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SUBSIDIARITY/PROPORTIONALITY EVALUATION

Unit for Subsidiarity monitoring

Document number	COM(2007) 354
Title	<p>Green Paper from the Commission to the Council, The European Parliament, the European Economic and Social Committee and the Committee of the Regions: <i>Adapting to climate change in Europe – options for EU action</i></p> <p><u>Related documents:</u> SEC (2007) 849</p> <p>Non-legislative document</p>
Date of adoption by Commission	29.06.2007
Drafting of opinion of COR	DEVE
Related articles in the Treaties	Article 174 TEC Article 175 TEC Article 176 TEC
Detailed subsidiarity check	NO

1. Legal basis

The Green Paper (non-legislative document) examines climate change impacts in Europe. The Green Paper approaches the climate change both from preventive and adaptation point of view and raises the external dimension of environmental policy. The document also contributes to the objectives set by the 2007 Spring Council.

The Community policy on the environment is based on Articles 174-176 of the EC Treaty. These articles foresee that the environmental policy is based on the precautionary principle and on the principle that preventive action should be taken¹. Article 174 seeks also to promote measures at international level to deal with regional or worldwide environmental problems.

¹ Article 174.2 TEC.

The environmental policy is a shared competence in the EU, and the principles of subsidiarity and proportionality apply.

2. Compliance with subsidiarity principle

The Paper is by its nature non-legislative and rather than proposing specific binding measures or policy, the Commission is presenting a case for action and policy responses in the EU. In this context, the Commission is putting forward a series of questions and opening a web-based public consultation.

The document in question does not raise concerns from the subsidiarity principle point of view for the following reasons:

- It is not a legislative document and it does not propose binding measures at this stage.
- The document is by its nature both trans-national and global² and lack of Community policy/action would conflict with the requirements of the EC treaty.
- The document proposes as a policy option a **European level coordination** while respecting the subsidiarity principle both in taking into consideration the variety of the impact of the climate change in different regions and in noting that *"action should be taken at the most appropriate level and be complementary"*³ while adding that the examples given on the role of the Member States, regional and local authorities in the document should be adapted according to the different divisions of competences in each Member State.

It should be welcomed that the present and future impact of climate change⁴ is illustrated in the Commission Staff Working Paper (SEC (2007) 849) following a regional division. This type of approach will contribute to the evaluation of the future policy options also from the subsidiarity/proportionality point of view.

3. Compliance with the proportionality principle

With reference to the CoR opinion on *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Winning the Battle Against Global Climate Change COM(2005) 35 final*⁵ and related internal subsidiarity analysis, it could be reinstated with the context of this document that when planning

² The CoR urges in its draft opinion on "Limiting Global Climate Change to 2 degrees Celsius and the Inclusion of Aviation in the Emission Trading System (CdR 110/2007)" *urges the Commission to increase its efforts at the highest political level to boost the international coalition against climate change since climate change can only be tackled if all (major) countries contribute*".

³ COM (2007)354 *The role of Member States, regional and local authorities* p. 11.

⁴ SEC (2007)849, p.9-12.

⁵ CoR opinion CdR 65/2005.

the future Community policy options and action plans, the **following aspects in relation to the local and regional authorities should be taken carefully into account:**

- The climate change will have a different impact on different regions. This should be taken into account both when proposing concrete actions and related financial instruments, i.e. leave as much scope for national decision as possible and provide/propose adequate⁶ and feasible financial instruments/means⁷. On the other hand, this should include also the policy option where Member States can introduce more stringent measures⁸.
- The Commission points out the necessity of a horizontal approach in fighting the climate change. Like the 2005 Communication, this Green paper presents for the debate different possible actions in different EU policy areas⁹. It should be noted that many of these policy areas fall under category of shared competences and thus the principles of subsidiarity and proportionality apply¹⁰. In accordance to the Protocol on the application of the principles of subsidiarity and proportionality the Commission should not only justify the relevance of its proposals with the regard to the principle of subsidiarity but also "take duly into account the need for any burden, whether financial or administrative, falling upon the Community, national governments, local authorities, economic operators and citizens, to be minimised and proportionate to the objective to be achieved"¹¹.
- The proposed adaptation of existing Community funding programmes should not lead to a situation where unbalanced administrative and/or financial burden is imposed to the local and regional authorities in order to access Community funding under these programmes¹².

6 The CoR request in its draft opinion on "Limiting Global Climate Change to 2 degrees Celsius and the Inclusion of Aviation in the Emission Trading System (CdR 110/2007) that *"the Commission allocates more financial means towards mitigation measures in the 2008 Budget Midterm Review since the ambitious climate targets which have been set can only be achieved if more public money is made available"*.

7 See also Article 7, Protocol on the application of the principles of subsidiarity and proportionality.

8 Article 176 TEC.

9 COM(2007) 354, p. 14-20.

10 The CoR regrets in its draft opinion on "Limiting Global Climate Change to 2 degrees Celsius and the Inclusion of Aviation in the Emission Trading System (CdR 110/2007) that *"the Commission is not paying more attention to the regional distribution of both the costs of inaction and the benefits of action, and urges the Commission to conduct an in-depth analysis of the regional dimension of the costs and benefits of climatechange and climate policy"*.

11 Article 9, Protocol on the application of the principles of subsidiarity and proportionality.

12 The CoR recommends in its draft opinion on "Limiting Global Climate Change to 2 degrees Celsius and the Inclusion of Aviation in the Emission Trading System (CdR 110/2007) that *"the use of European Structural Funds and the European Cohesion Fund as useful means to assist regions facing relatively high adaptation or mitigation costs. This would increase support for European climate policy in these regions"*.