



MINUTES OF THE MEETING OF THE HLG ON 17 SEPTEMBER 2009

Venue: Brussels, 17 September, from 10.00 to 15.00

Present: See presence list

Excused: Mr Berger, Ms Jongerius, Mr Linschoten, Mr. Murray, Mr Pesonen (from 12h30)

1. Opening; adoption of agenda and minutes

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

The chair reports from his discussions with Vicepresident Tajani, mainly about the tachograph suggestion made by the HLG. He thanks Mr Ludewig for his support and states that Vicepresident Tajani had promised to table a legislative proposal. He informs about his discussions with Prime Minister Juncker of Luxembourg inter alia on the exemption of micro entities from the EU accounting rules, and optimistic letters from Prime Minister Reinfeldt (Presidency) and President Sarkozy. In addition, he refers to President Barroso's political guidelines for the next Commission, and the President's announcement to move the issue of administrative burden reduction under his aegis.

The Chair informs members that he will report on the HLG's intermediate report in the Legal Affairs Committee of the European Parliament on 9 November upon invitation of the new chairman MEP Lehne who is also the EP's observer in the HLG.

As regards the remainder of the mandate he informs members that the HLG will mainly deal with the legislative acts by which the Action Programme had been extended in January 2009 and offline suggestions. He is grateful for Mr Telička's offer to participating in elaborating a set of recommendations for the future work on administrative burden reduction. The HLG's work will go on at least till July 2010.

2. Meeting of the HLG in Stockholm on 12 November, vote according to the rules of procedure (art. 13)

Upon suggestion by the chair members agree unanimously to hold the November meeting in public.

Chair and members ask the secretariat to take even more care in preparing this meeting under these circumstances.

Issues for discussion could be the Decalogue and another opinion on offline suggestions.

Mr Ludewig supports the idea.

3. Information by Mr A. Italianer, chair of the Impact Assessment Board (IAB)

The chair welcomes Mr Italianer and invites him to make his presentation.

Mr Italianer presents the work of the IAB since his last presentation to the HLG (Members have been provided with a copy of the presentation). In addition, he states that it comes as no surprise that the President wanted personal responsibility for the administrative burden reduction file, given the important work of the HLG.

He further on he refers to two specific cases, the recast of the WEEE Directive and the Energy efficiency of buildings Directive (Members have been provided with documents regarding these two acts).

The Chair thanks Mr Italianer for his presentation and stresses the importance of supporting SMEs in accordance with the Small Business Act, e.g. by providing exemptions or certain minimum thresholds.

Mr Gibbons questions whether the cost and benefit analysis has ever led the IAB to refuse proposals.

Mr Italianer states that the IAB tries to be as frank as possible when criticising impact assessments; its main role is however to make the assessments sound. If necessary, services can be sent back to the drawing board, even several times. The IAB only looks at the impact assessment, not at the legislative proposal as such. He agrees with Mr Hontelez' statement that a high level of ambition does not necessarily imply more burden for businesses.

Mr Telička adds that the issue is disproportionate administrative burden, not administrative burden per se. He questions why there are only 5 – 6% proposals that concern simplification and whether there are signs of increased quality of the proposals. Are there ideas to modify the inter-institutional agreement?

Mr Ludewig questions whether the approach is systematic regarding cost calculation and would like to know whether there are any indications as to what extent the administrative burdens have changed following discussions between the IAB and Commission services.

Ms Fritsch would like to know the magnitude of reduction of administrative burdens upon resubmissions of impact assessments.

Mr Hontelez would like to know when and how the intentions of President Barroso in particular concerning the ex post evaluation will be implemented.

In answering all these questions Mr Italianer states that the low number of simplification proposals is only a statistical issue. The inter-institutional agreement is being reviewed. There is no general obligation to measure administrative burden, but the IAB always checks in particular cases where administrative burden has not been assessed at all or the Standard Cost Model has not been used. The IAB looks at all options. Ex-post evaluation is already centralised in the Secretariat-General which allows looking at the whole policy cycle. The Commission would like to reinforce the analysis of the ex-post evaluation.

Reacting to Mr Ludewig's question Mr Italianer points out that calculated figures are presented for administrative burden. However, with respect to policy communications there might be no possibility to measure administrative burden, in particular if the proposals were not concrete enough.

Mr Gibbons would like clarification on whether the IAB comments on the design of the regulation or directive.

Mr Italianer states that the IAB does not look at the text of the proposed act or document, but only at the impact assessment. However, when looking at the different options for action within the impact assessments, the IAB' opinions would indirectly have an impact on the regulatory design.

The chair wraps up the discussion and thanks Mr Italianer for the good cooperation and availability for discussion. He wishes him all the best for his new job.

4. Priority area Agriculture

The chair refers to the discussions the HLG held earlier and his agreement with Mr Hontelez to allow another discussion of issues related to this priority area.

Mr Hontelez lays down his views. He thanks the chair for providing an opportunity, at the moment of evaluating the HLG groups' work so far, to come back to an issue which he in his view had been wrongly dealt with when the HLG opinion concerning agriculture was adopted at the March 2009 meeting. He felt during that discussion the HLG went beyond its mandate to discuss unnecessary administrative burdens which could be removed without affecting objectives of the related policies. He reminds that he had presented amendments with regards to the language proposed by the reporting members on the abolishment of the set-aside regime in the EU and the paragraphs on cross-compliance. With regards to the set-aside, he said he did not agree with the HLG welcoming the abolishment because that measure had nothing to do with reduction of administrative burdens, but a consequence of the, for Mr Hontelez controversial, policy to encourage the production of biofuels, while the set-aside obligation had by default proven to be very important for the protection of EU's biodiversity. So he had proposed a neutral formulation, rather than support for that measure, which was refused. His main issue however was that the language on cross-compliance could be read as an attack on this policy, and again had hardly anything to do with administrative burden. His information was, and this is strongly confirmed by the report of the Court of Auditors of November 2008, that farmers are hardly troubled with the enforcement of the cross-compliance rule as they are hardly inspected in most Member States. So rather than an administrative burden the issue is here of poor compliance and, as a result, unequal treatment of farmers depending on where they are based.

He had felt that the HLG advise runs the risk of being abused by political opponents of the cross-compliance regime, focusing on perceived irritation with farmers and the need to simplify the rules, which could further weaken the implementation. In the meeting in March, he had presented, in his view constructive, proposals that would reduce the admin burden to farmers and increase the compliance level at the same time, including to "make the controls of cross compliance related to requirements with clearly visible spatial components such as the maintenance of landscape elements less burdensome to individual farmers by using remote sensing and satellite images", as well as "recommending the Commission to develop clear guidelines about the translation of the

Statutory Mandatory Requirements into simple and meaningful obligations for farmers which are easy to respect, administer and control.” He noted initial interest with some HLG members, but had been very surprised that no space was made for discussion them further. Adopting these proposals could have, in his view, removed the impression that the HLG belongs to the political opposition to cross-compliance. He asked to consider at least these two proposals at this moment of confirming all our reports on the consortium reports.

Mr Pesonen explains why he is opposed to any change of the opinion which had been supported by a vast majority within the HLG. He could understand why people with an environmental background were sometimes not happy with certain decisions concerning cross-compliance. However, the issue was not only sensitive for environmentalists, but even more sensitive for farmers who represented the prime stakeholders in this field. Cross-compliance is one of the issues that has led to intensive discussions in the member states. Mr Pesonen states that it was not his intention to undermine the status of cross-compliance and the opinion would not do so either. All of Mr Hontelez' views and proposals for amendments had actually been discussed in the meeting, and this was reflected in the meeting. In Mr Pesonen's view there were very good reasons not to change the opinion which remain valid. Taking into account the extremely difficult situation of farmers at the moment, it would seem absolutely inappropriate to incorporate changes on an important and highly sensitive issue such as cross-compliance. The opinion had been published six months ago and he had discussed the opinion in meetings with stakeholders, the Commission and the presidency; the views of the HLG had been appreciated in these meetings.

Mr Telička understands Mr Hontelez' points, but is as a matter of principle opposed to reopening closed points. No such precedent should be set. He saw no reason to take a different decision in the actual meeting; Mr Pesonen's reasoning had been sufficient and clear.

Mr Illy joins Mr Telička in this. Adopted opinions should in his view only be reopened in case of very important new facts or new issues, which was not the case here.

Ms Maij-Weggen also argues for not changing the opinion and adds that the Committee of the Regions had been very happy with the opinion.

Mr Hontelez agrees with the principle that opinions should not be reopened. Nevertheless, he would like to clarify that it had not been his suggestion to come back to the decision, but the chair's. In addition, he sees his proposals for amendments not as increasing administrative burden.

The chair points out that the HLG's work could only be effective if the HLG reached timely decisions. He was aware of the time pressure that some may have felt during the preparation and debate of the opinions. However, this had been caused by the need to deliver the opinions before the end of the current Commission's mandate. Since there had been a feeling that there had not been enough time to exchange all arguments in the March meeting, he had proposed to give an opportunity for another exchange of views. He was grateful for the good discussion, but concurs with Mr Pesonen's reasoning. In particular at this moment he could not imagine coming back to suggestions the Commission already received and took up, in particular in view of the difficult situation

of the agricultural sector. In agreement with Mr Hontelez he suggests to close the discussion at this point.

5. Intermediate Report

The chair thanks the Commission as well as the members who have contributed to the drafting of the cover note for the intermediate report, and expresses his hope that this cover note can be supported by all members.

The chair suggests discussing the “Decalogue for Better Regulation” proposed by Mr Illy at the Stockholm meeting. Mr Illy agrees with this and states that the decalogue proposed by him was meant to provide principles which – if followed – could help to avoid administrative burdens before they are created.

Mr Hontelez questions whether some figures should be updated in the annexes taking into account late corrections.

The Commission confirms that the agreed reports by the Consortium will be published until the Commission’s communication on the state of play of the administrative burden reduction exercise is released on 20 October.

The HLG discusses issues related to transparency, problems with some measurement results, the role of the observers, the composition of the HLG, the preparation of and voting on the opinions and agrees on redrafting two sentences accordingly.

The HLG unanimously adopts the intermediate report.

6. Any other business

Ms Groebner, DG ENTR, informs members about the state of play concerning the upcoming Commission communication on administrative burden reduction. This Communication had been prepared as a summary on the state of play at the end of the current Commission’s mandate. The draft which included sectoral reduction plans for all priority areas, was currently discussed between the services concerned. It also included a proposal for extending the scope of the Action Programme to additional acts based on suggestions dealt with by the HLG. In addition, the Communication listed measures which were scheduled for adoption by the Commission before the end of the mandate.

The Chair welcomes the progress achieved so far. The legislative proposals adopted by the Commission so far would provide for extensive savings, yet still more needed to come. He sees the objective of reducing administrative burdens as a permanent task which would provide a lot of work in the future as well. In his view the current exercise could provide a model for the national level as well.

The Chair thanks the members for the good discussions and reminds that the next meeting will take place in Stockholm on 12 November.

Adopted by the HLG in Stockholm on 12 November 2009.