

Subsidiarity and Proportionality – FCO Emerging Themes Event: 27 June 2014

Attendees

European Foundation
Council of British Chambers of Commerce in Europe
Business for Britain
European Commission
Heathrow Airport
Gapuma
EnergyUK
TheCityUK
Various FCO Alumni

Discussion

1. FCO officials set out the evidence received on the three areas covered in the report: Subsidiarity, Proportionality and Article 352 (the Flexibility Clause), pointing out that these were only initial ideas based on incomplete information. Most evidence had been received on: impact assessments (where respondents were largely in support in principle, but had raised concerns around implementation); improvements to the yellow card system and the role of national parliaments; the role of the Commission; and the approach of the Court of Justice of the EU. One overarching theme which had emerged was the importance that stakeholders attached to Subsidiarity and Proportionality principles as a means of linking citizens/Member States and EU activity.
2. One participant noted the ambiguity and subjectivity of the Subsidiarity principle. The decision on where competence lay was often a judgement call and therefore it was problematic to distil it down to the application and definition of the treaties, which had been the focus of the Commission to date. Another participant noted that it was often not clear where the balance of power lay in cases of shared competence.
3. One participant noted that the UK Parliament's focus was often on attempting to block legislation. There should be more focus on engagement with the European Parliament and other institutions in the development and implementation of EU policy. Another participant felt that the UK Parliament was not effectively engaged in the scrutiny process. There was a case for more parliamentary debate on new legislation, although it was noted that the UK was one of the better Member States in scrutinising legislation and putting forward the view of its national parliament. It was felt that this was largely down to the individuals involved rather than necessarily an effective system. Participants noted that

there was more scope for the UK Parliament to liaise with other national parliaments, which often had similar concerns.

4. All agreed that more proactive consultation by the UK Parliament with stakeholders, particularly business groups, was necessary. One participant noted that, due to the amount of EU legislation and resulting time constraints, outcomes were not always disseminated effectively to business. The approach to consultation with business differed across Member States.
5. One area in particular where it was felt that it would be beneficial to better engage business was on impact assessments. One participant noted the process was improving but they still felt impact assessments were often written to justify a decision rather than as an objective analysis. Another participant raised the concern that sometimes legislation was rushed through in response to a crisis, which was costly and caused problems further down the line.