



CONCILIATIONS AND CODECISION

A Guide to how the Parliament co-legislates

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FOREWORD

We welcome the guide to Conciliations and Codecision, prepared by the Secretariat for the sixth parliamentary term, following enlargement of the Union to 27 Member States. The aim is to explain the way in which the Parliament organises its work in conciliation and to show how conciliation fits into the overall framework of codecision, where the Parliament and the Council act jointly to adopt European legislation.

The Guide gives a broad overview of the sometimes complex codecision procedure. It seeks to provide background material and practical information to help Members prepare their participation in codecision procedures, in particular at the conciliation stage when the Parliament meets the Council in trilogue negotiations or in the Conciliation Committee. We would recommend it to all those who are involved in, or take an interest in, the Parliament's work as a co-legislator.



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http://www.europarl.europa.eu/code/information/default_en.htm

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1. CODECISION: THE BASICS

Introduction

Codecision is the most important of the legislative procedures of the European Union. It is based on the principle of parity between the directly-elected European Parliament, representing the peoples of the Union, and the Council, representing the governments of the Member States. The two institutions, acting on a proposal from the European Commission, adopt legislation jointly, having equal rights and obligations - neither of them can adopt legislation without the agreement of the other.

The codecision procedure was introduced by the Maastricht Treaty in 1993. At that time, it applied to only 15 areas of Community activity. Its scope was increased considerably by the Amsterdam Treaty (May 1999) and grew further under the Nice Treaty (February 2003): at present, codecision applies to 44 areas of EU activity (*legal bases*; for a full list see Annex D).

The growth in the number of areas of Community law-making subject to codecision has brought about a substantial increase in the volume of codecision dossiers: in the 1999 - 2004 parliamentary term, under the provisions of the Amsterdam and Nice Treaty, 403 legislative acts were adopted under the codecision procedure. This is two and a half times the total of 165 codecision files concluded under the provisions of the

Maastricht Treaty (1993-1999). In the first three years of the current legislative term (July 2004 - July 2007), a total of 196 codecision files were concluded and the trend for the two remaining years looks to be upward.

As Figure 1 indicates, the number of dossiers subject to codecision has grown steadily, from 68 dossiers concluded during the first year of the 1999-2004 parliamentary term up to an all-time high of 105 dossiers concluded during the last year of the same term, when there was a considerable pressure to conclude all files before enlargement. As a result, this figure fell to 30 in 2004/5, the first year of the new parliamentary term, rose to 64 in 2005/6, and reached again 102 in 2006/7.

Codecision generally applies when the Council decides by qualified majority (with three exceptions where unanimity is required) and is the normal procedure for all EU legislation, except that concerning agriculture, fisheries, taxation, trade policies, state aids, industrial policies, competition and EMU (see Annex D). Codecision does not apply to acts adopted under the second (common foreign and security policy) and third pillars (justice and home affairs) of the European Union.

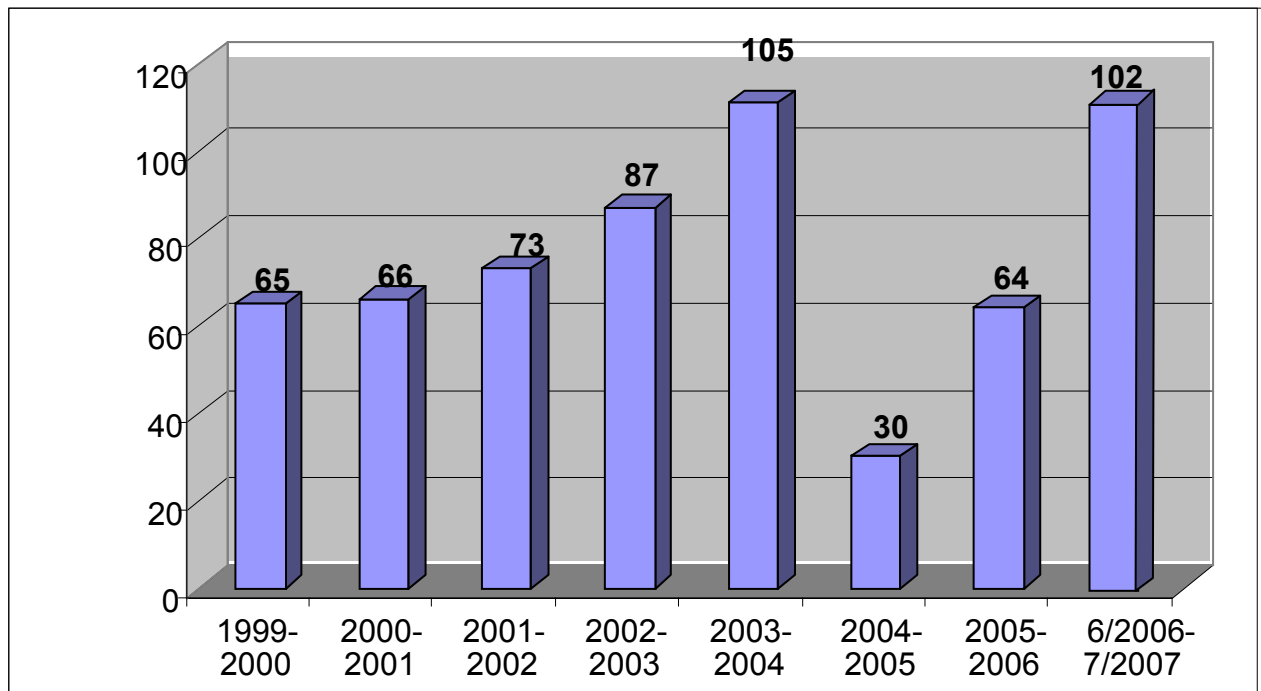


Figure 1: Concluded codecision procedures per year during the period 1999 - 7.2007

The codecision procedure, as laid down in Article 251 of the EC Treaty (see Annex A), provides for up to three readings: first reading, second reading and third reading with conciliation. The procedure can be concluded, however, at any of these stages, if the two branches of the legislative authority reach an overall agreement. If the Council cannot accept all EP second reading amendments, the conciliation procedure - the third and final stage of the codecision procedure - has to be opened.

First reading

As Annex E indicates, the codecision procedure always begins with a proposal from the European Commission (in keeping with the Commission's 'right of initiative'). However, the Parliament and the

Council, under Article 192(2) and Article 208 EC Treaty respectively, may request the Commission to submit appropriate proposals (e.g. legislative proposals) in order to attain the objectives of the Treaty¹.

The Commission submits its legislative proposal (normally for a Regulation, a Directive or a Decision) to the European Parliament and to the Council at the same time. Within the Parliament, the proposal is referred to one of the parliamentary committees (known thereafter as the 'committee responsible') for consideration: the

¹ Parliament made successfully use of this possibility in the case of the "5th car insurance directive", which led eventually to the adoption of Directive 2005/14/EC of 11 May 2005 relating to insurance against civil liability in respect of the use of motor vehicles (report *Rothley* and later report *Medina Ortega*; second reading concluded in Parliament on 12 January 2005).

choice of committee depends on the subject-matter covered by the proposal.

The committee responsible appoints a 'rapporteur' whose main task is to follow the proposal throughout all stages of the procedure. The rapporteur advises the committee responsible (during consideration at committee level) and the Parliament in general (at plenary stage) on the general approach to be taken towards the Commission proposal. The rapporteur is also the first Member to propose amendments to the Commission proposal. Other parliamentary committees with an interest in the matter dealt with by the proposal may deliver their 'opinion' to the committee responsible. On controversial or 'technical' dossiers, it is not unusual nowadays to organise hearings with experts or to commission impact assessments.

When the committee responsible has adopted the 'report' prepared by the rapporteur, the Parliament, acting by a *simple* majority (i.e. a majority of the Members voting), delivers its *first reading* on the Commission proposal. Parliament has, at this stage, three options: it may reject the proposal as a whole; it may approve it without amendments; or, most commonly, it may approve the proposal subject to a number of amendments.

As far as outright rejection at first reading is concerned, it should be noted that, while the Treaty does not explicitly prohibit this, nor does it explicitly provide for it¹ (as it does for

¹ The Parliament, however, has proved reluctant to accept a limitation on its freedom of action: in the first DV\684001EN.doc

rejection at second reading; Article 251 (2)(b) EC Treaty). The Commission then adopts a 'modified proposal' incorporating a number of the Parliament's amendments.

If the Council, acting by a qualified majority, approves all the Parliament amendments, or if the EP has approved the proposal without amendment, the Council may adopt the act.

If the Council is unable to accept fully the outcome of the Parliament's first reading, it concludes its first reading by establishing a text which is known as the 'common position'. The Council informs Parliament fully of the reasons which led it to adopt its common position. The Commission also informs Parliament fully of its position.²

During the first reading stage, neither the Parliament nor the Council is subject to any time limit by which it must conclude its first reading of a Commission proposal.

three years of the current legislative term the Parliament rejected three Commission proposals at first reading; Rail Freight Services (report *Zile*), Humane Trapping Standards (report *Scheele*) and Port Services (report *Jarzemowski*) rejected by the EP on 31.5.2005, 13.12.2005 and 16.12.2005 respectively. In such cases, Rule 52 of the EP Rules of Procedure (see Annex C) applies: this seeks to ensure that the Parliament and the Commission have enough time to consider their options fully. In the case of Port Services the Commission eventually withdrew its proposal and the procedure was thus terminated.

² While this is not explicitly laid down in the Treaty, it is widely accepted that acting by a qualified majority the Council may reject the Commission proposal as a whole. On the other hand, the Commission may decide at any time during the first reading either to withdraw or to alter its proposal (Article 250(2) EC Treaty).

Second reading

Unlike first reading stage, the second reading stage is subject to strict time limits. Within three months (or four, if extended) of the announcement of the Council common position in plenary, the Parliament must approve, reject or amend it at second reading. If the Parliament takes no decision by the expiry of this deadline, the act is deemed to have been adopted as it stands in the common position.

Approval of the common position without amendment requires the support of a *simple* majority of the Parliament's Members (i.e. a majority of the Members voting).

On the contrary, rejection of the common position requires the support of an *absolute* majority of the Parliament's Members (i.e. at least 393 votes in favour out of a possible total of 785¹, regardless of how many Members actually vote). Rejection of the common position by the Parliament ends the legislative procedure: this can only be re-launched by a new Commission proposal.²

¹ As a result of the enlargement with Bulgaria and Romania the Parliament will have 785 Members until the end of its current term in June 2009. After the June 2009 elections the number of Members will fall to 750.

² In July 2005, the Parliament made use of this possibility for the first (and, so far, only) time when it rejected the Council common position for a Directive on the patentability of computer implemented inventions ('software patents'; report *Rocard*). This very controversial Commission proposal was rejected by an overwhelming majority of Members (648 to 14 and 18 abstentions). In line with Article 251 (2) (b) EC, the rejection by Parliament led to the termination of the procedure. In the course of the discussions the question arose whether the Commission can withdraw a proposal that has passed the first reading stage. While the Commission maintains its right to withdraw a

proposal at any stage, the Parliament and the Council, based on Article 250(2) EC, consider that as soon as the Council has adopted a common position the latter - and not the Commission proposal anymore - forms the basis for the further procedure. Consequently the Commission cannot withdraw a text, of which it has not the 'ownership' anymore.

Finally, the Parliament may adopt amendments to the common position: each such amendment must be again supported by an *absolute* majority of Members. The rapporteur (normally the same Member who drew up the report for the first reading) draws up a draft 'recommendation', i.e. a second-reading report, for the responsible committee (as a rule the same committee as was responsible at first reading).

The draft recommendation will include the amendments proposed by the rapporteur. Any (but only a) full or substitute Member of the committee responsible may table additional amendments. In second-reading there are no opinions from other committees. The responsible committee decides by a majority of the votes cast. After the vote in the responsible committee, the recommendation proceeds to plenary.

Once again, amendments may be tabled at plenary stage, but only by the committee responsible, by a political group or by at least 40 individual Members. However, both at committee and plenary stage certain restrictions apply as to what kind of amendments can be tabled in second reading. In particular, under Rule 62 of the EP Rules of Procedure (see Annex C) amendments are only admissible if they seek:

proposal at any stage, the Parliament and the Council, based on Article 250(2) EC, consider that as soon as the Council has adopted a common position the latter - and not the Commission proposal anymore - forms the basis for the further procedure. Consequently the Commission cannot withdraw a text, of which it has not the 'ownership' anymore.

- to restore wholly or partly Parliament's first reading position, or
- to reach a compromise between the Parliament's and the Council's position, or
- to amend a part of the common position which was not included in or differs in content from the initial proposal, or
- to take account of a new fact or legal situation which has arisen since the first reading.

The chair of the committee responsible at committee stage and the President of the Parliament at plenary stage rule on the admissibility of amendments: their decision is final (Rule 62; Annex C).

Before the vote on amendments in plenary, the President of the Parliament may ask the Commission to indicate whether or not it would be willing to accept them. The Council may also be invited to comment.

The Treaty sets clear deadlines at second reading. The EP must adopt its second reading within three months (four, if an extension has been agreed) of communication to it of the common position. Once the Parliament has concluded its second reading and has referred its position to the Council, the latter has a further three months (or four, if an extension has been agreed) to hold its second reading.

At second reading, the Council may approve - as a rule, by qualified majority, but by unanimity in the three cases so required by the Treaty (see Annex D) or where the Commission opposes a Parliament amendment (see Article 251(3) EC; Annex A) - all of the EP's second-reading amendments. In this case, the act is adopted.

If the Council is unable to approve all of the Parliament's amendments, the Treaty provides for the convening of the Conciliation Committee.

MAIN DIFFERENCES BETWEEN THE FIRST AND THE SECOND READING	
First reading	<ul style="list-style-type: none"> • No time limits • Commission proposal considered by committee responsible and opinion giving committees • Broad admissibility criteria for amendments • Parliament decides (to approve, reject or amend the Commission proposal) by a <i>simple</i> majority (i.e. majority of Members voting)
Second reading	<ul style="list-style-type: none"> • Strict time limits of 3 or 4 months • Common position considered only by the committee responsible • Strict admissibility criteria for amendments • Parliament approves the common position by a <i>simple</i> majority, but rejects or amends it by an <i>absolute</i> majority (i.e. majority of all Members of Parliament)

First and second reading agreements

Under the Amsterdam Treaty, it became possible to conclude a legislative procedure at first reading (this was not provided for under the Maastricht Treaty). This possibility is also foreseen by the Joint Declaration on Practical Arrangements for the Codecision Procedure (see Annex B for the full text of the new, revised Joint Declaration of 13.6.2007), whereby *'the institutions shall cooperate throughout the procedure with a view to reconciling their positions as far as possible and thereby clearing the way, where appropriate, for the adoption of the act concerned at an early stage of the procedure'*.

In recent years, there has been a growing trend towards agreement at first reading. In the three first years of the present parliamentary term (July 2004 - July 2007), 125 codecision procedures (64% of the total) were concluded at first reading, 55 (28%) at second reading and 16 (8%) at third reading following conciliation. By comparison, during the 1999 - 2004 term, 115 codecision procedures (28%) were concluded at first reading, 200 (50%) at second reading and 84 (22%) at third reading after conciliation. Codecision has thus become much more of a single thread passing through one, two or three readings.

This development demonstrates the flexibility of the procedure itself and, more importantly, a greater degree of trust and willingness to cooperate on the part of the institutions. However,

concerns have been expressed, within Parliament and beyond, about the potential lack of transparency inherent in the informal first and second reading negotiations, but also about the lack of democratic legitimacy and clarity about the appropriate procedural steps. The time pressure to conclude within the six months of the respective Presidency puts too much focus on fast-track negotiations, at the expense of an open political debate within and between the institutions, with the involvement of the public.

The procedures to be followed at the conciliation stage are clearly set out in Article 251 EC Treaty (see Annex A) and in Parliament's Rules of Procedure (Rules 63-65; see Annex C). The procedures to be followed when seeking agreement at first and second reading are less clear.

In an attempt to clarify the situation, and bearing in mind experience built up over the years, a set of guidelines for Members and Parliament's staff alike on how to conduct negotiations and conclude agreements at first and second reading has been approved by the Conference of Presidents and has been confirmed by the Conference of Committee Chairs (see box for the full text). The purpose of these guidelines is to establish a uniform way of proceeding within Parliament when seeking an agreement at first or second reading, while at the same time maximising the transparency, effectiveness and legitimacy of the whole procedure.

First and second reading agreements: guidelines for best practice within Parliament

(approved by the Conference of Presidents on 12 November 2004)

Preliminary considerations

1. Committees should make full use of the possibilities provided by the Treaties that allow for up to three readings. The decision to seek to achieve a first or second reading agreement should take due account of the very different situations existing at the first and second reading stages respectively. This concerns in particular the extent to which Parliament and Council have already reached a formal position; the majorities required at plenary stage and the deadlines imposed by the Treaties.
2. The decision should receive broad political support and should be taken in a transparent manner and announced in committee. It should be justified in terms of political priorities, deadlines, risk of legal uncertainty, or the uncontroversial nature of the proposal.

Meetings with Council and Commission

3. Informal contacts should be possible at all stages, provided that the committee, coordinators or shadow rapporteurs are kept informed of their existence and content. Concrete negotiations should not usually take place until the committee has adopted its first or second reading amendments. This position can then provide the mandate on the basis of which the committee's representatives can negotiate with Council and Commission.
4. EP participation should be decided by the coordinators. It should permit the fullest possible information to be provided to all political groups within the committee, either through direct participation of the Committee Chair and/or shadow rapporteurs or coordinators, or through prompt and sufficiently detailed information from the rapporteur to the Chair and shadow rapporteurs or coordinators. The coordinators may decide to invite the opinion committee draftsman to participate.
5. Interpretation should be provided, if requested, in particular during the concrete negotiation phase after the vote in committee.
6. Draft compromise texts submitted by any institution, and which are to be the basis of discussion at a forthcoming meeting, should as far as possible be circulated in advance to all negotiators.

Follow-up to meetings

7. The rapporteur should report back regularly on the state of negotiations, if necessary to the whole committee. Any significant change in the negotiating position should have broad political support.
8. The Council Presidency should be encouraged to participate in committee meetings to present the Council position.
9. If an agreement is reached, the Council Presidency should be invited to send a letter to the Committee Chair confirming Council's agreement in principle, and annexing the text.
10. Any compromise amendments required as a result of the agreement reached should be the subject of written information to all committee members. If they can not be approved by the committee for submission to plenary, they should be co-signed by the rapporteur and shadow rapporteurs or coordinators on behalf of their political groups to demonstrate that the amendments enjoy broad support.

Third reading - Conciliation

Conciliation consists of direct negotiations between the two co-legislators (Parliament and Council) in the framework of the Conciliation Committee, with a view to reaching agreement in the form of a 'joint text'.

The Conciliation Committee consists of two delegations: the Council delegation, composed of one representative of each Member State (Ministers or their representatives) and the Parliament delegation, composed of an equal number of Members. Thus, the Conciliation Committee consists from 1 January 2007 of 54 (27+27) members.

The Conciliation Committee must be convened within six weeks (or eight, if extended) of the Council concluding its second reading and officially notifying Parliament that it is not in a position to accept all the latter's second reading

amendments. It is constituted separately for each legislative proposal requiring conciliation and has at its disposal six weeks (or eight weeks, if an extension has been agreed,) to reach an overall agreement in the form of a 'joint text'. The starting points for its considerations are the Council's common position and the Parliament's second reading amendments¹. The Commission also takes part in the proceedings with a view to reconciling the positions of the Parliament and the Council.

If the Conciliation Committee does not reach an agreement, or if Parliament or the Council does not approve the 'joint text' at third reading, the act is deemed not to have been adopted. In this case, the codecision procedure can only be restarted by a new legislative proposal from the Commission.

MAIN DIFFERENCES BETWEEN FIRST/SECOND READING AND THIRD READING WITH CONCILIATION IN THE PARLIAMENT	
First and second reading	Conciliation and third reading
Primary responsibility lies with the parliamentary committee(s) involved	Primary responsibility lies with the Parliament delegation to the Conciliation Committee
<u>First reading</u> : no time limits <u>Second reading</u> : max. 4 months for the Parliament and another max. 4 months for the Council	<u>Conciliation and third reading</u> : max. 24 weeks (3 x 8 weeks), of which max. 8 weeks devoted to <u>conciliation</u> as such
Possibility to table amendments at the committee and the plenary stage	<u>No amendments allowed</u> : approval or rejection of the joint text as a whole in a single vote
<u>First reading</u> : EP adopts amendments by simple majority <u>Second reading</u> : EP adopts amendments by absolute majority (at least 393 votes out of a possible total of 785)	Parliament approves or rejects the joint text by simple majority in a single vote

¹ However, in order to reach agreement and in the interest of good law-making the two co-legislating institutions may need to change provisions of the common position that were not subject to an EP second reading amendment. This is the view of the European Court of Justice, which in the first case it had to deal with conciliation as such (ECJ judgement of 10.1.2006 in the 'IATA' case), ruled that Article 251 EC Treaty does not impose any restriction on the content of the measures chosen to help reach agreement on a joint text. It reasoned that, in using the term 'conciliation' the authors of the Treaty intended to make the relevant procedure effective and to confer a wide discretion on the Conciliation Committee. The aim is to reconcile the positions of the Parliament and the Council on the basis of examination of all the aspects of disagreement between the two institutions.

2. CONCILIATION STEP BY STEP

The preliminary stage (second reading of the Parliament)

The results of Parliament's second reading vote are transmitted to the Council. From this point, the latter has three months (or four, if an extension has been agreed) to complete its second reading by deciding whether or not it can accept all Parliament's second reading amendments. In practice, the Council informs Parliament unofficially as soon as possible - normally within days of Parliament's second reading vote - whether it can accept them or not. If the Council objects to any amendment, the Conciliation Committee has to be convened. In such a case, the two institutions start negotiations as soon as possible with a view to preparing the way for an agreement in conciliation.

Throughout the codecision procedure the Council acts by qualified majority, except in the three areas covered by EC Treaty Articles 42 (freedom of movement for workers), 47(2) (measures for self-employed persons) and 151(5) (incentive measures in respect of culture), where unanimity is required. However, up until the formal conclusion of the second reading phase, the Council needs unanimity to accept any EP amendments opposed by the Commission.

Appointment of the EP delegation

The Parliament delegation is appointed separately for each conciliation procedure, in other words for each legislative proposal requiring conciliation. Its task is to represent the whole Parliament in its negotiations with the Council during conciliation. The basic provision for the appointment of the delegation is Rule 64 of the EP Rules of Procedure (see Annex C).

Once it becomes clear that the Council cannot approve all Parliament's second reading amendments, the *Conciliations and Codecision Secretariat* ('CODE') starts preparations for the appointment of the Parliament delegation to the Conciliation Committee. The CODE secretariat assists the Parliament delegation throughout the conciliation procedure (third reading), working in close cooperation with the secretariat(-s) of the parliamentary committee(-s) involved and with Parliament's Legal Service, lawyer-linguists and Press Service (for a detailed mission statement of the CODE secretariat, see p. 23).

At the beginning of each legislature, or if major changes in the overall composition of the Parliament occur, the Conference of Presidents determines the political make-up of the delegation in line with the relative strength of the political groups. On the basis of Parliament's political composition after the June 2004

elections, and the overall increase of the number of Members to 785 following the accession of Bulgaria and Romania, the EPP-ED has 11 Members, the PES 9, the ALDE group 4, and the UEN, Greens/EFA and the GUE/NGL groups have 1 Member each¹.

The three Vice-Presidents of the Parliament with special responsibility for conciliation are members of every delegation: they are included in the quota of Members laid down for their group. Each delegation is chaired by one of the three Vice-Presidents: they decide between themselves who will be responsible for which dossier and consequently who will chair which delegation. The rapporteur(s) and the chair of the parliamentary committee responsible, also included in the quota of their political group, are appointed *ex officio* members of the delegation.

The remaining members of the delegation are appointed by each political group and their names are communicated in writing to the secretariat. Most of them are from the committee responsible or from the committees which have given an opinion to the responsible committee. The political groups must also appoint an equal number of substitute members, who can take an active part in the proceedings of the delegation. The political groups communicate any modification to the membership of the delegation in writing to the secretariat.

Constituent meeting of the delegation

The Parliament delegation usually holds its constituent meeting in Strasbourg during the plenary session following the second reading on the relevant procedure. However, and in order to take account of the wish to limit the number of meetings, the constituent meeting may take place later, when first indications of the Council's reaction to Parliament's second reading amendments are known and there is a need for an exchange of views on the substance. Sometimes, if, for example, the chair of the delegation considers that the negotiations with the Council need to start urgently, or if the position of the Council is not yet available, the constituent meeting is replaced by a letter from the chair of the delegation to its Members ('constitution by written procedure').

The main purpose of the constituent meeting of the Parliament delegation is to give a mandate to its negotiating team - the Vice-President as chair of the delegation, the chair of the responsible committee and the rapporteur(s) - to start negotiations with the Council in 'trilogue' meetings (see below). At constituent meetings, there is often also a short exchange of views on the substance of the issues at stake, particularly when the initial reaction of the Council to Parliament's second reading amendments is known.

The Commission is present at all meetings of the Parliament delegation. At the constituent meeting, its representatives are expected to present

¹ Decision of the Conference of Presidents of 18 January 2007.
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and explain the Commission's opinion on Parliament's second reading amendments and possibly also to inform the Members of the Delegation of any developments in the Council of which they are aware.

At the constituent meeting of the delegation the Members are provided with a 'basic document' on the procedure in question, containing the initial Commission proposal, the EP's first reading position, the Council's common position, the EP's second-reading amendments and, where available, the Commission's opinion on these amendments. This document can also be downloaded from the website of the Conciliation Committee.

Before each delegation meeting, the secretariat draws up a note for the Members, summarising the aims of the meeting, the situation concerning the amendments, the stage of negotiations with the Council, and procedural aspects. After each delegation meeting, the secretariat draws up a summary record of the meeting.

Linguistic regime of the delegation

The delegation operates in principle in the languages of its full Members. Interpretation at the meetings as well as translations of the relevant documents (i.e. the 'basic document', notes to Members, 'working documents in four columns' and compromise texts) are available in the languages of the full Members of the delegation. They can also be available in the languages of those substitute Members of the delegation, for whom a request has

been submitted by the political groups prior to the opening of the conciliation procedure, i.e. when appointing their Members of the delegation.

Trilogues

When the Council is ready to present its position on the EP amendments, even if it has not yet formally concluded its second reading, a tripartite meeting between the Parliament, the Council and the Commission, known as a 'trilogue', is arranged.

The EP negotiating team mandated by the delegation represents Parliament. The deputy or the permanent representative (Chair of COREPER I or II respectively) of the Member State holding the Presidency represents the Council (for more details see p. 20). The European Commission is represented by the relevant Directorate-General. In order to maximise the effectiveness of trilogues, attendance is restricted to the negotiating team plus essential support staff (normally no more than 10 persons from each institution).

All Members of the Parliament delegation receive for their information advance details of each trilogue (timing, participants and venue), even when not invited to attend themselves. The trilogue meetings are also included in the list of daily meetings in the Parliament as well as on the website of the Conciliation Committee.

At the first trilogue, the Presidency representative outlines the Council's

position on the Parliament's second-reading amendments: usually the Council accepts some of them, proposes compromises on others and rejects the rest. The Parliament negotiating team then reacts to what it has heard. Each side explains its position and a debate develops: new compromise proposals may be suggested, subject to the approval of the respective delegations.

Negotiations in trilogues are based on a 'four-column working document' setting out the positions of Parliament and Council. The first column shows the Council's common position and the second, the Parliament's second-reading amendment to this. The third column indicates the Council's reaction to the relevant Parliament amendment - acceptance, rejection, or possible compromise text. The position of the Parliament's delegation is shown in the fourth column. So, while the two first columns remain unchanged throughout the conciliation procedure, the last two columns may be modified several times, in line with progress in the negotiations.

Trilogues sometimes conclude by asking that detailed drafting work be carried out by a small working party at '*political*' level (for example, the EP rapporteur may meet with the chair of the Council working group and a Commission representative) or at '*technical*' level by civil servants from the three institutions. Due to the growing number of meetings required, and the strict time limits set by the Treaty, such trilogue meetings are becoming more common. The

Commission is often invited to draw-up possible compromise texts to be discussed in the respective delegations or at the next trilogue meeting.

The results of each trilogue are then presented by the respective negotiators for the approval of the Parliament and Council delegations: where necessary, further trilogues or informal meetings are arranged.

Trilogue meetings take place throughout the conciliation procedure with the aim of resolving outstanding issues and preparing the way for an overall agreement in the Conciliation Committee.

Normally, a short trilogue meeting is held just before the meeting of the Conciliation Committee and sometimes the Conciliation Committee meeting itself is interrupted for negotiations in trilogue to clarify the situation, to find mutually acceptable compromises, and to avoid misunderstandings between the delegations.

Subsequent meetings of the EP delegation

After the first trilogue or other informal contacts, the chair convenes the Parliament delegation to discuss the results of the negotiations. According to Rule 64(7) of the EP's Rules of Procedure, the deliberations of the Parliament delegation are open to all those working inside the Parliament, but are not open to the public. The political groups, the relevant services of the Parliament and the European Commission are formally invited to

attend the meetings. The Council does not attend these meetings.

At such meetings the negotiating team informs the other Members of the Parliament delegation of the results of the trilogue(s) and the delegation normally receives the updated position of the Council in the form of the joint four-column working document. The delegation also considers compromise texts discussed at or drafted after the trilogue(s).

The Commission representatives who are present at the meeting can explain the Commission position or respond to requests for more detailed or 'technical' information. They may also be able to give some details about the meeting of COREPER where the Council has discussed the results of the trilogue.

The main aim of the delegation meetings is to update the mandate of the negotiating team and to discuss any compromise texts. Agreement to certain amendments or compromise proposals is given, subject to overall agreement. If outstanding questions remain, the delegation gives instructions to the negotiating team to pursue negotiations with the Council. The Parliament delegation also takes procedural decisions, for instance, whether another trilogue meeting should be arranged, or whether the Conciliation Committee can be convened and, if so, when.

Delegation meetings are usually organised shortly after the trilogue meetings or whenever the development of the negotiations so requires. Like

trilogues, a delegation meeting always precedes the meeting of the Conciliation Committee and is also organised if the Conciliation Committee meeting is interrupted for negotiations in a trilogue. At the end of the procedure, the delegation formally approves or rejects the agreement reached in conciliation. The delegation aims to act by consensus. However, if a vote is needed, approval of an agreement requires the support of an absolute majority of Members (at least 14).

The Conciliation Committee

The Conciliation Committee, consisting of the representatives of the 27 Member States and an equal number of Members, is convened by the President of the Council with the agreement of the President of the Parliament. The Committee is often convened when the positions of the Parliament and the Council are close enough that it can be anticipated that the outstanding questions can be solved. In any case, the Committee must be convened no more than six weeks (or eight, if an extension has been agreed) after the conclusion of the Council's second reading in order formally to open the conciliation procedure. And the Committee then has another six weeks (or eight, if an extension has been agreed) to reach an overall agreement in the form of a joint text.

Conciliation Committee meetings are normally held in Brussels: Parliament and Council take turns to act as host. In

the official Parliament calendar, certain dates - marked with a circle - are earmarked for such conciliation meetings, but meetings can take place on other dates if Parliament and Council agree. A short trilogue and meetings of the delegations normally precede a full Conciliation Committee meeting.

The Vice-President chairing the EP delegation and the Minister holding the Presidency-in-Office of the Council co-chair the Conciliation Committee meeting. The meeting is opened by the co-chair from the host institution. The relevant Commissioner represents the European Commission.

At a single meeting of the Conciliation Committee, several dossiers may be on the agenda:

- 'A' points are not discussed. They are on the agenda so that the meeting can formally open the conciliation procedure or formally note that agreement has already been reached through trilogues and delegation meetings.
- It is the 'B' point dossier which is the main item of business. The Parliament delegation taking part in the meeting is the one responsible for this particular dossier.

The main working tool is the joint four-column working document prepared by the Parliament and Council conciliation secretariats and translated into all the official languages. It is divided in two parts: "*Part A: Amendments on which agreement has been reached (subject to*

overall agreement)", and "*Part B: Amendments on which agreement has still to be found*". The discussion is normally limited to these outstanding issues. Interpretation is provided into and from all official languages.

The Commission may be invited to propose compromise texts in order to facilitate agreement. And, sometimes, declarations by one or more of the institutions or studies to be carried out by the Commission are used as a tool to reach an agreement.

If agreement seems to be within reach, the Conciliation Committee meetings are normally scheduled to start in the late afternoon or early evening: they may continue until midnight.

If it is unlikely that agreement will be reached at the first meeting, any number of further meetings can be convened within the 6 - 8 weeks time limits set by the Treaty for reaching an agreement.

If the two institutions fail to reach an agreement in the Conciliation Committee, the whole proposal falls. Since 1999, however, there has not been a single example of the delegations of Parliament and Council failing to reach an agreement in the Conciliation Committee.

After a successful conciliation, the Parliament, the Council and the Commission usually hold a joint press conference; if convenient, immediately after the meeting, or otherwise the next day, to mark the agreement reached and to present the results to the media.

If, for some reason a joint press conference is not possible, the Parliament negotiating team may hold a press conference on its own.

The joint text agreed in conciliation is posted in a provisional version in one language (subject to legal - linguistic revision) on the Parliament's website as soon as possible after the end of negotiations, thus enabling the general public as well as the representatives of the institutions to assess the outcome.

The relevant link is:

http://www.europarl.europa.eu/code/default_en.htm.

After each Conciliation Committee meeting, the members of the delegation receive a note summarising the results of the meeting.

After the Conciliation Committee

The agreement reached in the Conciliation Committee has to be confirmed by both the full Parliament and the Council of Ministers. The two institutions vote separately on the joint text as it stands, without any possibility of further amending it.

Following the successful conclusion of the conciliation procedure a draft joint text, known as 'PE-CONS', is prepared on the basis of the joint working document and any modifications agreed in conciliation. It is first established in one language and subsequently translated into the other official languages. The draft joint text

in the original language is sent to the Members of the delegation.

Once the conciliation secretariats and the lawyer-linguists of the Parliament and the Council have finalised the joint text, the co-chairs of the Conciliation Committee send it, together with a covering letter, to the President of the Parliament and the President-in-office of the Council. Any declarations by the institutions are annexed to this letter.

From the signature of the covering letter approving the joint text, the two institutions have six weeks (or eight, if an extension has been agreed) to adopt the act, without any possibility to further amend it (Rule 65 of the EP's Rules of Procedure; see Annex C).

During this period, the Members of the Parliament delegation receive in their respective languages the final joint text for information, along with a report, which outlines the various stages and results of the conciliation procedure. The report includes the record of the vote by the delegation on the conclusion of the conciliation procedure. The final joint text, the report drawn-up by the rapporteur on the authority of the chair of the delegation, the covering letter, and any declarations by the institutions - all are then sent to the Parliament's plenary services (DG Presidency). At this point, the different language versions of the text of the agreement are all published on the website of the European Parliament.

The vote on the joint text is preceded by a debate in the plenary on the

outcome of the negotiations and the agreement reached with the Council. This debate normally begins with a statement by the rapporteur and sometimes by the Vice-President chairing the delegation. The plenary then votes on the joint text. A *simple* majority of the votes cast is required for approval; otherwise the joint text is rejected. Since 1999 only two agreements out of 102 (situation: July 2007) reached in conciliation failed to find a majority in the plenary in third reading.

Should the Conciliation Committee have failed to reach an agreement, the Rules of Procedure provide for the Vice President chairing the delegation to make a statement in the plenary, followed by a debate.

The joint text has also to be approved by the Council, which generally prefers to vote after Parliament's third reading. The Council decides by qualified majority. So far, the Council has never rejected an agreement reached in conciliation.

Thus, the joint text must be approved by both Parliament and Council before it can become law. If either institution fails to approve the joint text, the legislative procedure comes to an end: it can only be re-started by a new proposal from the Commission.¹

¹ This was for instance the case with the proposal for a Directive on 'Take-over Bids' (report *Lehne*). After the rejection by the plenary in July 2001 of the agreement reached in conciliation (and indeed with a tied vote: 273 in favour and 273 against!) the Commission tabled a new proposal in February 2003, which led to an agreement between Parliament and Council in March 2004 and the subsequent adoption of the proposal in first reading. On the other hand, the rejection by

After the successful completion of the third reading in both institutions, the Presidents of Parliament and the Council have to sign the approved joint text. At the first signing, on 23 March 1994, it was agreed to designate such legislative texts as 'LEX'. This denomination also applies to codecision texts approved in first and second reading.

Since February 2004, the Presidents of the two institutions have signed the LEX texts jointly at the Strasbourg plenary sessions. And since October 2006 the two institutions sign selected LEX texts in the presence of the media. Such signatures (of laws such as the Services Directive or the REACH Regulation) serve to highlight the relevance of Community legislation for citizens' everyday lives; and underline the role of Parliament and Council as co-legislators, making law on an equal footing. After their signature, LEX texts are published in the Official Journal, along with any relevant declarations.

Parliament in November 2003 of the agreement reached in conciliation on a Directive on market access to port services (report *Jarzembowski*) was followed in December 2005 by a further rejection by Parliament in first reading of the new proposal tabled by the Commission in 2004. The Commission eventually withdrew its proposal.

3. OUR COUNTERPARTS: WHO IS THE EP DELEGATION DEALING WITH?

The Council delegation

The delegation of the Council is composed of the representatives of the Member States, who are normally the Deputy Permanent Representatives (COREPER I) of each Member State. In recent years, a number of policy areas in the field of Justice and Home Affairs ('3rd pillar'; see Annex D) have become subject to the codecision procedure. In such cases, the Council delegation is made up of the Permanent Representatives of the Member States (COREPER II). At the meetings of the Conciliation Committee, a Minister or a Secretary of State represents the Member State holding the Presidency. That person co-chairs the committee, together with the Vice-President of the Parliament chairing that particular delegation.

The Presidency-in-Office of the Council represents the Council in all contacts with Parliament. In practice, the main actors are the President-in-Office of COREPER I or II and the chair of the relevant Council working group.

The Codecision Unit in the Council Secretariat General assists the Council delegation. It is responsible for coordination of Council's relations with the Parliament regarding codecision files and for conciliation procedures in particular.

The Commission

The representatives of the Commission are normally invited to take part in all meetings of the Parliament delegation as well as the meetings of COREPER. They also participate in the trilogues and are present at the meetings of the Conciliation Committee.

The Commissioner responsible takes part in the formal sittings of the Conciliation Committee and in the trilogue and delegation meetings, which are held just before or on the fringe of the Conciliation Committee meetings.

At the other trilogue meetings and meetings of the Parliament delegation, the Commission is represented by the responsible Director General or his/her representative, assisted by its Secretariat General, including its Codecision Unit and its Legal Service.

The presence of the Commission at all formal and informal conciliation meetings is necessary in order to fulfil the role attributed to it by Article 251(4) EC Treaty, i.e. *'to take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council'*. Thus, even if formally the Commission does not have a binding say at the conciliation stage, its role as a facilitator of the negotiations between the two branches of the legislative authority (Council and Parliament) is very important.

4. PUBLIC ACCESS TO DOCUMENTATION

The public can find most of the documents related to conciliation files through the Conciliation website: http://www.europarl.europa.eu/code/default_en.htm.

These documents include regular reports on conciliation procedures ("Codecision Newsletter"), joint texts approved by the Conciliation Committee and reports for third reading.

The only documents that remain confidential during the conciliation procedure are the joint four-column working documents, where each

institution indicates its response to the position of the other as the conciliation procedure evolves. They become available in the Register of the Parliament once the conciliation procedure has come to an end. The documents may also be made available earlier on request, during the conciliation procedure, provided both institutions agree.

The EP website of the Conciliation Committee, available in English and French, contains information on conciliation procedures and all published codecision legislation documents in all official languages.



CONCILIATION COMMITTEE
Conciliation is the third and final phase of the Codecision procedure

5. CODECISION UNDER THE REFORM TREATY

On 22 June 2007 the Heads of States or Governments agreed on the principles of a '*Reform Treaty*' that will succeed the failed 'Constitutional Treaty'. An Intergovernmental Conference (IGC 2007) will be convened in the autumn of 2007 to finalise the text of the Reform Treaty as soon as possible, and in any case before the end of 2007, so as to allow for sufficient time for ratification of the new Treaty before the EP elections in June 2009.

Subject to successful ratification of the *Reform Treaty*, codecision will enter a new era as it looks likely that the overwhelming majority of the provisions of the Constitutional Treaty on codecision will be taken over in the new Treaty. As a result, codecision will become the rule for passing legislation at Community level. In the future, virtually all the Union's key policy areas will be governed by this legislative procedure, with qualified-majority voting within the Council. However, areas concerning Member States' constitutional order (such as European citizenship), sensitive areas (taxation or some social policy aspects), areas regarded as 'executive' as well as foreign and security policy will be exceptions to this rule.

In particular, the Reform Treaty looks likely to create several *new areas* of

Community action such as the citizens' initiative, humanitarian aid, European space policy, judicial cooperation in civil matters with cross-border implications and social inclusion of third-country nationals.

Certain legal bases concerning the European Central Bank and the European System of Central Banks, the Structural Funds and the Cohesion Fund, currently subject to the *assent* procedure, will also pass to codecision.

Codecision will also be extended to certain areas currently covered by the *consultation* procedure. This concerns a whole series of legal bases in the field of justice and home affairs such as Eurojust, Europol, certain aspects of police cooperation, border controls, asylum and immigration.

Completion of the internal market in the field of energy, some competition aspects and the common market organisations of the common agricultural and fisheries policies, as well as the protection of intellectual property, will also become subject to codecision. So will certain areas where the Parliament currently has no competence at all, such as the movement of capital to or from third countries and the common commercial policy.

6. CONCILIATIONS AND CODECISION SECRETARIAT

MISSION STATEMENT

Throughout the conciliation procedure Members are assisted by the Conciliations and Codecision Secretariat. Its mission statement is as follows:

- to provide assistance and advice to the three Vice-Presidents responsible for conciliation;
- to prepare, organise and follow up all conciliation-related meetings (Parliament delegations, trialogues and Conciliation Committees);
- to assist rapporteurs and committee chairs throughout the conciliation procedure, notably by drafting compromise texts and reports for the plenary;
- to liaise with Parliament's jurist linguists to ensure the legal-linguistic verification of texts arising from the conciliation procedure;
- to respond to requests for procedural and strategic advice on "horizontal" issues arising throughout the codecision procedure;
- to follow the development of codecision dossiers, including through participation at committee meetings and tripartite meetings with Council and Commission;
- to maintain and develop contacts with the service's counterparts in the Council and the Commission;
- to coordinate the procedure for the signature of codecision texts by the President of the Parliament and their publication in the Official Journal;
- to provide up-to-date information on conciliation dossiers and the co-decision procedure in general, for example by publishing a monthly newsletter and by maintaining an Internet site;
- to contribute to training activities within and outside the institution;
- to organise a regular codecision workshop, providing an informal forum for a broad exchange of views on general issues of relevance to the codecision procedure.

CONCILIATIONS AND CODECISION SECRETARIAT

The Conciliations and Codecision Secretariat (CODE) forms a part of Directorate E of the Directorate General for Internal Policies, for which Mrs Els VANDENBOSCH is an acting Director. It is made up as follows:

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Head of Unit				
Klaus BAIER	44873	ATR 08K018	74369	M01024
Administrators / Secretaries				
Nikos TZIORKAS	42341	ATR 08K052	74357	M01027
Sarah BLAU	32504	ATR 08K033	74676	M01026
Christian MAURIN DE FARINA	42787	ATR 08K035	73041	M01028
Katrin HUBER	44692	ATR 08K054	73342	M01021
Kirsti PAAKKOLA	46274	ATR 08K050	74083	M01023
Jolanta RUNĖEVICA	40634	ATR 08K016	72545	M01025
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Annexes

Annex A. Article 251 of the EC Treaty

1. Where reference is made in this Treaty to this Article for the adoption of an act, the following procedure shall apply.
2. The Commission shall submit a proposal to the European Parliament and the Council.

The Council, acting by a qualified majority after obtaining the opinion of the European Parliament,

- if it approves all the amendments contained in the European Parliament's opinion, may adopt the proposed act thus amended;
- if the European Parliament does not propose any amendments, may adopt the proposed act;
- it shall otherwise adopt a common position and communicate it to the European Parliament. The Council shall inform the European Parliament fully of the reasons which led it to adopt its common position. The Commission shall inform the European Parliament fully of its position.

If, within three months of such communication, the European Parliament:

- (a) approves the common position or has not taken a decision, the act in question shall be deemed to have been adopted in accordance with that common position;
 - (b) rejects, by an absolute majority of its component members, the common position, the proposed act shall be deemed not to have been adopted;
 - (c) proposes amendments to the common position by an absolute majority of its component members, the amended text shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.
3. If, within three months of the matter being referred to it, the Council, acting by a qualified majority, approves all the amendments of the European Parliament, the act in question shall be deemed to have been adopted in the form of the common position thus amended; however, the Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion. If the Council does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

4. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. In fulfilling this task, the Conciliation Committee shall address the common position on the basis of the amendments proposed by the European Parliament.
5. If, within six weeks of its being convened, the Conciliation Committee approves a joint text, the European Parliament, acting by an absolute majority of votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If either of the two institutions fails to approve the proposed act within that period, it shall be deemed not to have been adopted.
6. Where the Conciliation Committee does not approve a joint text, the proposed act shall be deemed not to have been adopted.
7. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Annex B

EUROPEAN PARLIAMENT COUNCIL COMMISSION

JOINT DECLARATION ON PRACTICAL ARRANGEMENTS FOR THE CODECISION PROCEDURE OF 13 JUNE 2007 (ARTICLE 251 OF THE EC TREATY)

GENERAL PRINCIPLES

1. The European Parliament, the Council and the Commission, hereinafter referred to collectively as 'the institutions', note that current practice involving talks between the Council Presidency, the Commission and the chairs of the relevant committees and/or rapporteurs of the European Parliament and between the co-chairs of the Conciliation Committee has proved its worth.

2. The institutions confirm that this practice, which has developed at all stages of the codecision procedure, must continue to be encouraged. The institutions undertake to examine their working methods with a view to making even more effective use of the full scope of the codecision procedure as established by the EC Treaty.

3. This Joint Declaration clarifies these working methods, and the practical arrangements for pursuing them. It complements the Interinstitutional Agreement on Better Lawmaking¹ and notably its provisions relating to the co-decision procedure. The institutions undertake fully to respect such commitments in line with the principles of transparency, accountability and efficiency. In this respect, the institutions should pay particular attention to making progress on simplification proposals while respecting the *acquis communautaire*.

4. The institutions shall cooperate in good faith throughout the procedure with a view to reconciling their positions as far as possible and thereby clearing the way, where appropriate, for the adoption of the act concerned at an early stage of the procedure.

5. With that aim in view, they shall cooperate through appropriate interinstitutional contacts to monitor the progress of the work and analyse the degree of convergence at all stages of the codecision procedure.

6. The institutions, in accordance with their internal rules of procedure, undertake to exchange information regularly on the progress of codecision files. They shall ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent fashion. They will therefore seek to establish an indicative timetable for the various stages leading to the final adoption of different legislative proposals, while fully respecting the political nature of the decision-making process.

7. Cooperation between the institutions in the context of codecision often takes the form of tripartite meetings ("trilogues"). This trilogue system has demonstrated its vitality and flexibility in increasing significantly the possibilities for agreement at first and second reading stages, as well as contributing to the preparation of the work of the Conciliation Committee.

¹ OJ C 321, 31.12.2003, p. 1.
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8. Such trilogues are usually conducted in an informal framework. They may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussion. Each institution, in accordance with its own rules of procedure, will designate its participants for each meeting, define its mandate for the negotiations and inform the other institutions of arrangements for the meetings in good time.

9. As far as possible, any draft compromise texts submitted for discussion at a forthcoming meeting shall be circulated in advance to all participants. In order to enhance transparency, trilogues taking place within the European Parliament and Council shall be announced, where practicable.

10. The Council Presidency will endeavour to attend the meetings of the parliamentary committees. It will carefully consider any request it receives to provide information related to the Council position, as appropriate.

FIRST READING

11. The institutions shall cooperate in good faith with a view to reconciling their positions as far as possible so that, wherever possible, acts can be adopted at first reading.

Agreement at the stage of first reading in the European Parliament

12. Appropriate contacts shall be established to facilitate the conduct of proceedings at first reading.

13. The Commission shall facilitate such contacts and shall exercise its right of initiative in a constructive manner with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.

14. Where an agreement is reached through informal negotiations in trilogues, the chair of

Coreper shall forward, in a letter to the chair of the relevant parliamentary committee, details of the substance of the agreement, in the form of amendments to the Commission proposal. That letter shall indicate the Council's willingness to accept that outcome, subject to legal-linguistic verification, should it be confirmed by the vote in plenary. A copy of that letter shall be forwarded to the Commission.

15. In this context, where conclusion of a dossier at first reading is imminent, information on the intention to conclude an agreement should be made readily available as early as possible.

Agreement at the stage of Council common position

16. Where no agreement is reached at the European Parliament's first reading, contacts may be continued with a view to concluding an agreement at the common position stage.

17. The Commission shall facilitate such contacts and shall exercise its right of initiative in a constructive manner with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.

18. Where an agreement is reached at this stage, the chair of the relevant parliamentary committee shall indicate, in a letter to the chair of Coreper, his recommendation to the plenary to accept the Council common position without amendment, subject to confirmation of the common position by the Council and to legal-linguistic verification. A copy of the letter shall be forwarded to the Commission.

SECOND READING

19. In its statement of reasons, the Council shall explain as clearly as possible the reasons that led it to adopt its common position. During its second reading, the European

Parliament shall take the greatest possible account of those reasons and of the Commission's position.

20. Before transmitting the common position, the Council shall endeavour to consider in consultation with the European Parliament and the Commission the date for its transmission in order to ensure the maximum efficiency of the legislative procedure at second reading.

Agreement at the stage of second reading in the European Parliament

21. Appropriate contacts will continue as soon as the Council common position is forwarded to the European Parliament, with a view to achieving a better understanding of the respective positions and thus to bringing the legislative procedure to a conclusion as quickly as possible.

22. The Commission shall facilitate such contacts and give its opinion with a view to reconciling the positions of the European Parliament and the Council, with due regard for the balance between the institutions and the role conferred on it by the Treaty.

23. Where an agreement is reached through informal negotiations in trilogues, the chair of Coreper shall forward, in a letter to the chair of the relevant parliamentary committee, details of the substance of the agreement, in the form of amendments to the Council common position. That letter shall indicate the Council's willingness to accept that outcome, subject to legal-linguistic verification, should it be confirmed by the vote in plenary. A copy of that letter shall be forwarded to the Commission.

CONCILIATION

24. If it becomes clear that the Council will not be in a position to accept all the amendments of the European Parliament at second reading and when the Council is ready to present its position, a first trilogue will be organised. Each institution, in accordance

with its own rules of procedure, will designate its participants for each meeting and define its mandate for the negotiations. The Commission will indicate to both delegations at the earliest possible stage its intentions with regard to its opinion on the European Parliament's second reading amendments.

25. Trilogues shall take place throughout the conciliation procedure with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee. The results of the trilogues shall be discussed and possibly approved at the meetings of the respective institutions.

26. The Conciliation Committee shall be convened by the President of the Council, with the agreement of the President of the European Parliament and with due regard to the provisions of the Treaty.

27. The Commission shall take part in the conciliation proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. Such initiatives may include, draft compromise texts having regard to the positions of the European Parliament and of the Council and with due regard for the role conferred upon the Commission by the Treaty.

28. The Conciliation Committee shall be chaired jointly by the President of the European Parliament and the President of the Council. Committee meetings shall be chaired alternately by each co-chair.

29. The dates and the agendas for the Conciliation Committee's meetings shall be set jointly by the co-chairs with a view to the effective functioning of the Conciliation Committee throughout the conciliation procedure. The Commission shall be consulted on the dates envisaged. The European Parliament and the Council shall set aside, for guidance, appropriate dates for conciliation proceedings and shall notify the Commission thereof.

30. The co-chairs may put several dossiers on the agenda of any one meeting of the Conciliation Committee. As well as the principal topic ("B-item"), where agreement has not yet been reached, conciliation procedures on other topics may be opened and/or closed without discussion on these items ("A-item").

31. While respecting the Treaty provisions regarding time-limits, the European Parliament and the Council shall, as far as possible, take account of scheduling requirements, in particular those resulting from breaks in the institutions' activities and from the European Parliament's elections. At all events, the break in activities shall be as short as possible.

32. The Conciliation Committee shall meet alternately at the premises of the European Parliament and the Council, with a view to an equal sharing of facilities, including interpretation facilities.

33. The Conciliation Committee shall have available to it the Commission proposal, the Council common position and the Commission's opinion thereon, the amendments proposed by the European Parliament and the Commission's opinion thereon, and a joint working document by the European Parliament and Council delegations. This working document should enable users to identify the issues at stake easily and to refer to them efficiently. The Commission shall, as a general rule, submit its opinion within three weeks of official receipt of the outcome of the European Parliament's vote and at the latest by the commencement of conciliation proceedings.

34. The co-chairs may submit texts for the Conciliation Committee's approval.

35. Agreement on a joint text shall be established at a meeting of the Conciliation Committee or, subsequently, by an exchange of letters between the co-chairs. Copies of such letters shall be forwarded to the Commission.

36. If the Conciliation Committee reaches agreement on a joint text, the text shall, after legal-linguistic finalisation, be submitted to the co-chairs for formal approval. However, in exceptional cases in order to respect the deadlines, a draft joint text may be submitted to the co-chairs for approval.

37. The co-chairs shall forward the approved joint text to the Presidents of the European Parliament and of the Council by means of a jointly signed letter. Where the Conciliation Committee is unable to agree on a joint text, the co-chairs shall notify the Presidents of the European Parliament and of the Council thereof in a jointly signed letter. Such letters shall serve as an official record. Copies of such letters shall be forwarded to the Commission for information. The working documents used during the conciliation procedure will be accessible in the Register of each institution once the procedure has been concluded.

38. The Secretariat of the European Parliament and the General-Secretariat of the Council shall act jointly as the Conciliation Committee's secretariat, in association with the Secretariat-General of the Commission.

GENERAL PROVISIONS

39. Should the European Parliament or the Council deem it essential to extend the time-limits referred to in Article 251 of the Treaty, they shall notify the President of the other institution and the Commission accordingly.

40. Where an agreement is reached at first or second reading, or during conciliation, the agreed text shall be finalised by the legal-linguistic services of the European Parliament and of the Council acting in close cooperation and by mutual agreement.

41. No changes shall be made to any agreed texts without the explicit agreement, at the appropriate level, of both the European Parliament and the Council.

42. Finalisation shall be carried out with due regard to the different procedures of the European Parliament and the Council, in particular with respect to deadlines for conclusion of internal procedures. The institutions undertake not to use the time-limits laid down for the legal-linguistic finalisation of acts to reopen discussions on substantive issues.

43. The European Parliament and the Council shall agree on a common presentation of the texts prepared jointly by those institutions.

44. As far as possible, the institutions undertake to use mutually acceptable standard clauses to be incorporated in the acts adopted under codecision in particular as regards provisions concerning the exercise of implementing powers (in accordance with the 'comitology' decision¹), entry into force, transposition and the application of acts and respect for the Commission's right of initiative.

45. The institutions will endeavour to hold a joint press conference to announce the successful outcome of the legislative process at first or second reading or during conciliation. They will also endeavour to issue joint press releases.

46. Following adoption of a legislative act under the codecision procedure by the European Parliament and the Council, the text shall be submitted, for signature, to the President of the European Parliament and the President of the Council and to the Secretaries-General of those institutions.

47. The Presidents of the European Parliament and the Council shall receive the text for signature in their respective languages and shall, as far as possible, sign the text together at a joint ceremony to be organised

on a monthly basis with a view to signing important acts in the presence of the media.

48. The jointly signed text shall be forwarded for publication in the Official Journal of the European Union. Publication shall normally follow within two months of the adoption of the legislative act by the European Parliament and the Council.

49. If one of the institutions identifies a clerical or obvious error in a text (or in one of the language versions thereof), it shall immediately notify the other institutions. If the error concerns an act that has not yet been adopted by either the European Parliament or the Council, the legal-linguistic services of the European Parliament and the Council shall prepare the necessary corrigendum in close cooperation. Where this error concerns an act that has already been adopted by one or both of those institutions, whether published or not, the European Parliament and the Council shall adopt, by common agreement, a corrigendum drawn up under their respective procedures.

¹ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23). Decision as amended by Decision 2006/512/EC (OJ L 200, 27.7.2006, p. 11).

Annex C. Rules of Procedure of the European Parliament - Rules 60-65

Plenary stage

Rule 60 Conclusion of second reading

1. The Council's common position and, where available, the recommendation for second reading of the committee responsible shall automatically be placed on the draft agenda for the part-session whose Wednesday falls before and closest to the day of expiry of the period of three months or, if extended in accordance with Rule 58, of four months, unless the matter has been dealt with at an earlier part-session.

The recommendations for second readings submitted by parliamentary committees are equivalent to an explanatory statement in which the committee justifies its position in relation to the Council's common position. There is no vote on these texts.

2. The second reading shall be concluded when Parliament approves, rejects or amends the common position within the time limits and in accordance with the conditions laid down by Articles 251 and 252 of the EC Treaty.

Rule 61 Rejection of the Council's common position

1. The committee responsible, a political group or at least forty Members may, in writing and before a deadline set by the President, table a proposal to reject the common position of the Council. Such a proposal shall require for adoption the votes of a majority of the component Members of Parliament. A proposal to reject the common position shall be voted on before voting on any amendments.
2. Notwithstanding a vote by Parliament against the initial proposal to reject the common position, Parliament may, on the recommendation of the rapporteur, consider a further proposal for rejection after voting on the amendments and hearing a statement from the Commission pursuant to Rule 62(5).
3. If the common position of the Council is rejected, the President shall announce in Parliament that the legislative procedure is closed.
4. By way of derogation from paragraph 3, if a rejection by Parliament falls under the provisions of Article 252 of the EC Treaty, the President shall request the Commission to withdraw its proposal. If the Commission does so, the President shall announce in Parliament that the legislative procedure is closed.

Rule 62 Amendments to the Council's common position

1. The committee responsible, a political group or at least forty Members may table amendments to the Council's common position for consideration in Parliament.
2. An amendment to the common position shall be admissible only if it conforms to the provisions of Rules 150 and 151 and seeks:
 - (a) to restore wholly or partly the position adopted by Parliament in its first reading; or
 - (b) to reach a compromise between the Council and Parliament; or
 - (c) to amend a part of the text of a common position which was not included in - or differs in content from - the proposal submitted in first reading and which does not amount to a substantial change within the meaning of Rule 55; or
 - (d) to take account of a new fact or legal situation which has arisen since the first reading.

The President's discretion to declare an amendment admissible or inadmissible cannot be questioned.

3. If new elections have taken place since the first reading, but Rule 55 has not been invoked, the President may decide to waive the restrictions on admissibility laid down in paragraph 2.
4. An amendment shall be adopted only if it secures the votes of a majority of the component Members of Parliament.
5. Before voting on the amendments, the President may ask the Commission to state its position and the Council to comment.

Third reading - conciliation

Rule 63 Convening of Conciliation Committee

Where the Council informs the Parliament that it is unable to approve all Parliament's amendments to the common position, the President shall, together with the Council, agree to a time and place for a first meeting of the Conciliation Committee. The six-week or, if extended, eight-week deadline provided for in Article 251(5) of the EC Treaty shall run from the time at which the Committee first meets.

Rule 64 Delegation to Conciliation Committee

1. Parliament's delegation to the Conciliation Committee shall consist of a number of members equal to the number of members of the Council delegation.
2. The political composition of the delegation shall correspond to the composition of Parliament by political groups. The Conference of Presidents shall fix the exact number of Members from each political group.
3. The members of the delegation shall be appointed by the political groups for each particular conciliation case, preferably from among the members of the committees concerned, except for three members who shall be appointed as permanent members of successive delegations for a period of twelve months. The three permanent members shall be appointed by the political groups from among the Vice-Presidents and shall represent at least two different political groups. The chairman and the rapporteur of the committee responsible in each particular case shall be members of the delegation.
4. The political groups represented on the delegation shall appoint substitutes.
5. Political groups and Non-attached Members not represented on the delegation may each send one representative to any internal preparatory meeting of the delegation.
6. The delegation shall be led by the President or by one of the three permanent members.
7. The delegation shall decide by a majority of its members. Its deliberations shall not be public.

The Conference of Presidents shall lay down further procedural guidelines for the work of the delegation to the Conciliation Committee.

8. The results of the conciliation shall be reported by the delegation to Parliament.

Third reading - plenary stage

Rule 65 Joint text

1. Where agreement on a joint text is reached within the Conciliation Committee, the matter shall be placed on the agenda of a sitting of Parliament to be held within six or, if extended, eight weeks of the date of approval of the joint text by the Conciliation Committee.

2. The chairman or another designated member of Parliament's delegation to the Conciliation Committee shall make a statement on the joint text, which shall be accompanied by a report.
3. No amendments may be tabled to the joint text.
4. The joint text as a whole shall be the subject of a single vote. The joint text shall be approved if it secures a majority of the votes cast.
5. Where no agreement is reached on a joint text within the Conciliation Committee, the chairman or another designated member of Parliament's delegation to the Conciliation Committee shall make a statement. This statement shall be followed by a debate.

Annex D. Legal bases covered by codecision

Codecision applies at present (July 2007) to the following 40 legal bases of the EC Treaty:

Article 12	prohibition of any discrimination on grounds of nationality
Article 13(2)	new anti-discrimination measures
Article 18	citizenship: right of citizens to move and reside freely within the territory of the Member States
Article 40	freedom of movement for workers
Article 42 **	freedom of movement for workers: social security of migrant workers in the Community
Article 44	right of establishment
Article 46	right of establishment: special treatment for foreign nationals
Article 47(1)	taking up and pursuing activities as self-employed persons, training and conditions of access to professions: mutual recognition of diplomas
Article 47(2) **	measures concerning the self-employed: amendment of national legislation
Article 55	right of establishment: services
Article 62(2)(b)(ii, iv)	border controls: issuing of visas; rules on a uniform visa
Article 63(1)(a, b, c)	asylum measures
Article 63(2)(a)	measures on refugees and displaced persons: temporary protection to displaced persons from third countries
Article 65	judicial cooperation in civil matters (except family law)
Article 71(1)	transport: common rules applicable to international transport, conditions under which non-resident carriers may operate transport services within a Member State, measures to improve transport safety
Article 80(2)	sea and air transport
Article 95(1)	harmonisation of the internal market
Article 129	employment: incentive measures
Article 135	customs cooperation
Article 137 (1-2)	social policy: workers' health and safety, working conditions, information and consultation of workers, equality between men and women, measures to encourage cooperation in fight against social exclusion
Article 141	social policy: equal opportunities and pay
Article 148	Social Fund: implementing decisions
Article 149(4)	education: incentive measures
Article 150(4)	vocational training: measures to contribute to the achievement of objectives
Article 151(5) **	incentive measures in respect of culture

Article 152(4)	public health: minimum standards of quality and safety of organs and substances of human origin, blood and blood derivatives, measures in the veterinary and phytosanitary fields designed to protect public health, action to improve public health
Article 153(4)	consumer protection
Article 156	trans-European networks: establishment, funding
Article 157(3)	specific support measures in the industrial sphere
Article 159(3)	specific actions for economic and social cohesion outside the Structural Funds
Article 162	European Regional Development Fund (implementing decisions)
Article 166	framework programme for research and technical development
Article 172(2)	research: adoption of programmes
Article 175(1)(3)	environment: measures, adoption and implementation of programmes
Article 179	development cooperation
Article 191	regulations governing political parties at European level and the rules regarding their funding
Article 255	transparency: general principles and limits on access to documents
Article 280	measures to counter fraud
Article 285	statistics
Article 286	protection of data: establishment of an independent supervisory body

Codecision applies since 1 April 2005 also to the following legal bases:

Article 62(1), (2)(a), (3)	border controls
Article 63(1)(d)	asylum measures: minimum standards for granting or withdrawing refugee status
Article 63(2)(b)	promoting a balance of effort between Member States in receiving refugees and displaced persons
Article 63(3)(b)	illegal immigration, illegal residence and repatriation of illegal residents

Codecision may be extended to the following legal bases:

Article 63(3)(a)	legal immigration
Article 63(4)	rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States
Article 137(1) (d, f, g)	social provisions

(** Unanimity in the Council)

Annex E Presentation of the codecision procedure

