



MINUTES OF THE MEETING OF THE HLG ON 11 MARCH 2010

Venue: Brussels, 11 March, from 10.00 to 17.00

Present: See presence list

Excused: Ms Jongerius, Mr Berger, Mr Illy, Mr Potdevin

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

In the absence of the chair due to late arrival of the airplane Mr Ludewig chairs the meeting in accordance with article 1(2) of the Rules of Procedure.

The agenda and the minutes of the meeting of 28 January 2010 are adopted unanimously.

2) **Future extension of the Action Programme; draft list of suggested legislative acts**

Ms Pons-Deladrière, SG, introduces this point by explaining that the Barroso I Commission suggested 28 acts to be added to the Action Programme in annex F of the October 2009 Communication. She presents the additional suggestions made by members of the HLG AB.

Ms Fritsch points out that she made three suggestions in the area of VAT and would like to see them listed individually.

Mr Hontelez would like to know whether the HLG is supposed to endorse the list by a vote or whether suggestions made remain individual suggestions of the members who made them.

Mr Ludewig (chair) clarifies that no formal vote is required.

Mr Hontelez is concerned about part of the suggestions made linked to environment. He is of the view that these go beyond the mandate of the HLG. . He also refers to the upcoming hearing he will chair on administrative burden and environment, where several of the issues will also be discussed, and on which he will prepare a HLG-report.

Mr Linschoten underlines that suggestions made are based on stakeholder comments he received.

Mr Ludewig (chair) states that it is for the Commission to judge whether administrative burdens imposed are more or less important than the political objective of a certain piece

of legislation. This is up to the Commission to take this political decision; it is for the HLG to raise the issue.

Mr Murray is of the view that [no. 4] be taken off the list entirely as this issue is still negotiated. He is also against just taking over any suggestion from stakeholders. It is up to the HLG to make a decision whether or not to pass a suggestion on to the Commission. The HLG should refrain from suggesting touching very recent legislative acts. This applies in particular to REACH.

Mr Ludewig (chair) does not wish to engage in political discussions.

Mr Gibbons understands that the HLG is asked to give additional impetus to discussions on administrative burdens imposed by certain acts that are sometimes already ongoing.

Mr Linschoten agrees that the HLG should not enter into political debates. The agenda of the HLG is administrative burdens and compliance cost. The Action Programme as a whole is a second best because what is needed is a full baseline measurement.

Mr Hontelez would like to take a look at all letters from stakeholders that criticize certain legislative acts. The HLG is being lobbied for political purposes and should have to react to this by asking for details about the administrative burdens allegedly imposed by such legislative acts. The HLG has to carefully look at suggestions received and to verify what is really related to the mandate and only react on those.

Mr Pesonen underlines the need to be transparent by taking on board as many stakeholder suggestions as possible; if not the HLG could be criticized for filtering.

As regards very recent legislative acts Mr Mollerup has confidence in the Commission to take upcoming revisions into account and look at administrative burden issues in the context of these revisions. He would be happy to leave it to the Commission to get back to the HLG by saying that for a given legislative act there is no need to do a full measurement. As regards [no. 4] he is of the view that although he would like to see a number of proposals measured the issue at hand is indeed outside the scope of the HLG.

Mr Ludewig (chair) wraps the discussion up by repeating that no formal vote is planned and that comments made today will be taken into account by the Commission. He points out that if measurements are done by outside consultants, these consultants should also be asked to make suggestions for reducing the burden imposed.

Upon arrival of Mr Stoiber Mr Ludewig hands over the chairmanship.

The chair thanks Mr Ludewig for having taken over the chairmanship during his absence. He welcomes the Vice-chair of Regelrådet and the chair of ACTAL. He reports about the recent development regarding the "micro-entities" proposal; he hopes that the Council will now follow quickly. He informs that his meeting with President Barroso is now foreseen for the week after Easter.

3) Annual Report 2009 of the IAB; presentation by Mr JC Thebault, Deputy Secretary General, discussion

The chair welcomes Mr Thébault, Deputy Secretary General of the Commission and points to the impressive work of the IAB. He looks forward to a more intense cooperation between IAB and HLG

Mr Thébault underlines that he is available for regular exchange of views. Smart Regulation is a very important issue for President Barroso. He presents the annual report 2009 of the IAB (members have been provided with a copy of the presentation).

The chair thanks Mr Thébault and shares his view that President Barroso gives Smart Regulation an important place on the political agenda. As regards the cooperation between IAB and HLG he is of the view that a pragmatic approach would be good for everybody.

Mr Mollerup is pleased to note the quality of Commission impact assessments but regrets that there seems to be no assessment of modifications introduced in the EP and during Council debates.

Mr Ludewig shares Mr Mollerup's view. In general he underlines the need for impact assessments during the whole process of legislative work. The use of standardised executive summaries seems very positive to him. He would like to know whether there is a systematic approach as regards the obligation to do an impact assessment before submitting a proposal to the college of Commissioners. He has the impression that a closer and more open relationship between IAB and HLG would create a win-win situation.

Mr Hontelez would be interested to know more about ex-post evaluation.

For Mr Gibbons the report is proof of the good work of the IAB. He would like to know whether the work reveals weaknesses in IA's but not in the legislative text and vice-versa and how many proposals had been changed due to the work of the IAB. He asks Mr Thébault to confirm that without a positive report from the IAB there cannot be an interservice consultation and whether there has been an occasion at which the board felt external advice would be of use to its work. He finally questions whether the HLG's mandate is not handicapped by being limited to administrative burdens.

Ms Fritsch regrets that information on any impact assessment done by DG TAXUD is missing over the years. She further shares the view that impact assessments should be ongoing as the legislative process goes on.

Mr Corte-Real Goucha would like to know how the impact on SME's is taken into consideration.

Mr Linschoten wonders whether having one independent body that follows up impact assessments for all institutions involved in the legislative process would not be the right approach. Furthermore he asks whether the IAB's work is not too dependent on persons involved.

The chair would like to know whether there are proposals that have not been presented to the IAB.

In view of the many questions Mr Thébault offers to come back to the HLG regarding those questions that cannot be fully covered in the limited time available. The Commission has always promoted, via the inter-institutional agreement on Better Regulation, the consideration of impacts incurred by amendments by the Council and the European Parliament, in particular as a way to mitigating the risk of modifications of legislative proposals that impose unnecessary administrative burdens. For the Commission it would be good if the impact of amendments to the original text in Council

and EP would be systematically assessed. As regards external advice he points to consultations taking place during the preparation of proposals. He sees an institutional and practical problem if there were to be an independent body that would serve three masters, the Commission, the EP and the Council. In theory the idea might sound interesting but he questions whether such an institution could work practically and whether a solution could be found to the legal and operational problems. Finally, this body would not replace the political decisions; hence the impact of this body would be very limited. He prefers the IAB inside the Commission with the full transparency like today. He underlines the importance of the cultural change that is ongoing in the Commission and the value of being judged by ones peers. He confirms that the IAB has the possibility to block a proposal before being proposed for adoption. This was introduced by the President. Concerning the number of resubmissions he points out that the degree of verification by the IAB has increased as has the degree of complexity of the assessments. Not all proposals are subject to an impact assessment but all legislative proposals that are listed in the Commission's work programme, i.e. important political proposals, are subject to an IA as well as other ones likely to have major impacts. Ex-post evaluations are not limited to legislative acts that are subject to formal re-examination but to all acts that are revised for whatever reason, as it is important to evaluate in time for new proposals. On SME's he confirms that their situation is always looked at carefully. He ends by offering to come back at a later stage to answer questions in more detail if need be.

The chair thanks Mr Thébault for his presentation and the detailed answers. He states that it is notable that a lot of effort is put behind Smart Regulation. He accepts Mr Thébault's offer to come back to the HLG regularly. Members of the HLG are nearly unanimously of the view that the group should also comment on new proposals as regards administrative burdens and advice the Commission in this respect. He knows about the worries and reluctance of the Commission and in particular the President and advocates a pragmatic solution. The know-how of the HLG should be used in the context of impact assessments, perhaps not for each and every proposal but for important issues. The HLG could give advice to the IAB when it comes to administrative burdens. He is happy to hear that the IAB will in the future have a sort of veto. He recalls that the cooperation with the IAB will have to be intensified. The HLG wishes to support the Commission and in particular President Barroso in avoiding unnecessary administrative burdens.

Mr Thébault thanks for the discussion and is ready to look for pragmatic solutions together with the HLG.

4) **Presentation of the state-of-play concerning the implementation of the sectoral reduction plan for statistics, Mr Nørlund, ESTAT**

Mr Nørlund, ESTAT, presents the state of play (members have been provided with a copy of the presentation).

The chair thanks for the presentation and finds it remarkable that ESTAT looks very much into the issue of administrative burden.

Mr Mollerup asks for ESTAT's view of irritants. He furthermore would like to know to which degree ESTAT has intensified the sharing of best practices among Member States' statistical offices.

Mr Nørlund confirms that there is indeed a high irritation factor in statistics, in particular for SME's. ESTAT is actively working on this. The same goes for the spreading for best practices where ESTAT works together with Member States.

5) **Presentation of the state-of-play concerning the implementation of the sectoral reduction plan for agriculture and agricultural subsidies, Mr Mögele, AGRI**

The chair welcomes Mr Mögele. Mr Mögele presents the state-of-play of the sectoral reduction plan (members have been provided with a copy of his presentation).

The chair thanks for this update.

Mr Pesonen notes that DG AGRI has been and continues to be active in relation to the reduction of administrative burdens. He highlights the need for continuous stakeholder implication and the need to be cautious with the figures advanced by CEPS, without wishing to officially challenge them. He thanks DG AGRI for the input given and work done.

The chair reminds members of the opinion on the priority area that was adopted on 5 March 2009. He would be interested in an update regarding these suggestions.

Mr Mögele informs members that most of these suggestions refer to the implementation of rules that already exist. Figures could eventually be presented at a later stage.

The chair is of the view that quite some problems have been solved. There is however still a lot to do.

Mr Gibbons agrees that DG AGRI has been focused on administrative burden and that a lot has been achieved. Stakeholders he was talking to asked for more radical political action such as a proportionate approach to the clearance of accounts, a simplification of the documentation related to quota rules, further codification of the CMO and reducing statistics.

Mr Pesonen informs members that on average two thirds of a farmer's income stem from direct payments, although the inverse was politically intended. That made farmers very cautious as any change of the rules could affect their income situation. Simplification has therefore become less of an issue in relative terms. He would support any initiative such as those mentioned by Mr Gibbons.

The chair wraps the discussion up by saying that stakeholders seem to feel a difference. This might also have to do with the new generation of farmers that are more used to European structures and procedures.

Mr Mögele thanks for the suggestions made by Mr Gibbons and other members. He has the impression that most of the issues mentioned refer rather to Member States' authorities than to farmers. Burdens are very often criticised without verifying the origin or importance of the rules that impose these burdens.

Mr Ludewig sees exactly in what Mr Mögele described the reasons for a full baseline measurement. With such a complete measurement all aspects of regulation could be looked at.

Mr Linschoten agrees with that.

The chair thanks for the report and closes the debate by agreeing in principle with Messrs Ludewig and Linschoten. There is however a need for a pragmatic approach takes into account what is feasible.

6) **Extension of the Action Programme from January 2009 (30 acts)**

The chair thanks Mr Linschoten for having accepted to coordinate the opinion. The adoption is planned for 20 May.

Mr Linschoten explains that the opinion will deal with 22 of the 30 acts. The remaining 8 acts will be included in other opinions such as the second opinions on transport and environment. He has drawn up a working procedure together with a framework of the opinion. Members have received this together with information from Commission services on the state of play.

Mr Ludewig takes the chairmanship in view of the chair's short absence.

Ms Fritsch had no time to take note of the document sent out the day before the meeting and asks that it is distributed on paper. Mr Stephan (SG) informs members that this document does not concern today's meeting as it refers to the possible extension of the action programme by another 28 acts as suggested by the Barroso I-Commission in October 2009. An update regarding the state of play on the 30 acts from January 2009 will be sent in the coming week given that the deadline for Commission services was 10 March.

Mr Ludewig (chair) agrees with Ms Fritsch that documents that are sent out less than 24 hours before the meeting should be made available to members on paper copies.

Mr Murray would like to know how the extension list of 28 acts was put together as one of the acts has only recently been adopted. He recalls his view that acts should not be reviewed to shortly after their adoption.

Ms Pons (SG) explains the differences the two extensions lists from January 2009 (30 acts) and October 2009 (28 acts). The former was an extension of the measurement, partly of measures already adopted by the Commission within the framework of the action programme. In this context the HLG is asked to comment on the measurement results and state whether what the Commission undertook is sufficient or whether more needs to be done. The second list contains suggestions from stakeholders and the HLG for legislative acts that are taken into consideration for future burden reduction actions. For these acts feedback by Commission services is sought right now.

Mr Ludewig (chair) recalls his view that it is up for the Commission to come up with proposals and suggestions and up for the HLG to comment and give advice.

Mr Palm, Vice-chair of the Swedish Regelradet, thanks for the possibility to attend the HLG meetings as an observer. He sees the lack of a full baseline measurement and a net target as an important element for a successful process.

Mr Mollerup asks for a comprehensive overview on what happened to the recommendations the HLG made in the many opinions it adopted.

Mr Fritsch agrees with Mr Mollerup and would like to see the offline suggestions included in that list.

The chair resumes the direction of the meeting. He recalls that he asked members to suggest further acts for the extension in the action Programme. He will inform President Barroso about the suggestions made by the HLG. He asks when the Commission is going to adopt the extension suggested in October 2009.

Ms Klingbeil (SG) informs that this decision will certainly not be taken before April.

The chair thanks for this information and closes the meeting at 16.15.

Adopted by the HLG in Brussels on 20 May 2010.