. The crucial stipulation with regard to the authority of the Committee is laid down in the first report of 1973, two passages of which are of particular importance. Firstly: "*The Government shall consult the Market Committee of the Folketing in questions relating to EC policy of a major importance so that the regard for the influence of the Folketing as well as the freedom to negotiate are respected.*" Secondly: "*Prior to negotiations in the EC Council of Ministers on decisions of a wider scope, the Government submits an oral mandate for negotiation to the Market Committee. If there is no majority against the mandate, the Government negotiates on this basis.*"

Tasks of the European Affairs Committee

The European Affairs Committee is one of the 25 standing committees of the Folketing. It deals with the bills and proposals for parliamentary resolution that are referred to it, and in this connection it submits reports with recommendations in the same way as other parliamentary committees. For example bills relating to ratification of the Treaties of Maastricht, Amsterdam and Nice were considered by the Committee, for example, as was the bill relating to Denmark's accession to the Single European Currency, the Euro. Very few bills are referred to the European Affairs Committee.

The annex to the Folketing's Standing Orders of 2001 describes the European Affairs Committee's field of responsibility as follows: "*Matters which are dealt with by the European Union and the WTO. The Committee coordinates the Folketing's consideration of these matters.*" This means that, as well as concerning itself with EU matters, the European Affairs Committee also deals with the international cooperation on trade that takes place through the World Trade Organisation. In 1997 the European Affairs Committee reached agreement with the Government that the Government would submit WTO matters to the Committee in accordance with the same criteria as for EU matters. Representatives of interested specialist committees and the European Affairs Committee took part in the Danish Government's delegation to the WTO's Ministerial Conference in Seattle in 1999.

Christiansborg Palace seen from Børsbroen

Members of the European Affairs Committee

Like most other standing committees, the European Affairs Committee is made up of 17 members and 11 substitute members. Substitute members enjoy the same right to speak in Committee meetings as ordinary members. The aim is that all the parties in the Folketing should be represented on the Committee by a member or substitute. This affects how the Committee chairman counts the "votes". There is also what is known as a subcommittee, which is made up of the party spokesmen. This committee is responsible for organising the work of the European Affairs Committee.

All the members of the Committee also sit on other committees, some are even committee chairmen. This is very important with regard to information exchange and the background experience on which the consideration of EU matters is based. Moreover when important political questions are involved, the attitude of the individual parties is laid down in the party groups. This means that there is coordination, with the Conservative members of the Environment and Regional Planning Committee, for example, expressing the same attitude as the Conservative members of the European Affairs Committee.

When and how are Committee meetings held?

The European Affairs Committee generally meets every Friday throughout the year except during August, when the institutions of the EU have their summer holidays. Extraordinary meetings can occur, particularly at the end of a Presidency. The most important items on the agenda of the European Affairs Committee are the meetings to be held by the Council of Ministers the following week.

Discussion of a specific Council meeting by the European Affairs Committee usually involves the Minister in question attending a meeting of the Committee and presenting an oral mandate for negotiation. Then there follows a round in which the party spokesmen put amplifying questions to the Minister and make known the party's attitude to some of the proposals. Once the Minister has replied there may be one or more rounds of discussions, during which the Minister can clarify or modify his mandate for negotiation. The Minister may also change the mandate for negotiation in deference to the party spokesmen and in order to ensure that there is not a majority against it. Finally the chairman establishes whether there is a majority against the mandate for negotiation.

| HOW DOES THE MINISTER PRESENT THE GOVERNMENT'S MANDATE FOR NEGOCIATION? |
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| First the Minister in question runs through the most important items on the Council meeting agenda from a political standpoint. For less important items, it is enough for the Minister to refer to the summary memorandum sent to the Committee. The Minister sets out the main points of the proposal and explains how far the negotiations have progressed. In cases where the Government is submitting a negotiating outline, the Minister generally gives a very detailed account and examines the consequences that implementation of the draft directive would have for Danish regulations. The Minister runs through the most important political questions to be clarified and explains the Government's attitude to them. In some instances the Minister reports on the negotiating situation in the Council of Ministers, as this may affect whether a blocking minority can be assembled. The Minister can also summarise what interest groups have said, particularly if they have misgivings. Finally, the Minister clarifies what the Government's mandate for negotiation is aimed at. The mandate for negotiation is therefore oral and formulated by the Minister himself. |

How does the Government obtain a mandate for negotiation?

No formal vote is held, but in most cases the chairman concludes at the end of the discussions that there is not a majority against the Government's mandate for negotiation. Ever since 1973 it has been the established practice of the European Affairs Committee for the chairman, when counting the "votes", to use the number of members of parliament the party in question has. When this is possible, it is linked to the tradition of "party discipline", with all the party's Members of the Folketing voting in the same way once a decision has been taken by the party group. The mandate for negotiation is therefore only rejected if the spokesmen for parties with a total of 90 seats or more have expressed their opposition to it.

The Committee does not reject the Government's mandate for negotiation very often. But this does not mean that the Committee does not have much influence on the Government's EU policy. Firstly, as already mentioned, it is not uncommon for the Government to change or modify its original mandate for negotiation during the discussions of the Committee. Secondly, the Danish civil servants who take part in the negotiations at an early stage – frequently before the European Commission makes its proposal – allow for the fact that the Government will have to have the result approved by the European Affairs Committee at some stage.

The Chamber of the Folketing as seen from the gallery

Flow of information from the Government to the Foreign Affairs Committee

By far the majority of the Folketing's written information on EU matters comes from the Government. All proposals and important information from the European Commission are sent to the Folketing's EU Secretariat by the Royal Danish Ministry of Foreign Affairs. They are registered by the EU Information Centre and can be found on the Internet (www.euo.dk). At regular intervals the Ministry of Foreign Affairs sends a *summary* of the EU documents received, which is distributed to all Members of the Folketing.

The work of the European Affairs Committee is largely carried out on the basis of written notes from the Government. They are drawn up by the relevant specialist ministry, which sends them to the specialist committee at the same time as they are sent to the European Affairs Committee by the Ministry of Foreign Affairs, which coordinates Denmark's relations with the EU. By far the majority of the documents received by the European Affairs Committee come from the Ministry of Foreign Affairs, but written inquiries are also received from interest groups, etc. The material used by the Committee in its work also includes committee questions, minutes of Council meetings, etc. All in all the Committee receives more than 1,500 memoranda and other documents a year.

Of the memoranda received by the European Affairs Committee, 95% are *public* and can be read on the web sites of the Folketing and the EU Information Centre. In addition to the information received by the European Affairs Committee from the Ministry of Foreign Affairs, the Folketing's Representative at the EU and other members of staff in the EU Secretariat also send out what are known as *Info Notes*. They contain, among other things, background material and practical information, and by far the majority of them are public.

In addition to this the EU Counsellor and his staff prepare what are known as *EU Memoranda*, which analyse selected Commission proposals and major problems in the EU or WTO. They are regarded as the Committee's internal working documents and are only sent to its members and deputies.

The Government forwards what are known as *basic memoranda* on all new draft directives, as well as Green and White Papers. The Government also draws up basic memoranda on other Commission proposals for legislative acts that it considers important. The same applies to important draft Commission directives, regulations and decisions carried through on what are known as the regulatory and management committees.

According to an agreement with the Government from 2001, basic memoranda must be forwarded no later than 4 weeks after the Council of Ministers receives the Commission proposal. The Government compiles lists of the Commission proposals that it intends to submit a basic memorandum. These lists are then distributed to all the Members of the Folketing. If the European Affairs Committee or a specialist committee so requests, the Government will also prepare memoranda on other proposals.

The committee room of the European Affairs Committee of the Folketing with paintings by Per Kirkeby

| WHAT ABOUT COMITOLOGY? |
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| In a number of cases the Commission has the authority to issue legal documents that apply in the same way as the legislative acts of the European Parliament and the Council. These acts can be passed in what is known as a committee procedure, with a mandate for negotiation being submitted to the European Affairs Committee when the Government considers them important. Such cases are considered in accordance with the same guidelines as for those passed by the Council of Ministers. Owing to the tight deadlines involved in consideration by the committees, information cases are often only submitted to the European Affairs Committee in writing. But if the Government has to submit a mandate for negotiation in a committee case of considerable scope, it can only be done at a meeting of the European Affairs Committee. |

In preparation for the weekly meetings and as part of the continuous flow of information to the European Affairs Committee the Government sends *topical memoranda*. A Minister who is to present a Council meeting to the European Affairs Committee forwards what is known as a *summary memorandum* 8 days in advance. It contains a number of memoranda describing each of the items on the Council meeting agenda. In some cases the individual memorandum will be the same as the basic memorandum forwarded previously. In other cases it will be based on the basic memorandum but will include information that is new in relation to it. Such information might, for example, concern changes made when the proposal was considered by the Council's working party or the Committee of Permanent Representatives (COREPER), the opinion of the European Parliament, consultation replies received from interest groups or negotiating developments in the Council.

Both the basic memoranda and topical memoranda are *factual*. In other words they contain a description of the Commission proposal, its significance with regard to current Danish rules and regulations, previous considerations by the Council and European Affairs Committee, possible compromise proposals from the Presidency, amendments proposed by the European Parliament, etc. They do not, however, say anything about the Government's attitude to the proposal. This is explained by the Minister, as described above, when he makes his oral presentation of the mandate for negotiation. The European Affairs Committee has agreed some guidelines with the Government with regard to how memoranda should be formulated and what information they should contain.

In its report of 10 May 2001 the European Affairs Committee states that it is of vital importance in terms of the political consideration of EU matters that the members of the European Affairs Committee and the specialist committees receive the relevant documents in an easily accessible form as soon as possible and well enough in advance of meetings to allow time to both read and consider the proposals, including discussing them internally within the individual parties. The objective as stated in the 1999 report was "fewer but better and more targeted documents". Memoranda must focus on the central issue of the proposal and the potential political problems to which the proposal could give rise in a Danish context. They must be intelligible to both Members of the Folketing and the public. All memoranda of more than two pages in length must open with a brief *résumé*.

Control of the Government's EU policy

About a week after a Council meeting the Danish Minister sends out his report. These *Council meeting reports* are public. The European Affairs Committee also receives the *press release* about the decisions taken at the meeting, which is produced by the General Secretariat of the Council. These reports enable the members of the Committee to follow what has happened with regard to the matter. They can, for example, check whether it was passed at the Council meeting or deferred for consideration at a later date. They can also see whether the Minister kept to his negotiating brief. Sometimes the Committee puts written questions in order to obtain clarification of specific points in the report. If the matter is of major political importance, the Committee can call the Minister in for consultation and obtain a detailed explanation.

A *verbatim report* of the meetings of the European Affairs Committee has been produced since 1984, enabling members to check at a later date the precise import of the negotiating outline. The report is sent to the parties' spokesmen. In order not to damage Denmark's negotiating position, the report is confidential. Since October 2000 the European Affairs Committee has published a brief *decision report* from which the public can see which parties were against the Government's mandate for negotiation. The decision report does not, however, show the import of the negotiating outline. Publication of the decision report means in practice that it is also apparent which parties support the Government's mandate for negotiation.

THE EUROPEAN AFFAIRS COMMITTEE AND MEETINGS OF THE EUROPEAN COUNCIL

Prior to meetings of the European Council, the *Prime Minister* and Minister for Foreign Affairs inform the European Affairs Committee of the subjects for the forthcoming discussions and set out the Government's attitude to them. As a rule the Heads of State and Government make do with sketching out the overall guidelines, which are subsequently followed up in the individual Councils of Ministers in the form of proposals for legal acts. Formal decisions are not generally taken at summit meetings. It is therefore rare for the Government to present actual negotiating outlines to the European Affairs Committee in connection with summit presentations. Although this has happened. It is more usual for the Minister for Foreign Affairs or Minister for Finance to see to it at previous meetings of the European Affairs Committee that they obtain a mandate for negotiation for the substance of those matters that cannot be agreed on at ordinary Council meetings and are therefore deferred for discussion by the Heads of State and Government. The Prime Minister's presentation is followed by one or more rounds of questions, during which the spokesmen express the attitude of the parties to the subjects at the summit meeting. After the meeting of the European Council the Government forwards the *chairman's conclusions*, and the Prime Minister goes back to the European Affairs Committee and reports on what has happened at the summit meeting, after which there is an opportunity for debate.

The role of the European Affairs Committee in intergovernmental conferences

Intergovernmental conferences are often discussed in debates in the chamber of the Folketing, during which the Government's negotiating basis can be laid down by means of a resolution. Prior to important Danish proposals or the establishment of overall policy objectives, the Prime Minister often calls the leaders of the parties behind Danish EU policy in for confidential meetings at the Prime Minister's Office. But intergovernmental conferences are also monitored continuously by the European Affairs Committee.

In the case of an intergovernmental conference that is planning a *treaty amendment*, the Government discusses the progress of the conference continuously with the European Affairs Committee. Firstly the Minister for Foreign Affairs reports to the Committee prior to intergovernmental conference meetings at Ministerial level in the context of ordinary meetings of the European Affairs Committee. Secondly he invites the European Affairs Committee at appropriate moments to informal meetings in the Ministry for Foreign Affairs in which Denmark's chief negotiator generally also participates. The continuous flow of written information means that all the documents submitted by the Presidency and the various governments, etc., at the intergovernmental conference are sent to the European Affairs Committee. Concrete written Danish proposals have to be submitted to the European Affairs Committee before they are forwarded. As a rule, it will not be until the very last phase, when the overall picture can be seen, that the Government will submit an overall mandate for negotiation. The subjects of the intergovernmental conference are also discussed at the meetings of the European Council, with progress being reported by the Prime Minister of course.

International cooperation

Every 6 months representatives of the European affairs committees of the Member States and applicant countries come together for what is known as a COSAC meeting (Conference of the Community and European Affairs Committees of Parliaments of the EU). A delegation from the European Parliament also attends these conferences. Participants discuss topical European policy questions and how the national parliaments can increase their influence on EU policy, partly by exerting an influence on their Ministers. If there is a consensus, COSAC can adopt what are known as "contributions", which are sent to the European institutions or the European Council.

These meetings are primarily about an exchange of views between parliamentarians who are discussing the same EU questions in their national parliaments at roughly the same time. The personal contacts established in the context of COSAC cooperation are particularly valuable. The country holding the EU Presidency also hosts the biannual COSAC meeting. COSAC cooperation is described in a protocol (No. 9) to the Amsterdam Treaty.

The European Affairs Committee often receives *visits* from politicians from other EU countries and applicant countries. They include speakers, European affairs committees, Ministers and commissioners. In return the European Affairs Committee is in the habit of visiting the capital of the country with the Presidency for discussions with Ministers representing the Presidency and its sister committees. In recent years the European Affairs Committee has also been on fact-finding missions to applicant countries.

The European Parliament regularly invites representatives of the national parliaments to meetings, round table conferences, etc., in Brussels. The European Affairs Committee decides on Folketing participation and generally tries to send a delegation of two Members of the Folketing, one from the relevant specialist committee and one from the European Affairs Committee, one of whom is from the Government coalition and one from the Opposition coalition, if possible.

The participating parliamentarians cannot bind the Folketing, but give voice to what they themselves and their party think. A résumé is generally prepared after the meeting with a view to letting the members of both committees know what was discussed.

The Danish Members of the European Parliament are sent all the public Government Notes and Info Notes received by the European Affairs Committee, as well as the agendas of the European Affairs Committee. All European Parliament documents are sent to the EU Information Centre, from where they can be ordered by Members of the Folketing. As far as *reciprocal written information* is concerned, there is therefore extensive cooperation. It was agreed in 1999 and 2001 that the deadline by which the Government should send basic memoranda should be brought forward partly so that the basic memorandum would be available well before the deadline for amendments set by the committees of the European Parliament.

At a *personal* level, cooperation with the Danish Members of the European Parliament largely takes place within the individual parties. Since 1998 the Government has regularly invited the Danish Members of the European Parliament to informal meetings, to which the members of the European Affairs Committee have also been invited. In addition to this the European Affairs Committee holds open meetings and hearings in which MEPs can participate. Finally, the Danish representatives from the Committee of the Regions, the Economic and Social Committee and the European Parliament hold an informal meeting with the members of the European Affairs Committee a few times a year in order to discuss topical EU matters of common interest.

Christiansborg Palace seen from Holmens Kirke

Cooperation with the specialist committees

According to the European Affairs Committee's reports, the Committee encourages closer and more extensive cooperation with the specialist committees of the Folketing, but involvement of the specialist committees is not obligatory. In Denmark the specialist committees can receive all relevant EU proposals and memoranda from the Government in their field, and they can make recommendations to the European Affairs Committee, which holds the decision-making powers, however, or contact the Minister directly and call him/her in for consultation. The intention is that the specialist committees should take care of the early consideration of EU matters and influence the Government's EU policy through recommendations to the European Affairs Committee or contact with the Minister.

Since 1996 the European Affairs Committee's cooperation with the specialist committees has also manifested itself in hearings on the Green and White Papers of the European Commission. These hearings give various players the opportunity to express their opinion on the subject in question. Typical participants are interest groups, experts, the central administration, the specialist Minister and the political spokesmen. The Folketing is so far the only parliament in the EU to send consultation replies to the Commission based on hearings. The consultation reply is in the nature of a consensus statement, but there is also an opportunity for minority opinions. The Folketing's consultation reply does not necessarily agree with that of the Government.

Subject hearings and mini-conferences

The European Affairs Committee organises subject hearings and mini-conferences at regular intervals. A subject hearing gives various relevant players the opportunity to express their opinions with regard to a major EU-related subject such as the future of the EU and the EU's agricultural policy. A mini-conference often involves a visit by a prominent person – the president of a country, for example – with a specific problem being debated against that background.

Contact with the public

The European Affairs Committee of the Folketing gives contact with the public a high priority. One of the objectives in setting up the Folketing's EU Information Centre in 1994 was therefore to improve the population's access to information on the EU. The EU Information Centre can be used by all citizens and no previous knowledge of the EU is necessary.

The task of the EU Information Centre is therefore clear: to answer questions on all subjects relating to the EU in a quick, neutral and relevant manner – completely free of charge. The philosophy of the EU Information Centre is that: "The best information is what you ask for yourself".

The EU Information Centre's offerings to citizens include a reply service (hotline, e-mail, fax, letter and inquiries in person), the production of information material (EU Facts and EU Background), the coordination of EU informant networks, lectures/education, the construction and maintenance of three very extensive web sites on the Internet and support for the Members of the European Affairs Committee.

The EU Information Centre of the Folketing
Christiansborg
1240 Copenhagen K
Denmark
Tel: (+45) 3337 3337
Fax: (+45) 3337 3330
E-mail: euopl@folketinget.dk
Web: www.eu-oplysningen.dk

Folketinget
Christiansborg
1240 Copenhagen K
Denmark
Tel: (+45) 3337 5500
Fax: (+45) 3332 8536
E-mail: folketinget@folketinget.dk
Web: www.folketinget.dk
