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SPEECH BY MR SCHMIDHUBER ON SUBSIDIARITY

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In a speech given to Parliament's EPP group in London, Mr Schmidhuber, the Member of the Commission with responsibility for the budget, put forward eight propositions outlining how the principle of subsidiarity should be interpreted and implemented.

1. **The principle of subsidiarity works both ways.** Not only does it legitimize the Community's powers, but it also protects those of the Member States (or of their regions, for example). It is a principle for decentralization: as much unity as necessary, as much decentralization as possible.

2. **Subsidiarity cannot be defined in purely negative terms.** It must not be used simply as a primitive mechanism for defending the powers of the various levels of authority (Community, Member State, region, etc.). It is a positive principle, a means to several ends, viz:

- i) a sensible "division of labour" between the different levels of authority;
- ii) administrative efficiency; and
- iii) greater transparency in the decision-making procedure.

3. **The principle of subsidiarity applies to all Community bodies.**

Each body must ask whether the measures it plans to take are compatible with the principle. This requirement also applies when one institution (e.g. Parliament or the Council) calls on another institution (e.g. the Commission) to take action.

4. **The principle of subsidiarity determines not only whether the Community should act or not but also what form of action is appropriate.**

- a) In determining whether the Community should act, the following factors need to be taken into account:
 - i) the nature and the size of the problem (does it concern several or all of the Member States?);
 - ii) the scope for action at the various levels of authority (Community, national, etc.); and
 - iii) the cost of each solution weighed against the benefits (i.e. the "efficiency" of the solution).

- b) If, in the light of these considerations, action by the Community appears to be warranted, the form of action must then be considered.

Under the new Article 3b, the Community must choose the least "coercive" of the measures which would achieve the desired effect.

In practical terms, this weighs in favour of:

- mutual recognition rather than harmonization;
- directives rather than regulations;
- recommendations rather than directives;
- support measures (including financial support) rather than rules;
and
- general rules rather than detailed ones.

5. **The principle requires that each measure be justified individually, on a case by case basis.**

There should be no generalized doctrines covering whole areas of activity or policies. Each measure must be justified individually in a way that allows other bodies to check its legitimacy. The justification for each measure must be included in the recitals; the introduction of a "subsidiarity statement", justifying the measure in terms of subsidiarity, might be considered.

6. **The principle of subsidiarity is a concept in law, the application of which is subject to judicial review.**

The application of the principle of subsidiarity is subject to judicial review in the same way as the interpretation and implementation of more concrete rules for determining the Community's powers.

7. **Subsidiarity requires a new way of thinking.** The question is no longer what the Community could do, but what it really must do.

In other words, the Community must do no more than is absolutely necessary. This new approach should be applied at all stages, starting with the drawing-up of the annual work programme and the preliminary draft budget.

8. **Subsidiarity is an instrument for cooperation, not a brake on the integration process.**

The principle cannot be used to dilute either the ongoing process of European integration or what integration has achieved already.