



MINUTES OF THE MEETING OF THE HLG ON 20 MAY 2010

Venue: Brussels, 20 May, from 10.00 to 17.00

Present: See presence list

Excused: Mr Berger, Mr Linschoten, Mr Potdevin

1) **Agenda and minutes of the last meeting**

The agenda is adopted unanimously.

At the beginning of the meeting the chair welcomes Mr Karl-Heinz Lambertz, First Minister of the German-speaking Community of Belgium and member of the Committee of the Regions. Mr Lambertz replaces Ms Maij-Weggen as observer of the Committee of the Regions.

Mr Lambertz thanks for the warm welcome and underlines the importance of the work of the group for Europe.

The minutes of the meeting of 11 March 2010 are adopted with modifications made by Mr Hontelez.

2) **Report from the chair, in particular on his meeting with President Barroso**

The chair starts by referring to his intensive discussions with the chair of the S&D group of the EP, Mr Schulz. This will be followed up by a meeting between the chair and the board of the S&D group to which Mr Schulz will invite at least one MEP per Member State. Mr Schulz pointed out that the HLG does a good job.

The chair reports further from his intensive discussions with President Barroso regarding the extended and prolonged mandate. He informed the President about the developments since their last meeting in September and in particular about the wish of a large majority of the members of the HLG to be involved, in one way or another, in the process of ex-ante examination of new legislation. He reminds members of the discussion and the position of the President and the Commission, which is very firm on this issue. The result of the discussion has been presented in a joint press conference after the meeting. The chair underlined at this occasion that he does not propose any change in the composition or set-up of the HLG, unless one or several members would want to discontinue their involvement. The chair underlines that he would like everybody to continue.

Mr Hontelez is of the view that one has to be more specific when mentioning "ex ante". There are two periods. The first is that till the adoption of a proposal by the Commission.

The second is that from the adoption of the proposal by the Commission till the final adoption of the legislative act by the legislator.

Mr Mollerup is very satisfied with what has been achieved. He suggests that the HLG makes an official statement to the public consultation on Smart Regulation that is running now. He would furthermore like to know when the report of the Court of Auditors on impact assessments will be made public.

Mr Murray shares Mr Hontelez' concerns. He fears that lobbyists who lost their argument in earlier stages would then try to win it via the HLG. He mentions that impact assessments are internal documents in the period leading to the Commission decision about the (legislative) proposal they refer to. In relation to the report on Member States' implementation that the HLG is asked to present in November 2011 he points out that Member States may wish to go further in a given context. European legislation allows for that unless the legislative act in question is laying down maximum harmonisation standards or rules. Finally, transposition can be more burdensome in common law systems.

The chair refers to administrative burdens that are created because of inefficient transposition of EU rules. With respect to the ex ante periods mentioned by Mr Hontelez the chair states that the group's task was to advise the Commission on administrative burden reduction measures. As an advisory body to the Commission this would primarily focus on the time before a legislative proposal is adopted by the Commission. Concerning the future mandate the President has asked the Group for its support for piloting the Commission's proposals through the legislative process in Parliament and Council, and advocated a more regular and structured exchange of views and experience between the Group and the IAB. For the latter, the HLG could give its advice in an informal manner.

Mr Telicka welcomes the result. He is of the view that the HLG should make its views known in relation to the Smart Regulation but it should do so on the basis of a summary of stakeholders' views or a draft of the Communication. As regards the eventual setting up of a specialised EP-Committee on administrative burden issues he doubts whether this would work; the attitude change in the EP is more important than a new set up. He would see merit in the HLG having a look at what the IAB does although the Commission does not like it. The best scenario would be a member of the HLG participating in the IAB meetings but other solutions are possible. He approves of the HLG looking closer at Member States but sees the problem of resources.

Ms Fritsch agrees with Messrs Mollerup and Telicka regarding the Communication on Smart Regulation. A reaction should come from the HLG although not in the original timeframe. The paper prepared by the two members could be a good basis. She refers also to the HLG of national experts on better regulation (HLG BR) and argues for a more intensive cooperation, also in view of their knowledge about what happens in Member States.

The chair mentions that he went to the HLG BR in January 2008. A meeting after the adoption of the new mandate might be a good idea.

Mr Gibbons sees the extension of the mandate as a success. He agrees with Messrs Mollerup and Telicka regarding the consultation. It would actually be rather strange if the HLG would not be asked to comment. Timing is however an issue and he suggests that the Commission presents a collection of reactions to the HLG. Some preparatory work on the side of the HLG would seem advisable. As regards the extension of the mandate he would like to see what some of the points mean in practice. The involvement

of the HLG in the simplification efforts is of particular importance. The HLG should also look into speeding up reduction efforts. It is important to know what "more regular and more structured" exchange of views means in view of the fact that the chair of the IAB is already reporting regularly to the HLG. The starting point is delivering benefit to the IAB. The criteria for this are that the HLG knows what is coming up and what the key issues are in relation to the flow of administrative burdens. The final questions are the time frame and in what way the HLG could deliver its input. One area could be more and better quantification. The HLG could provide a better approach to quantification. The second area would be an SME test. The HLG would not have to adapt its working methods by much.

Mr Ludewig congratulates the chair for achieving this result which is more than he expected. He agrees with what Mr Gibbons said. As regards the consultation he agrees that the HLG should comment after stakeholders did. He sees the time that lapses between the adoption of HLG opinions and the final legislative acts as a main problem and quotes the complete lack of action in relation to the tachograph suggestion. He deplores the lack of standardisation of impact assessments. An executive summary would be good to have and the IAB has pointed that out itself. He is surprised that the HLG is supposed to verify the implementation of EU law by Member States. As to the cooperation with the IAB he suggests that at each HLG meeting one or two examples are being discussed. The reporting members could get the documents a week or two before and prepare the meeting. He wishes to respect the institutional set-up as the right of initiative is very precious and second to none if compared to Member States.

Ms Fritsch could imagine a sunset clause for the suggestions as a solution for a fast track. As regards the monitoring of implementation she agrees that in the best of worlds the Commission should be in possession of all this information but reality is different. President Barroso would not have to ask the HLG if all this information were already available.

The chair recalls the limited resources the HLG has at its disposal. As opposed to the IAB which is, according to his information, supported by 15 officials whilst the HLG has only two officials entirely at its disposal. The group would also have to meet much more often. He fully agrees with the critique regarding too slow implementation of reduction suggestions and explains this with the development of the tachograph suggestion. He sees the basis for the report on Member States' implementation in the 28% of administrative cost that is generated by inefficient transposition in Member States. It is clear that the HLG could not systematically look at all legislative acts but he could imagine that the group presents a report on the transposition of a number of selected legislative acts. He proposes that each member presents one or two examples. As regards the Communication on Smart Regulation he proposes to put the issue on the agenda at the next meeting on 8 July. He agrees with Messrs Gibbons and Ludewig regarding the need for a pragmatic solution for the reinforced cooperation of IAB and HLG. Either the HLG asks questions in relation to ongoing proposals to the IAB or the board contacts the HLG in respect of selected proposals and asks for internal comments regarding administrative burdens. He would prefer the latter because the IAB verifies more than administrative burden aspects. In this context he would deem the HLG to be an internal advisor to the IAB without any attempt or possibility to unduly influence the decision making process.

Ms Klingbeil, SG, underlines that the chair has rightly presented the views of the President. She agrees that a pragmatic solution needs to be found. In this context she refers to the so-called "roadmaps" that are published well before the impact assessments; these

documents could be considered as "mini impact assessments". Together with the Commission's Work Programme this would allow the HLG to have a view into the future. She also stresses that not all proposals are relevant from an administrative burden point of view.. The set up of the IAB as independent body inside the Commission is important to guarantee the acceptance of its work within the Commission. An external body's view would simply be taken note of. As regards the consultation on Smart Regulation she is of the view that a position by the HLG would indeed be a good idea. She informs members about the HLG BR and the so-called SPOC's (Single Points Of Contact). These groups do not have the same echo in the public but work nevertheless hard to achieve results. There is furthermore a group of national directors of better regulation that meets once per Council presidency.

The chair thanks for these explanations. He concludes that the agenda of all HLG meetings would have to include a point on a report from the IAB.

Ms Klingbeil agrees that this could indeed be done but clarifies that no information on the ongoing work of the IAB could be given.

The chair reacts by stating that questions could nevertheless be asked. He would like this point to be added to each agenda. A report on the work of the IAB would be presented and members can ask questions regarding the future work. An internal dialogue could be started on this basis.

Mr Ludewig is not sure that there is agreement. However, the work needs to be done in mutual respect for each other's position and views. He repeats that the HLG is offering expertise, not to impose its views. The IAB should take up this offer.

Mr Illy refers to the lack of speed of transposition but also the lack of concrete proposals from stakeholders, i.e. the enterprises. He would like to know how many of the reduction suggestions have already been adopted.

The chair concludes the discussion by stating again the need for a pragmatic approach.

Ms Pons, SG, informs that measures of a reduction potential of approx. 7 billion EUR have been adopted, measures of a value of 30 billion EUR are pending in front of the EP and the Council, of which the "micro-enterprises" and "e-invoicing" proposals make up around 24 billion; these two proposals are close to adoption. The SPOC group will meet shortly, among others to discuss how to cooperate with the HLG regarding the implementation report to be delivered in November 2011. A series of presentations by Member States' representatives is organised to allow the HLG to get a first hand view on the views of and situation in Member States.

The chair thanks for this information.

3) **Second opinion on the priority area Environment**

The chair thanks Mr Hontelez, reporting member for this priority area, for his efforts and asks him to present the opinion.

Mr Hontelez thanks all involved in the preparation, refers to the hearing held in April 2010 and presents the second opinion. He also refers to fee paying as an issue that was brought up although it cannot be considered as administrative burden in the narrow sense.

Mr Ludewig, deputy reporting member, thanks Mr Hontelez. As regards the fees he underlines that this issue should not be overlooked.

Mr Pesonen, deputy reporting member, joins Mr Hontelez in thanking all involved. He underlines that the hearing proved beneficiary to the preparation work.

The chair thanks all reporting members and notes the considerable reduction potential mentioned in the draft opinion. He underlines that this potential is remarkable in particular in an area where administrative burdens or costs are not the most important issue. He is of the view that fees should be integrated in this area.

The opinion is adopted unanimously.

4) **Draft opinion on the extension of the Action Programme from January 2009 (30 acts)**

The chair thanks Mr Linschoten for having coordinated the opinion. He presents himself the draft opinion in the absence of Mr Linschoten.

Mr Telicka suggests formulating the part on methodology stronger.

Mr Ludewig supports this. He underlines the necessity of a uniform methodological approach and would like to have more information as regards any modification of the methodology.

Mr Renda, CEPS, explains the way how the figures in the draft opinion were arrived at. The main reason for modifying slightly the approach lays in the reduced amount of time available for this measurement.

Mr Mollerup agrees that cost benefit aspects should be considered when deciding on how to measure administrative burdens and verify the results. This decision should however not be discretionary.

Mr Hontelez sees stakeholder interviews as one important source of information. It should however not be the only basis because stakeholders do sometimes have a tendency to present a situation in a very specific way. Relying exclusively on them might bear a risk for the final result.

Mr Ludewig would not like the methodology be based exclusively on the available budget.

The chair agrees with this.

Mr Renda, CEPS, repeats that the principle of proportionate analysis has to be borne in mind when deciding on how to use the SCM methodology.

The chair presents the part on the priority areas.

Following this HLG members debate a number of modifications regarding various priority areas. At the end of this debate the chair asks for a vote. The opinion is adopted unanimously in a version modified pursuant to the debate.

5) **Future extension of the Action Programme; information about the reaction from Commission services**

Ms Pons, SG, informs members that 20 out of the 28 acts suggested for extension have already been included in the Commission Work Programme. The feedback of Commission services to these suggestions including those made by members should be available for the next meeting of the HLG.

The chair asks when the Commission intends to formalise the extension of the Action Programme.

Ms Klingbeil, SG, informs members that the HLG should take its time to thoroughly look into this issue and give advice afterwards.

The chair appreciates that the HLG has time to come to an opinion on this.

6) **Presentation by DG TAXUD on the implementation of the sectoral reduction plan**

Ms Anaboli and Mr Diemer, both DG TAXUD, present the state-of-play of the implementation of the sectoral reduction plan for the priority area Taxation and Customs. Members have been provided with the presentation.

The chair expresses his gratefulness and invites the Commission to publicise the very positive results.

Ms Fritsch asks the Commission to ensure that the e-invoicing initiative is not used to impose additional requirements on paper invoices.

Mr Diemer clarifies that this is explicitly forbidden and explains that DG TAXUD will look carefully into the implementation by Member States.

7) **Presentation by Spain on national burden reduction activities**

Mr Gafo, Spanish Enterprise Association, presents the national activities in relation to the reduction of administrative burdens. Members have been provided with the presentation.

The chair thanks Mr Gafo for his very interesting and well presented report on the national activities. He is impressed by the initiatives that have been started in Spain and voices his encouragement for the way ahead. He looks forward to further presentations by Member States as this will also allow preparing for the report in November 2011.

8) **AOB**

Ms Fritsch asks to be informed about the results of the online-consultation given that the webpage was not updated recently.

Mr Stephan, SG, informs that the influx of suggestions has slowed down considerably. All suggestions are being looked at, however, lack of resources led to delays in updating the website. An update would be provided in the context of the expected move of the website.

The chair thanks for this information and closes the meeting at 16.50.

Adopted by the HLG in Brussels on 8 July 2010.