

October 2002

The Foreign Policy Committee





The meeting room of the Foreign Policy Committee decorated with paintings by Per Kirkeby

Appointment and Composition of the Foreign Policy Committee

The Foreign Policy Committee is appointed in accordance with Section 19 (3) of the Constitutional Act of Denmark. Its activities etc. are described in Act no. 54 of 5 March 1954 on the Foreign Policy Committee. In this respect, the Foreign Policy Committee differs fundamentally from other Committees and Commissions in the Folketing, as their activities are generally governed by the Standing Orders of the Folketing.

The Foreign Policy Committee has 17 members and 17 deputies, who are assisted by a Secretariat in the Parliamentary Department of the Folketing Services.

The Provisions of the Constitutional Act and the Act on the Foreign Policy Committee

The duties of the Foreign Policy Committee are laid down in Section 19 (3) of the Constitutional Act, which has the following wording: »*The Folketing shall appoint from among its members a Foreign Policy Committee, which the Government shall consult before making any decision of major importance to foreign policy. Rules applying to the Foreign Policy Committee shall be laid down by statute.*«

These rules have been laid down in Danish Act no. 54 of 5 March 1954 on the Foreign Policy Committee.

Section 2 of the Act on the Foreign Policy Committee stipulates the following:

- The Government shall consult the Committee prior to any decision of major importance to foreign policy
- The Committee shall discuss with the Government matters of importance to Danish foreign policy
- The Committee shall receive information from the Government about foreign policy affairs.

In accordance with Section 19 (1) of the Constitutional Act, it is, as a general rule, the King (i.e. the Government) who »*shall act on behalf of the Realm in international affairs*«. This means that, as a general rule, the Government is responsible for pursuing Danish foreign policy.

However, the Constitutional Act and the Act on the Foreign Policy Committee grant the



popularly elected assembly (the Folketing) a number of formal possibilities of exerting influence on the Government's foreign policy.

Furthermore, in the area of foreign policy, the Government is covered by the same general and specific possibilities of parliamentary supervision and sanctions as in all other areas. For example, this means that, in the area of foreign policy, there is an interface with the areas of responsibility for, in particular, two of the Standing Committees, i.e. the Foreign Affairs Committee and the Defence Committee. The members of these Committees may use the general parliamentary methods to supervise the Government's foreign policy and defence policy.

A practice has consequently been developed in which a parallel debate may take place in the Foreign Policy Committee and in the Standing Committees. This means, for example, that the

Defence Committee may summon the Prime Minister, the Minister of Foreign Affairs or the Minister of Defence for consultation on a given foreign policy, security policy or defence policy issue concurrently with the Minister(s) in question also consulting the Foreign Policy Committee on the same issue.

The same applies to the Foreign Affairs Committee, which has the same supervisory powers over the Government in connection with issues that fall within the Foreign Policy Committee's area of responsibility.

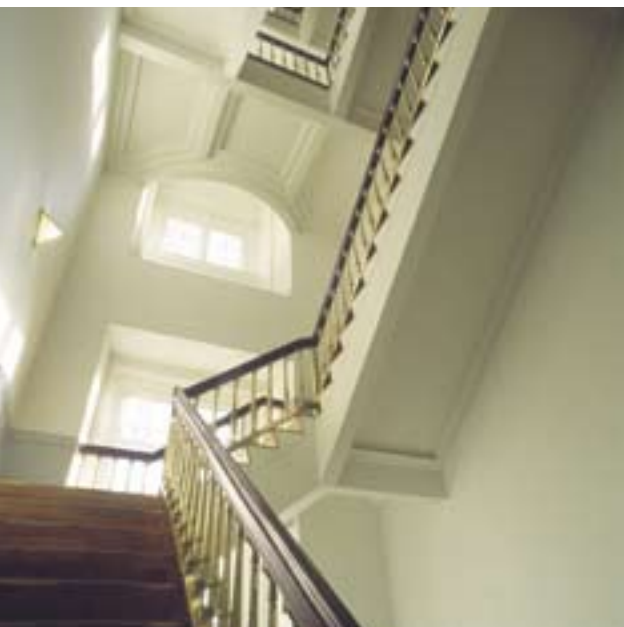
Denmark has had minority governments for most of its recent history. This means that the Folketing (and consequently the Foreign Policy Committee) has greater influence on the foreign policy that is pursued by changing Governments and that the Government will strive to achieve as much support as possible for its foreign policy.

§ 19 OF THE DANISH CONSTITUTIONAL ACT

§ 19. (1) The King shall act on behalf of the Realm in international affairs, but, except with the consent of the Folketing, the King shall not undertake any act whereby the territory of the Realm shall be increased or reduced, nor shall he enter into any obligation which for fulfilment requires the concurrence of the Folketing, or which is otherwise of major importance; nor shall the King, except with the consent of the Folketing, terminate any international treaty entered into with the consent of the Folketing.

(2) Except for purposes of defence against an armed attack upon the Realm or Danish forces the King shall not use military force against any foreign state without the consent of the Folketing. Any measure which the King may take in pursuance of this provision shall forthwith be submitted to the Folketing. If the Folketing is not in session it shall be convened immediately.

(3) The Folketing shall appoint from among its members a Foreign Policy Committee, which the Government shall consult before making any decision of major importance to foreign policy. Rules applying to the Foreign Policy Committee shall be laid down by statute.



The Queen's staircase

Matters of Major Importance to Foreign Policy

It is first and foremost natural to ask when a matter is »*of major importance to foreign policy*«, which means that the Government is under an obligation to consult the Foreign Policy Committee. As this takes place on the Government's initiative, it is, to begin with, up to the Government to evaluate whether a decision is of »major importance to foreign policy«. This evaluation is based on several factors. Firstly, there is a pure foreign policy assessment of the problem in question. Secondly, the importance that Denmark's position on the issue in question may have will be considered, and, finally, the political interest in the issue in question in Denmark will be considered.

The Government must be granted a certain amount of discretion in the further demarcation of this obligation.

However, certain matters are submitted to the Foreign Policy Committee in accordance with an established practice. For example, all matters for which the Folketing's consent is required in accordance with Section 19 (1) and (2) of the Constitutional Act are, by way of introduction, submitted to the Foreign Policy Committee, after which the matter is debated in the Standing Committee under which it belongs. The posting of Danish forces for participation in international operations is an example of one of the matters that are, by way of introduction, submitted to the Foreign Policy Committee after which they are debated in the Folketing in the form of a motion for a parliamentary resolution.

The Government's Duty to Consult

The Government's *duty to consult* means that the Minister (normally the Prime Minister or the Minister of Foreign Affairs) who submits a matter of major political importance to the Foreign Policy Committee has a duty to be present and listen to any comments from the members of the Committee and to answer any questions.

This will concern matters of current interest such as the fight against terrorism, the conflict in the Middle East, the situation in the Balkans or consultation before and after meetings in the Council of the European Union.

The Government is not bound by the views of the Foreign Policy Committee, but the deliberations of the Foreign Policy Committee may provide an indication of whether the Government's



foreign policy has support from a majority of the members of the Folketing.

The fact that a matter will subsequently be submitted to the Folketing for consent in pursuance of the other provisions of the Constitutional Act (e.g. Section 19 (1)) does not exempt the Government from consulting the Foreign Policy Committee. The point of the debate in the Foreign Policy Committee is precisely to ensure a parliamentary debate of the issue before the adoption of any resolution.

A detailed description of the scope of the duty to consult is given in »Report no. 3, submitted by the Foreign Policy Committee on 13 March 2000, on the Foreign Policy Committee's involvement in connection with decisions of major importance to foreign policy (submitted on the basis of the Government's handling of the matter concerning the sanctions against Austria)« and in »Report no. 2, submitted by the Foreign Policy Committee on 16 March 2001, on the Foreign Policy Committee's involvement in matters concerning the EU's Common Foreign and Security Policy (CFSP)«.

The Government's Duty to Discuss Matters with the Committee

In addition to the above duty to consult, Section 2 of the Act on the Foreign Policy Committee stipulates that it is also *the Foreign Policy Committee's task to discuss with the Government matters of importance to Danish foreign policy*.

In accordance with this, the Government is to contribute to the Foreign Policy Committee being widely briefed on current foreign policy

issues and to this information being included in the basis of more general discussions of current foreign policy issues between the Foreign Policy Committee and the Government.

This duty to conduct discussions between the Foreign Policy Committee and the Government is closely linked with the Government's duty to provide information.

The Government's Duty to Provide Information

Finally, the Act on the Foreign Policy Committee stipulates that »*The Foreign Policy Committee shall receive information from the Government about foreign policy affairs*«.

This duty to provide information is, in particular, to ensure that the Foreign Policy Committee is able to advise the Government on a sound basis of information and may enter into actual discussions with the Government on a given issue.

In practice, the Government briefs the Foreign Policy Committee by providing oral information in the Foreign Policy Committee (usually via the Prime Minister, the Minister of Foreign Affairs and/or the Minister of Defence) about current foreign policy issues and about the position that the Government intends to adopt in international or bilateral meetings, etc. The Foreign Policy Committee is subsequently also briefed orally about the proceedings at such meetings.

Confidentiality

Section 4 of the Act stipulates that the members of the Foreign Policy Committee have a

duty of confidentiality regarding all matters about which they acquire knowledge on the Foreign Policy Committee to the extent to which the Minister in question or the Chairperson of the Foreign Policy Committee so decides. The consultation between the Government and the Foreign Policy Committee is consequently not open to the public.

One of the results of this requirement of confidentiality is that the records (minutes) of the meeting are not distributed. However, members and deputies will have access to read the records at the Secretariat of the Foreign Policy Committee in the Folketing.

Written Questions to the Government

In addition to the discussions at the meetings, the members of the Foreign Policy Committee may put written questions to the Government. The questions are answered orally at the next ordinary meeting of the Foreign Policy Committee under the item »Questions« on the agenda. The questions must be put via the Secretariat of the Foreign Policy Committee in the Folketing and must be received by the Ministry of Foreign Affairs not later than three weekdays before the meeting. The right to put written questions is not governed directly in the Act on the Foreign Policy Committee, but is a practice that is closely linked to the possibilities of supervision that exist for the Standing Committees in the Folketing.

The Time for Prior Consultation of the Foreign Policy Committee

The question of when the Foreign Policy Committee is to be involved in the Government's

decision-making process in matters of foreign policy is, of course, of central importance and has been the object of debate in the Foreign Policy Committee on numerous occasions.

Section 19 (3) of the Constitutional Act and Section 2 of the Act on the Foreign Policy Committee stipulate that the Government must consult the Foreign Policy Committee before making any decision on a matter of major importance to foreign policy. Both the Constitutional Act and the Act on the Foreign Policy Committee consequently clearly stipulate that the matter must be submitted to the Foreign Policy Committee before a decision is made. If the consultation is to make any sense, it must, as a general rule, take place at a time at which the Government has not yet informed other states about its decision or has otherwise implemented the decision, one reason being that a subsequent change in the Government's position would generally be connected with a considerable loss of prestige. However, it is assumed that this does not prevent the Government from having made its decision internally, of which the Foreign Policy Committee will, of course, then be informed in connection with the briefing. The essential point is that the decision may be changed, if required.

A special – practical – problem may arise if the need to make a decision is so urgent that there is not sufficient time to convene the Foreign Policy Committee before the decision is to be made. In this connection, reference is made to Section 19 (2) of the Constitutional Act, which stipulates that, in the event of an armed attack upon the Realm or Danish forces, the Government may use military force against a foreign state without the prior consent of the Folketing.



The measures that the Government had to take must subsequently be presented to the Folketing without delay.

The question of the involvement of the Foreign Policy Committee in time has, most recently, been discussed in connection with the sanctions against Austria, cf. the Report of 13 March 2000 on the Foreign Policy Committee's involvement in connection with decisions of major importance to foreign policy (submitted on the basis of the Government's handling of the matter concerning the sanctions against Austria). One of the views expressed in this report is that there must be a decisive actual obstacle to due discussion in the Foreign Policy Committee in order to set aside – under full parliamentary responsibility – the right of prior consultation regarding »necessary decisions« that are covered by Section 19 (3) of the Constitutional Act. The question is therefore in which cases such an obstacle can be said to exist. In this connection, it should be pointed out that an armed attack on Denmark is covered by Section 19 (2) of the Constitutional Act. It should also be noted that it has previously been shown to be possible to convene the Foreign Policy Committee at very short notice. The actual notice convening the Foreign Policy Committee can be made in the course of approximately one hour.

Regarding the time perspective for the Government's duty to enter into a »discussion« with and provide a »briefing« of the Foreign Policy Committee (cf. the wording »receives information« in the Act on the Foreign Policy Committee), in practice, this discussion and briefing take place before (in certain cases) and after (in other cases) the Government has made a decision in the matter in question.



The father of the Constitution, King Frederik VII (1808-1863)

Foreign Policy Committee Meetings

The Chairperson of the Foreign Policy Committee convenes Foreign Policy Committee meetings, cf. Section 3 of the Act on the Foreign Policy Committee. In accordance with this provision, the Chairperson must convene a meeting of the Foreign Policy Committee when this is requested by at least three of the members of the Committee or the Government.

As the consultation with the Foreign Policy Committee takes place on the Government's initiative, it is, as stated above, initially the Government that evaluates whether a decision is of such »major importance to foreign policy« that a meeting with the Foreign Policy Committee has to be convened.

As part of this fundamental right to initiate the consultation, in practice, the Ministry of Foreign Affairs prepares a draft agenda for the meetings. The Chairperson and the members of the Foreign Policy Committee may also make proposals for specific items that are to be put on the agenda. When the Chairperson has approved the final agenda, a meeting of the Foreign Policy Committee is convened.

However, the Foreign Policy Committee may also itself take the initiative for a Foreign Policy Committee meeting. The Chairperson may convene the Foreign Policy Committee – and consequently the Prime Minister, the Minister of Foreign Affairs and/or the Minister of Defence – for a meeting when at least three of the members of the Foreign Policy Committee exercise the statutory right to request that a meeting be convened in the Foreign Policy Committee.

The Foreign Policy Committee meets in accordance with requirements, but, on average and under normal conditions, meetings are held every three to four weeks and last for two to three hours. However, more frequent meeting activity is seen in connection with international summits and international crises, etc. Out of consideration for the members' planning, tentative meeting dates are set minimum two months ahead.

A notice convening the meeting and containing the agenda is sent out prior to all meetings.

Study Visits, Participation in Conferences, Etc.

Study trips, visits, hearings and participation in conferences, etc. are planned following a specific wish from the Foreign Policy Committee. The

Foreign Policy Committee's Secretariat in the Folketing handles all tasks in this connection.

The purpose of the study trips is to supplement the Foreign Policy Committee's information basis with first-hand impressions, discussions and meetings. These trips may be lengthy trips, the purpose of which is to study the political development in a given country, and short study trips aimed at gathering information about a given subject.

The Foreign Policy Committee made study trips to the USA and Russia in 2002.



Christiansborg Palace — seat of the Danish Parliament

Coming study trips are discussed on a sub-committee under the Foreign Policy Committee consisting of one member from each of the parties in the Folketing. The sub-committee also discusses relevant questions of procedure.

The members of the Foreign Policy Committee are also invited to participate in meetings with foreign parliamentarians or government members when they make visits to Denmark.



Finally, the Foreign Policy Committee may hold hearings to gather information. For example, the Foreign Policy Committee held a hearing on the American missile defence project in April 2001. Government representatives from the USA and Russia, among other countries, and scientists and researchers from recognised foreign think tanks were invited to participate in this hearing.

The Foreign Policy Committee and the EU

As a natural part of the Government's duty to consult and duty to provide information, the Foreign Policy Committee discusses EU matters and issues on a current basis. However, in this area, the interface with the European Affairs Committee of the Folketing should be noted. The Government obtains mandates from the European Affairs Committee prior to actual negotiations in the EU.

An established practice has developed for when the Government consults and holds meetings with the Foreign Policy Committee and the European Affairs Committee (at the present time there is no support for holding joint meetings between the two Committees). Report no. 2, submitted by the Foreign Policy Committee, on the Foreign Policy Committee's involvement in matters concerning the EU's Common Foreign and Security Policy (CFSP) states *»that the Government is to brief the Committee on these matters as early as possible and then on a current basis The present practice regarding the discussion of meetings in the Council of the European Union is maintained. This means that these meetings are discussed in advance in the Foreign Policy Committee before being*

presented to the European Affairs Committee. In this way, the special competence and position of the Foreign Policy Committee in pursuance of the Constitutional Act are taken into consideration«.

Reporting from meetings of the Council of the European Union takes place in the same order right after the meeting and, for the Foreign Policy Committee, the reporting concerns foreign policy and security policy issues.

Council meetings (Ministers of Foreign Affairs) are not presented in the Foreign Policy Committee as a separate item prior to the meetings. However, following a concrete evaluation in pursuance of Section 19 (3) of the Constitutional Act and Section 2 of the Act on the Foreign Policy Committee, matters that concern the Common Foreign and Security Policy will, if required, be submitted to the Foreign Policy Committee as part of the submission of respective items of substance.

As a result of the Government's general duty to provide information to the Foreign Policy Committee about foreign policy affairs, cf. Section 2 of the Act on the Foreign Policy Committee, the note in question that the Government sends to the European Affairs Committee prior to each Council meeting (Ministers of Foreign Affairs) must also be sent to the Foreign Policy Committee. This means that the members of the Foreign Policy Committee can make sure that there are no items on the Council's agenda that should have been submitted to the Foreign Policy Committee.

The reporting from meetings in the Council of the European Union is made in writing. Where

possible, this is to be available before the Foreign Policy Committee meeting at which the Council meeting has, in fact, been put on the agenda for written reporting so that the Foreign Policy Committee is ensured of an opportunity of putting questions about this.

Informal meetings of EU Ministers of Foreign Affairs and informal meetings of EU Ministers of Defence must be submitted to the Foreign Policy Committee before they are held (also before they are dealt with by the European Affairs Committee) regarding those items on the agenda that may be of major importance to foreign policy.

Subsequent written reporting is made.

Regarding meetings during the intergovernmental conference (Minister level), the Govern-

ment submits Common Foreign and Security Policy issues to the Foreign Policy Committee on a current basis and gives a situation report in connection with the meetings in the Council of the European Union.

The Secretariat of the Foreign Policy Committee

The Foreign Policy Committee is served by the Parliamentary Department of the Folketing in co-operation with the Ministry of Foreign Affairs.

The Parliamentary Department is responsible for advising the Chairperson and members of the Foreign Policy Committee in the planning, preparation and implementation of the work in the Foreign Policy Committee. The assistance comprises the practical planning and preparation of the work in the Foreign Policy Committee and thus the direct contact to the Chairperson and members of the Foreign Policy Committee, the convening of meetings of the Foreign Policy Committee, the provision of information to the Foreign Policy Committee or its members and the preparation of the reports of the Foreign Policy Committee. Furthermore, the Secretariat is responsible for the planning and implementation of the Foreign Policy Committee's study trips and other travelling activities – a planning and implementation process that takes place in close co-operation with the Ministry of Foreign Affairs.

The Ministry of Foreign Affairs is responsible for the preparation of draft agendas and the records (minutes) of meetings of the Foreign Policy Committee.



The Chamber of the Danish Parliament



ACT ON THE FOREIGN POLICY COMMITTEE

We, Frederik the Ninth, by the Grace of God King of Denmark, of the Wends and the Goths, Duke of Schleswig, Holstein, the Stormarn, the Ditmarshes, Lauenburg and Oldenburg, do hereby make known that the Folketing has passed and We have granted Our Royal Assent to the following Act:

Section 1

At the opening of every sessional year and after the holding of general elections, a Foreign Policy Committee consisting of 17 Members is set up. The Members are elected among the Members of the Folketing according to proportional representation. In the same way, a corresponding number of substitutes are elected to take the seats of the Members when any of these are prevented from attending.

The Committee elects a Chairman and a Vice Chairman among its Members.

Section 2

Prior to making any decision of major importance to foreign policy, the Government shall consult the Committee whose task it also is to discuss matters which are important to the conduct of the foreign policy of the Realm with the Government and to receive information from the Government on matters concerning foreign policy.

Section 3

The Committee meets when called by its Chairman. The Chairman shall convene the Committee when 3 of its Members or the Government so request.

Section 4

To the extent which either the Minister concerned or the Chairman of the Committee decides, the Members of the Committee or others who might be present during the debates of the Committee are under an obligation to observe secrecy as to what they learn in the Committee. All new Members of the Committee shall make a written solemn declaration to the effect that they will observe this obligation.

Section 5

This Act shall take immediate effect. At the same time, Act no. 137 of April 13th 1923 on the setting up of a Foreign Policy Committee shall be repealed.

Given at Christiansborg Palace on the 5th of March 1954.

Under Our Royal Hand and Seal

Frederik R.

(L.S.)

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