



**MINUTES OF THE MEETING OF THE HLG ON 7 DECEMBER 2010**

Venue: Brussels, 7 December, from 10.00 to 17.00

Present: See presence list

Excused: Mr Berger, Mr Dell'Alba, Mr Pesonen (afternoon), Mr. Potdevin, Mr Teli•ka

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

*Mr Ludewig chairs the meeting during the absence of the chair.*

The agenda and the minutes of the last meeting are adopted unanimously.

2) **HLG-meeting in Amsterdam; vote on holding a public meeting**

Upon proposal by Mr Ludewig (chair) the members agree unanimously to hold the meeting of 10 March in Amsterdam as a public meeting in accordance with art. 13.3 of the Rules of Procedure of the HLG.

3) **Presentation by Latvia of national reduction measures**

Mr Puce, State Secretary in the Ministry of Economics, presents the Latvian reduction measures and policy. Members have been provided with a copy of the presentation.

Mr Stoiber takes over the chairmanship and thanks Mr Puce for his presentation.

The chair briefly informs members about his discussion with President Barroso and the press conference that ensued.

4) **Working methods of the HLG**

The chair refers to the exchange of letters between Ms Jongerius and Messrs Hontelez and Murray and him as well as the letter of Mr Berger. He invites Mr Murray to take the floor to present the views expressed in the letter.

Mr Murray presents the individual proposals and refers in particular to the need for consensus. Consensus should be sought not only for reasons internal to the HLG but also because it allows the decisions of the group to carry more weight. He pleads for more efforts by the reporting and co-reporting members in the search for a compromise text in case of disagreements.

Mr Ludewig considers that Mr Murray and his two colleagues have had the possibility to voice their views. When looking into the minutes of the last meeting he found that one third of the contributions were made by one of the three members in question. In general he thinks that seeking compromises is important but must not hinder the HLG from advancing its work. He fully agrees that co-reporting members should have the possibility to comment and contribute actively to the opinions that concern them. It would be regrettable if this was not the case for certain opinions. He pleads for involving stakeholders actively and transparently when preparing opinions; he has done so with his co-reporting members and would advise all members to follow this example. As regards the mandate it should be up to the Commission to inform the HLG if it was to overstep its competence but the group should not limit itself unnecessarily.

The chair points to today's press release which shows that the Commission appreciates the work of the HLG. All members do their work on an honorary and voluntary basis and the meeting budget is exhausted with ten or eleven meetings per year. It is important that the HLG delivers good work that can contribute to positively influence the public opinion about Europe. He also refers to the fact that only four out of 27 opinions were controversial, i.e. adopted with a majority vote.

Mr Gibbons is of the view that the mandate and working methods of the HLG have already been discussed quite a lot. These discussions should be discontinued because the HLG does not do the work it is asked to do when they take place. What is really important for a group like the HLG is that its members respect each other; mutual respect is created when people work closely together but members only see each other a few times during the year and lack the ability to network and meet informally. He joins Mr Ludewig in saying that no member has been prevented from voicing an opinion and all opinions have been correctly presented in the minutes. He agrees with the authors of the letter that a unanimously adopted compromise decision has more clout. However, it is not always possible to achieve a consensus and there has to be a limit to discussion and votes have to be called at a certain moment. Finally, he would like to point out that the mandate does not contain the word "unnecessary" in relation to the reduction of administrative burdens.

Ms Fritsch agrees with Messrs Ludewig and Gibbons. Seeking consensus is certainly important but takes time. The time available to seek consensus is therefore not unlimited and that was in particular true regarding the possible extension of the action programme. She recalls that the chair wrote to all members in December 2009. The issue was debated during several meetings during the whole of 2010 and finally agreed in the October meeting. She finds it difficult to see how more time could have been devoted to this task. Putting stakeholders off just because they have no indication of administrative cost could be very counterproductive. In addition, irritants, although perhaps not very costly, are important for SMEs.

Mr Mollerup was somewhat surprised by the forcefulness of the letter. He however shares Mr Murray's point on horizontal opinions. It would be ideal to consult with each reporting member regarding points from their priority area. He would for example expect to be consulted on issues related to statistics. The main problem is however not lack of willingness but the planning cycle. It is also the responsibility of each member to comment on papers in time. He underlines the need to plan properly and refers in particular to the upcoming report for November 2011 which should be organised like a project with milestones etc.

Mr Hontelez agrees that enough space for everybody is given in discussions and that the minutes represent correctly what has been said. The impact of what each member says is

however different. This has to do with the perception of the role of the HLG that might be different for himself, Ms Jongerius and Mr Murray as opposed to the rest of the group. He agrees with Mr Gibbons that the word "unnecessary" is not in the mandate; he insists however that the whole action programme turns around unnecessary burden. He did not become member of the HLG to tackle administrative burdens necessary for the application of European rules. The letter was a reaction to the discussion at the last meeting but it also came now because the HLG enters into a new phase. Until now the HLG based its work on evidence, albeit often criticized. This is less and less the case in the current work of the HLG. Producing lengthy lists of suggestions that are not backed up by any evidence is not making the group useful for the Commission.

Mr Pesonen agrees with the chair that the HLG's main task is to improve Europe's image. A considerable number of Europeans view Brussels as a "bureaucratic monster". The group is there to assist the Commission with the reduction of administrative burdens. In this context it is also important that members maintain their independence, even in relation to the organisation they work for or that has proposed them for membership.

Mr Mollerup disagrees with Mr Hontelez insofar as he is not of the view that the group has mindlessly taken on suggestions or that any of its members have mindlessly presented any suggestions they have received. He is certain that all members have carefully reviewed what they brought to the attention of the group.

Mr Murray underlines that although the letter intended to convey a clear message, it was not the intention of its author to attack any member of the group. He is of the views that over the last three years members of the HLG have come to mutually respect each other. He thinks that the HLG should be clear on what it agreed in the context of this discussion. The member who makes a proposal should be given the floor as the first speaker in order to present it. For the preparation of documents that touch upon more than one area all members that are responsible for these areas should be brought into the discussion before the meeting at which the document is presented. When it comes to voting on amendments it should be possible to rely on mutual respect to avoid overly bureaucratic procedures. He joins Mr Hontelez as regards the issue of un-necessary burden. In particular with irritants it is important to bear in mind that burden is supposed to be unnecessary if it should be discussed by the HLG; otherwise subjective criteria would become too important.

Mr Ludewig suggests ending this discussion and reminds members that the HLG should return to its tasks. The HLG is supposed to deliver results. He reiterates that it is up to the HLG to make suggestions, even if they involve a subjective element when it comes to irritants; it is up to the Commission to tell the HLG in individual cases that the administrative burdens in question cannot be lifted.

The chair thanks for the contributions to this discussion and wraps the issue up. He puts the discussion in the context of the work of the HLG during the last three years and the new mandate. He furthermore refers to the overall situation in Europe, which he sees rather critical. The citizens will not see Europe more positively if the Commission and the other institutions would not at least show that they made their best efforts to reduce administrative burden. President Barroso asks the HLG to prepare the best practice report by November 2011 and stressed its importance in the meeting this morning. As regards the mandate the chair underlines that he has never heard any critique from the President or any other member of the Commission, i.e. from the persons that receive the advice of the HLG, or the European Parliament or Council that the group would go too far and act outside the boundaries of its mandate. He also repeats his critique regarding the very long

decision processes and finally appeals to all members to respect as much as possible the views of other members and to work accordingly.

Mr Hontelez appreciates the conclusions of the chair because the issues discussed are to a large degree linked to the need for mutual respect. He suggests however to formalize as regards the voting procedures.

The chair has absolutely no difficulty with the proposal that the group should vote on all amendments to a proposed text before it votes on the overall proposal as far as possible. He would however prefer that under these circumstances amendments are presented in writing to the degree possible.

Mr Hontelez could agree with the condition of written amendments if the original documents were sent two weeks in advance.

The chair considers this as agreed.

#### 5) **Presentation of national reduction activities by Luxembourg**

The chair welcomes State Minister Modert and her delegation and invites her to present the national reduction activities.

Ms Modert presents the Luxembourgish activities (members have been provided with a copy of the presentation).

The chair thanks Ms Modert for her presentation.

#### 6) **Communication on Smart Regulation**

The chair asks the Commission to report briefly on this point and refers to the symposium on 13 December 2010.

Ms Pons gives a short presentation about the Smart Regulation policy as laid down in the recent Communication (members have been provided with a copy of the presentation). Administrative burden reduction is one important element of that policy. She underlines the success of burden reduction so far at Commission level, with the HLG incentive and support. It is time now to pay more attention to other decision levels, including the implementation by the MS. She refers to the best practice report which is a high priority for the President. She underlines that Smart Regulation is a holistic approach and an element of a cultural change that will lead to the integration of simplification and administrative burden reduction into the normal decision making process.

The chair thanks for the presentation.

Mr Mollerup refers to the opinion that the HLG adopted in relation to the Communication. He reminds members that a number of concrete suggestions were mentioned and that everybody was asked to verify these suggestions and get additional information.

Mr Hontelez recalls the need to be very clear when using the word gold plating, in particular in the context of domains where Member States may go beyond European legislation. He is of the view that national legislation that goes beyond European law under these circumstances cannot be referred to as gold plating.

Ms Klingbeil (SG) states that in the Communication the term is not used in relation to unnecessary administrative burdens. It refers to all cases where national legislation goes beyond EU law. The Commission is seeking more transparency on who is responsible for obligations imposed on citizens and enterprises alike.

Mr Gibbons would like to know to which extent the Commission intends to look at already existing rules when proposing new legislation. He would welcome a cost-benefit analysis of modifying existing and proposing new rules. He congratulates the Commission on extending the consultation period as well as to its good impact assessment process. Why does the Commission not put the two thoughts together and starts consulting on draft impact assessments?

Ms Klingbeil (SG) confirms that President Barroso would like to see all new proposals be accompanied by an ex-post evaluation of the existing rules. Benefits as well as costs have to be considered. The Commission is working together with Member States and the OECD to find the appropriate methodology. The process is very transparent and stakeholder oriented. As regards the process of impact assessments of the Commission she refers to earlier comments and the report of the Court of Auditors; she explains and underlines again the differences between the procedures chosen by the Commission as compared to those of some Member States.

The chair welcomes this and finds the approach pretty ambitious.

#### 7) **Regular exchange with the chair of the IAB**

The chair asks Ms Klingbeil to give an update on the work of the IAB.

Ms Klingbeil points out that she is regrettably not yet in a position to give a complete picture for 2010. She intends to present the annual report of the IAB at one of the next meetings. It is interesting to note that between this and the last HLG meeting the Commission did not adopt any legislative proposal which is certainly something the group might appreciate. She refers to a number of interesting documents such as the Single Market Act or the Communication on Industrial Policy.

Ms Fritsch suggests that stakeholders get the possibility to subscribe to be informed about ongoing consultations in their areas of interest. Such a system, if made available online, would allow for a better dissemination of information.

Mr Gibbons thanks Ms Klingbeil for the summary. He urges colleagues to have a look at the various documents and roadmaps mentioned, in particular those related to DG ENER in preparation of Commissioner Oettinger's participation in the next meeting. He would be interested to know how many times the IAB used the possibility to block a proposal from going further because of an impact assessment that did not receive the agreement of the board.

Ms Klingbeil would like to discuss this issue in the context of the annual report of the IAB for 2010.

The chair thanks Ms Klingbeil for the update.

#### 8) **Best Practice Report – state of play**

The chair informs members that he has written to all Heads of State and Government asking for three best practice examples. The same letter has also gone the Committee of the Regions and a number of industry associations and stakeholder organisations. He would like Mr Mollerup to coordinate the work on this report, together with Mr Ludewig.

Ms Pons informs members that a short overview on planning issues for the report has been prepared for Mr Mollerup which will be discussed with him at the beginning of 2011. Commission services have also been asked to provide examples. The Single Point of Contact's (SPOC) in the Member States have also been informed about the letters the chair wrote. They were asked to make sure that the examples are well chosen and presented.

Mr Gibbons sees the report as the single most important project in the future of the HLG. He points out that members will have to apply their judgement on the best practice examples that will come in. In this context it might be advisable to look also into implementation attempts that went wrong.

The chair agrees with Mr Gibbons. He signals however understanding for the approach not to point out bad examples. Listing very good examples for one Member State implicitly says that other Member States did not do so well.

Mr Mollerup considers the best practice report a horizontal task as discussed this morning. He intends therefore to involve all members of the group.

Mr Palm (Observer from the Regelrådet) suggests to rather calling the examples good instead of best practice. This would avoid having to measure the examples.

Ms Pons (SG) would like to take the opportunity to thank the staff of the Committee of the Regions present today for their precious interest and support in this context.

#### 9) **Feedback list on HLG suggestions**

Mr Stephan (SG) refers to the print out of the updated feedback list that members have received today and explains the open points. He invites members to inform the secretariat of any corrections they might have for this document.

The chair thanks for this and underlines that the group has made over 300 suggestions.

Mr Hontelez points to two suggestions made in the area of environment. He is of the view that best practice referred to in the context of these suggestions is not equal to best practice examples that the report will contain. He refers more specifically to the notion of gold plating. Moreover he is of the view that it is not the purpose of the report to look at all pieces of legislation and compare 27 ways of implementation.

Ms Pons (SG) thinks that Mr Hontelez has made the difference clear. She refers to the Smart Regulation Communication (fn. 15 on p. 5) where gold-plating is defined. It is a different notion than the one used in the context of the HLG work, which is limited to administrative burdens.

Mr Stephan (SG) points out that the list mainly serves the purpose to report back to members. Feedback from members on potential misunderstandings or missing information would be appreciated.

Ms Krzyszczek, when looking at the questionnaire, states that it might be difficult to compare the results for different pieces of legislation. The HLG might lack information in that context.

Mr Stephan (SG) clarifies that asking for the examples to be either already implemented or in the process of being implemented means that examples will have to be accompanied by evidence. This is necessary to avoid that very good theoretical ideas are presented that are however not yet realised or never will be.

The chair concludes that there is still a lot of work to do.

#### 10) **Distribution of tasks and areas among members**

The chair refers to the paper distributed and states that there are no real gaps. However, some areas are covered by only one reporting member. Mr Goucha is willing to replace Mr Linschoten when it comes to coordinate offline opinions. Mr Mollerup will coordinate the best practice report together with Mr Ludewig. The chair underlines that he is very grateful to all members but in particular to Mr Goucha and Mr Mollerup.

Mr Gibbons points out that Mr Murray and Mr Pesonen have accepted that their name is being added to some areas. Mr Gibbons indicates that more interest could be beneficial for Agriculture, Education and Culture, Health and Pharmaceuticals, Internal Market, Justice, Freedom and Security, Regional Policy and Research. These areas are only covered by one reporting member. He suggests that members who cover one or two areas should have another look at the list. He reminds members that one of the ideas behind this list was that members should have a look at roadmaps in their respective areas and seek out Commission services if need be.

The chair thanks everybody and announces that the list will be finally adopted on 24 January 2011.

Mr Hontelez would like to know what other role reporting members are expected to have in the coming two years than looking at the roadmaps.

Mr Meyer (SG) points out that reporting members will in particular be contacted in case suggestions from the outside concern her or his priority area. This is very important in order to come up with solid draft opinions.

Mr Murray would ask that a reporting member is appointed for Health and Pharmaceuticals alongside himself. He would only want to act as a co-reporting member because of his interest in this area (Mr Murray operates a blog related to medical products).

Mr Mollerup would like it to be clarified that reporting members can indeed get in touch with Commission services if they want to discuss the roadmaps further.

The chair confirms this. He underlines however that the main challenge will be the best practice report. He agrees with Mr Hontelez that reporting members should be involved whenever their area is concerned.

Mr Gibbons sees the greatest opportunity of getting existing legislation right in the context of new proposals that are being prepared by the Commission. He is certain that members have volunteered for one or the other area precisely because they have a certain interest and knowledge. In the light of Mr Murray's remarks on his interests he would hope

that all members would do so and make their interests known to everybody, but in particular to fellow members. He does not see an interest in a certain area as a problem as long as it is known to everybody; interest means also expertise and the latter is needed for the work. Members ought however to be careful when it comes to conflicts of interests.

The chair agrees with this approach and is sure that members would take a step back in case of any conflict.

Ms Fritsch would like the HLG now to look at the timing of the various reports. She would like to have a time frame in January.

Mr Stephan informs that Energy will be discussed in January in the presence of Commissioner Oettinger and Agriculture in one of the coming meetings. Planning beyond that is difficult at the moment.

The chair would also like to see reporting members suggesting issues for discussion on the basis of the roadmaps.

Mr Gibbons agrees with this.

Mr Hontelez would like to come back to the issue of conflicts of interest. He does not see a conflict situation in cases like the one reported by Mr Murray.

Mr Mollerup agrees with this. Potential conflicts must be made known and the HLG could point out in individual cases that the stakes are too high.

Mr Meyer (SG) reminds members of the annual declaration on conflicts of interest. The form for 2011 will be sent to members shortly.

The chair agrees with all this but underlines that conflicts of interest are different if a person or group decides something or only advises, as is the case with the HLG.

The chair concludes by stating that the HLG had a very good debate. This debate helped to clear a number of misunderstandings.

#### 11) **AOB**

Ms Krzysztozek suggests holding a two day meeting in Warsaw in the second half of 2011 with interventions from the Polish Minister of economics and other members of the Polish Government.

The chair welcomes very much Ms Krzysztozek's suggestion.

The chair closes the meeting at 17.00 and wishes everybody Merry Christmas and a Happy New Year.

Adopted by the HLG in Brussels on 24 January 2011.