



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

## MINUTES OF THE MEETING OF THE HLG ON 28 MAY 2009

Venue: Brussels, 28 May, from 10.00 to 12.45 and 14.15 to 17.00

Present: See presence list

Excused: Ms Jongerius; Messrs. Berger, Gibbons (arrived 10.40), Illy (arrived 12.15), Ludwig (present from 11.45 to 12.45), Murray, Pesonen.

### 1) Opening; adoption of agenda and minutes

The chair opens the meeting, introduces the agenda and asks members if they agree with it.

Mr Hontelez refers to Ms Jongerius' absence and proposes to postpone the discussion and vote of the opinion on Working Environment till the next meeting.

Mr Teli•ka disagrees with this. He points out that Ms Jongerius' positions are well known and that Mr Gibbons will present them when presenting the opinion later-on. The overwhelming majority of issues being dealt with in the draft opinion are consensual. There is essentially only one question on which no consensus could be found. There will always be one or the other member absent.

The chair refers to his exchange of letters with Ms Jongerius. He explained to her that he would not want to postpone the vote once more, in particular in view of the tight schedule. He assured Ms Jongerius that the minutes will contain her position and that Mr Gibbons will do his best to present the different positions in a balanced way; he mentions also that Ms Jongerius' positions are well known to members because she expressed them already during last meeting.

The chair asks members to vote on the agenda.

The draft agenda is adopted by majority vote against Mr Hontelez.

The chair asks for a vote on the minutes of the last meeting.

The minutes are adopted by unanimity in their version with comments from Mr Hontelez.

The chair reports from the award ceremony in Prague and mentions letters he received from President Barroso and the Dutch Prime-Minister (members have been provided with copies of these documents).

## **2) Priority Area Tax Law (VAT)**

The chair thanks Ms Fritsch and Messrs Mollerup, Potdevin and Berger for their very good document and asks Ms Fritsch to introduce the draft opinion.

Ms Fritsch thanks her co-reporting members, DG TAXUD and the secretariat for their contribution to this draft opinion. She introduces the different elements and suggestions and thanks Mr Linschoten for the proposed amendments. She emphasises that the group should not be satisfied with what had already been tabled by the Commission, although the Commission's proposals would represent potential savings in administrative burdens in excess of the 25 % reduction target. In addition she points to some new and very interesting suggestions ("real-time VAT") which do require more consideration, since they could also entail real problems.

The chair thanks Ms Fritsch for her presentation and asks for comments.

Mr Mollerup explains some last minute changes in paragraphs 26, 29 and 41.

Mr Hontelez would like to know whether tasks, and thereby cost, would actually be shifted from enterprises to public authorities if the suggestions were being adhered to.

Ms Fritsch, Mr Mollerup and representatives of DG TAXUD point out that information that would not anymore be requested from companies could be obtained through other means. Mr Mollerup explains that double reporting in particular represented a high irritation factor; in addition, he states that the EU should not make rules that cover all businesses in order to catch those few that defraud governments.

Mr Linschoten explains his proposed amendments and underlines the need for an opinion on customs issues. Ms Fritsch confirms that the amendments will be adapted and integrated in the opinion.

A discussion on some details of the draft follows in which members Fritsch, Hontelez, Gibbons, Linschoten, Côte-Real Goucha, Teli•ka and the chair take part.

Mr Diemer (Head of Unit, DG TAXUD) extends the thanks of his DG to the reporting members for the preparation of this well written draft. The suggestions by the HLG will be instrumental to help with the adoption of some proposals. Some suggestions like VAT-grouping will see immediate action by the Commission, others would mean the exchange of best practice. Another set of suggestions will be fed into the overall work on a new VAT strategy.

The chair asks for a vote on the draft opinion and points out that paragraphs 27 and 45 will be revised during the break in view of the discussion.

The draft opinion is adopted unanimously subject to drafting work on the above mentioned paragraphs.

### 3) Priority Area Working environment

The chair thanks Mr Gibbons, Mr Teli•ka and Ms Jongerius. He welcomes that the draft opinion can mostly be considered as consensual apart from one recommendation concerning risk assessments. He points to Ms Jongerius' positions which he asks Mr Gibbons to pay specific attention when presenting the content of the opinion. He reiterates that he is grateful for the trade unions' involvement in this issue.

Mr Gibbons presents the draft opinion. He explains how the draft came about and underlines the very good and collegiate cooperation among the three reporting members despite their disagreements on the issue of risk assessments. In a letter to the Chair Ms Jongerius explained that she could not be present at the meeting. In her letter she states her disagreement with the proposed text regarding risk assessments and points in particular to art. 27 and 31 for the Social Charter. She is of the opinion that the proposal would run counter to these provisions. Mr Gibbons extensively points to the issues where Ms Jongerius did not share his and Mr Teli•ka's views. These concern in particular Ms Jongerius' preference for a stronger emphasis on views of the Commission within the opinion, on this issue he points out that the HLG's role is not to repeat Commission views but to have a critical look and give independent advise; Ms Jongerius furthermore questioned the usefulness of applying the SCM method to the priority area at stake to which Mr Gibbons points out that he felt that the HLG cannot question the fundamental methodological decision to use the SCM in the framework of the Action Programme, this decision having been taken by the Commission and the Member States. As regards the figures brought forward by the consortium so far, he merely points out that Commission and the HLG share some doubts about certain data, at least as regards the first calculations and extrapolations. Concerning the request to publish minority opinions he states that the reporting members had been advised that dissenting opinions could (and should) be recorded in the minutes according to the HLG's rules of procedure.

He then goes on to explain the draft opinion in detail. Concerning the part on suggestions by stakeholders he points out that the views of the trade unions had been included in this part (paragraph 36) on the initiative of Ms Jongerius. Part V contained the meat of the HLG's advice to the Commission. On the question of the necessity of written risk assessments no agreement could be reached between the reporting members. While Mr Teli•ka and he were of the view that the legislation should be changed so as to allow more flexibility to Member States to provide for exemptions from the obligation to draw up documents on risk assessments, in Ms Jongerius' view such an exemption from the obligation to document risk assessment was equivalent to an exemption from risk assessment. He concludes his presentation in praising the cooperative spirit in particular of the last preparatory meeting.

The chair thanks Mr Gibbons for his presentation, in particular the balanced report on Ms Jongerius' views. He points out that nobody wanted to lower standards regarding health and safety at work. The issue at stake is to apply these standards in the least burdensome ways. The documentation of the risk assessment as such would not protect employees.

Mr Teli•ka voices his support for Mr Gibbons' presentation and thanks his colleagues for the pleasant atmosphere despite some even fundamental disagreements. He had approached six companies in the meantime, which was in no way a representative figure; nevertheless, not a single company had seen an added value in the documentation of the risk assessment after it is done.

Upon request by the chair Mr Gilbert-Morin and Ms Moitinho de Almeida give some technical explanations. They stress that the documentation was an integral part of the prevention effort.

The chair sums the discussion up by saying that risk and administrative burden have to be balanced. In general, everybody was in favour of reducing bureaucracy, however, when it comes to detailed proposals, everything becomes more difficult. The chair repeats his proposal to establish a committee for reducing red tape in the European Parliament, in order to counterbalance other committees dealing with specific subject matters. In his view the proposal by Mr Gibbons and Mr Teli•ka was in line with the principles advocated by the Small Business Act.

Mr Hontelez states that he sees the obligation for a written risk assessment as the only logical solution.

Mr Gibbons reacts by pointing out the different views among stakeholders and Member States. He is of the view that actually writing down a risk assessment alone does not protect the workers but assessing the risk does. The outcome was important, not the documentation. Quoting the statistics he had been provided with he states that they showed that micro businesses performed better than smaller companies concerning work-related accidents, and about the same as large companies.

Mr Linschoten strongly supports Mr Gibbons' and Mr Teli•ka's proposal, as he sees no sense in documentation that is only produced because of a legal requirement.

In Mr Mollerup's view a risk-based approach makes sense in this area as well. He disagrees with the intervention that risk assessments will not be done anymore, since they would provide benefits not only for workers, but also for employers.

Mr Teli•ka refers to the text as a compromise document with the only exception of the issue of written risk-assessments, where the views were so strong that it was not possible to convince the other side. In his view risk assessments would be made, if risks exist. If the risk was marginal, the question would be whether one believed that paper would make a difference.

The chair closes the debate and asks for votes on the proposal by Mr Gibbons and Mr Teli•ka, as opposed to the proposal made by Ms Jongerius. The former proposal is adopted with 8 votes against those of Mr Hontelez and Mr Potdevin.

The chair asks now for a vote on the remainder of the draft.

The remainder of the draft opinion is adopted by unanimity.

On arrival, Mr Illy declares his support for the proposal made by Mr Gibbons and Mr Teli•ka.

#### **4) Presentation by ESTAT on the state of play in the Priority Area Statistics;**

Mr Beckx (ESTAT) reports on the state of play (members have been provided with the presentation).

## 5) Priority Area Fisheries

The chair thanks Mr Corte-Real Goucha and Mr Hontelez for their draft and invites Mr Côte-Real Goucha to present the opinion.

Mr Côte-Real Goucha introduces the draft opinion and thanks his co-rapporteur, DG MARE, and the secretariat for their support in drafting the opinion. He states that one of the problems for sustainable fishing activities was that there were more vessels than fish. Fisheries represented a very sensitive area which affects a lot of people, although the calculated burdens were comparably low. The Commission had already proposed changes to the legislation concerned which would inter alia concentrate the control provisions in one piece of legislation instead of the current 27 different acts. Quite a few Member States seemed to oppose the actual proposal by the Commission for various reasons. He presents the reduction proposals included in the draft such as increased use of modern technology, focus more on onshore controls instead of offshore controls, use of guidelines as well as other proposals specific to this area.

The chair thanks Mr Goucha. Despite the comparably low amount of administrative burdens, the draft showed points for improvements and further reductions in administrative burdens.

Mr Briens from DG MARE points out that 80 % of the fish stocks were overfished. The current control system suffered from serious shortcomings, thus the Commission has proposed substantial changes. The current system was too complex and difficult to understand by the fishermen. In addition, the monitoring instruments were not appropriate. The Commission's proposal entailed more efficient controls and more harmonised inspection methods. The Commission supported a more automated control system which would then allow exempting some boats from certain checks. Concerning the proposals by the sector, the Commission could agree with some, but not all. For instance, the exemption for boats of less than 12 m length from the prior notification requirement would already cover 78 % of the fleet.

Mr Hontelez points out that some of the calculations for administrative burdens seem rather theoretical in the context of a poor performance of the control system, since they represent the situation if controls were properly done. He also points to the burdens for public authorities.

Mr Briens states that overcapacity was a structural problem, which cannot be solved by control. The Commission will prepare a major overhaul of the Common Fisheries Policy (CFP) in the years ahead; control as such cannot solve the problem. Besides, there is a huge discrepancy in fines, thus also a harmonisation of sanctions would be necessary.

For Mr Gibbons the CFP is not a success; many fish stocks were in recovery measures. He sees electronic logbooks as a win-win, in particular if funded by the Member States. In addition, he is in favour of an increased approach for risk-based inspections.

Mr Côte-Real Goucha points out that for fishermen fishing is not just a business, but a way of life. He also refers to the paragraphs on the increased risk-based approach. In addition, he states that not only fishermen were concerned, but also the industry.

Mr Briens states that the controls so far focused on fishing activities, the activities after that were up until now not subject to detailed and harmonised rules. It was a dilemma to keep some pressure on the system while keeping enough space for activities to unfold.

Upon request by Mr Côte-Real Goucha Mr Briens explains that the new regulation on illegal fishing would enter into force on 1 January 2010. This regulation was applicable to all Member States and operators. The Commission was currently holding meetings with third countries to explain the new requirements and necessary documents.

Mr Teli•ka argues for stronger wording in some parts, e.g. on risk-based inspections.

Mr Côte-Real Goucha in principle agrees with that request. However, he explains that the reason for the actual wording was that the Commission's reform proposal was currently negotiated in the Council where all sensitive issues were discussed.

After this explanation the Chair invites votes, and the draft is adopted unanimously.

## **6) Presentation by DG REGIO on the state of play in the Priority Area Cohesion**

Ms Wolfcarius, Ms Carbone and Ms Lanchry of DG REGIO report on the state of play. The presentation has been sent to members.

The Chair thanks for the presentation and refers to the laborious efforts involved with "implementing" Europe on a regional level. He invites Mr Illy as a reporting member to comment on the priority area.

Mr Illy would have liked to see a more active cooperation. He was still waiting for DG REGIO's reaction to the Consortium's proposals. Since the HLG's report was scheduled for the July meeting, timing could become a problem. The next preparatory meeting was scheduled for 2 June, and he hoped that the reporting members would receive more input from the Commission then. Due to the important role of the regions, the Committee of the Regions had been consulted; other organisations such as REGLEG or the AER could be consulted as well. Due to the short time remaining, an online-consultation would probably be the only viable solution.

The Chair is surprised by the lack of cooperation, since DG REGIO's Director-General had promised full support of the Group's work.

Ms Wolfcarius explains that the current simplification work was focused on measures to be adopted in the short term; some delays were due to the current economic crisis and the Commission's reaction.

Mr Hontelez inquires why the Consortium had been asked to measure the old legislation for the programme period of 1999 to 2006 instead new legislation.

Upon request by the Chair whether the reporting members believed that it still made sense to draft an opinion based on the data of the old system, Mr Teli•ka and Mr Illy explain that the new legislation was very similar to the old one and that some data could be

extrapolated to the new system. They see no other option than to work on the basis of the data provided.

Mr Linschoten suggests taking the feedback by Member States into account.

The Chair calls upon DG REGIO to improve its cooperation with the reporting members.

He suggests that the HLG should discuss the future work and structure of the Group, once opinions for all priority areas had been adopted in July.

Adopted by the HLG in Brussels on 7 July 2009.