

**STATE OF PLAY CONCERNING THE CONDITIONS SET BY THE EUROPEAN  
PARLIAMENT TO LIFT THE RESERVE IN THE 2012 BUDGET WITH REGARD TO GROUPS  
OF EXPERTS (EUR 2 MILLION)**

## **1. BACKGROUND**

In November 2011 the Budget Authority voted at the initiative of the Parliament EUR 2 million in reserve on committees.

The European Parliament set **four conditions** for lifting this reserve:

- ❖ **Condition N°1:** Scrap exceptions in the obligation to have a balanced composition of expert groups (technical nature + experts in "personal capacity"). Prohibit a single interest category from having the majority of the non-government and non-EU seats in any expert group.
  - The Commission believes that, in light of the diversity of tasks carried out by expert groups, setting general arrangements concerning the membership of all groups, irrespective of their mandate, is not appropriate. However, in March this year, the Commission committed to conduct a complete review of existing expert groups which are not exclusively composed of national authorities, with a view to assessing their composition. The Commission made clear that any possible modification of the composition of groups would be the result of a specific assessment of the membership of individual groups, taking into account the work to be carried out, interests at stake, as well as other opportunities that citizens and stakeholders are given to express their views. Indeed, the degree of overall participation and representation of stakeholders should be assessed in light of all initiatives taken by the Commission on a particular subject, which often go far beyond expert groups<sup>1</sup>.
  - **Follow-up ensured - Current state of play:**
    - ⌚ Each and every Commission department has embarked upon a review of all expert groups under its responsibility which are not exclusively composed of public authorities, with a view to assessing their composition;
    - ⌚ As a result, Commission services have committed to rebalance the membership of more than fifty groups, many of which dealing with politically sensitive issues (see Annex 1). Given the number of groups concerned, the complexity of some of the processes leading to the modification of groups' membership, as well as the institutional constraints (reforms of EU policies and programmes), in a number of cases it will take some time, before changes can be fully implemented. However, even if it will take some time before the composition of all of these groups can be completely changed, there is a firm political commitment taken vis-à-vis the Parliament concerning the above-mentioned groups;

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<sup>1</sup> SEC (2010) 1360, p.3

- ⌚ The review has also contributed to closing and removing from the Register more than fifty groups which do not operate anymore or which need to be reshaped. Furthermore, eleven groups set up at the start of FP7, managed by DG RTD, will be closed down by the end of the summer.
- ❖ **Condition N° 2: Ban lobbyists and corporate executives sitting in expert groups in a ‘personal capacity’.** The Commission should clarify whether members of an expert group are there as stakeholders or as experts committed to acting in the public interest.
  - The Commission confirmed in March its determination to ensure that the new, more stringent provisions on conflicts of interest are fully implemented for future expert groups. The Commission also committed to conduct a review of existing groups which include members appointed in a personal capacity, with a view to ensuring that the rules are fully respected in all existing groups, taking remedial actions where this would not be the case, *inter alia* by clarifying whether members of an expert group are there as stakeholders or as experts appointed in a personal capacity acting in the public interest.
  - **Follow-up ensured - Current state of play:**
    - ⌚ Each Commission department has carried out a review of the expert groups placed under its responsibility, which include members appointed in a personal capacity, with a view to ensuring that the rules on conflict of interests are respected.
    - ⌚ As a result, it was clarified in *the Register of Commission Expert Groups and Other Similar Entities*<sup>2</sup> (hereinafter referred to as "the Register") that some or all experts of 31 groups are actually representatives of stakeholders (or in a few cases of the Member States) and not experts appointed in a personal capacity acting in the public interest, as was previously indicated. For some of them, formalisation of these changes will require amending Commission decisions which set up the groups concerned. The complete list of the groups in question is provided in annex 2.
- ❖ **Condition N° 3: Common selection criteria throughout all DGs that guarantee balance among different categories of stakeholders and absence of conflict of interests for experts and establish an obligatory open selection process with a public call and a published mandate of each expert group which goes beyond a simple representation of Member States authorities.**
  - The Commission committed to ensure that all relevant provisions concerning selection of members of expert groups are fully implemented, including selection via public calls for application. In light of the diversity of circumstances in which expert groups operate, the Commission believes that it is not appropriate to draw up common criteria for the selection of groups' members; selection should continue to be done on a case by case basis. The Commission also committed to ensure transparency on the procedures used to select members of each expert group by publishing relevant information in the *Register*.
  - **Follow-up ensured - Current state of play:**

<sup>2</sup> <http://ec.europa.eu/transparency/regexpert/>

- ⌚ All Commission departments are bound by horizontal rules on Commission expert groups adopted by the College. These rules foresee that:
  - Where individual experts are appointed in their personal capacity, public calls for applications shall be used as far as reasonably practicable;
  - Where a call for applications is not reasonably practicable (for example where very specific expertise is required), the choice of experts shall be made on the basis of objectively verifiable criteria;
  - Where individual experts are appointed to represent an interest or where organisations are appointed as members of expert groups, Commission services shall, as far as possible, ensure a balanced representation of relevant stakeholders, while taking into account the specific tasks of the expert group and the type of expertise required.
  
- ⌚ Experience shows that where selection is made through calls for applications, potentially interested stakeholders are informed by relevant Commission departments, including through the publication of calls on web pages, which stakeholders are familiar with. Often NGOs, organisations from civil society or even SMEs, which are invited by Commission departments to become members of expert groups, refuse to participate. This is due to a number of factors, including lack of stakeholder's resources to participate. In this respect, it should be underlined that the Commission reimburses travel and subsistence expenses incurred by participants in the activities of expert groups, and that no stakeholder is excluded from reimbursement. This is clearly stated in the horizontal rules in force and explicitly mentioned in the Register <http://ec.europa.eu/transparency/regexpert/faq.cfm?aide=2> (last bullet point under "How do Commission expert groups work?").

❖ **Condition N°4: all membership information (incl. affiliations), agendas, minutes and participants' submissions should be available on-line unless there is a clear and published reason for not providing this info. Reports of groups should be published before adoption.**

- With the new *Register* set up in December 2010, the Commission has enhanced transparency in the area of expert groups in many ways. This new Register now provides more accurate information, notably on the type of entities listed, the groups' membership, the procedures used to select members of groups, as well as the activities carried out by groups. The presentation and readability of data encoded has also been improved.

In March, the Commission committed to further increase transparency, by publishing all relevant documents (such as agendas, minutes and participants' submissions) either in the Register itself or *via* a link from the Register to a dedicated website, where information can be found. This commitment relates to documents produced after 1 April 2012. Exceptions to systematic publication should be foreseen where disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001<sup>3</sup>.

- The Commission does not adopt reports or any other document submitted by expert groups. The Commission and its departments remain fully independent regarding the way they take into account the expertise and views gathered *via* expert groups.
- **Follow-up ensured - Current state of play:**
  - ⌚ All Services have been clearly instructed to follow up on the commitments taken by the Commission concerning publication of documents.
  - ⌚ Given the collective nature of groups' work, groups normally adopt their opinions, recommendations or reports by consensus. In some cases, groups vote on documents. Where this is the case, minority opinions are duly published.
  - ⌚ On 30 August 2012, a "News Section" was introduced on the Register. This news section provides for, *inter alia*, a single access point to information about new calls for applications related to groups listed or to be listed in the Register. The aim is to enhance both transparency and enable easy access for the general public as well as experts with an interest in becoming members of a group.

## Conclusion

The Commission has provided clear evidence that it has met its engagements taken in March this year, by making important efforts to respond to Parliament's concerns as spelled out in the conditions set by the European Parliament to lift the EUR 2 million reserve, which represents 15% of total appropriations for committees. The Commission would also like to recall that between 2012 and 2007 expenditure for committees has already undergone a reduction of more than 50%, as part of the Commission's effort to contain administrative expenditure.

The Commission therefore requests the release of the reserve on expenditure for committees, as it is a severe obstacle to the steady progress of Community activities subject to this procedure. Invitations to committee meetings constitute a legal commitment from the Commission vis-à-vis participating representatives from the Member States (right to reimbursement of travel costs and per diems) and need, in accordance with Article 77 of the Financial Regulation, to be covered by a prior budget commitment (reservation of appropriations). Commitment appropriations are needed long before the meeting takes place, whilst payment appropriations are used following the introduction of claims for reimbursement from committees' participants.

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<sup>3</sup> These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

## ANNEX 1

### **Summary of the main initiatives taken, as a result of the review carried out by the Commission services**

In June **DG AGRI** has initiated a survey of stakeholders *via* a questionnaire, with a view to achieving through a bottom-up approach, a revision and better balancing of **thirty advisory groups** set up by Commission Decision 2004/391/EC. DG AGRI is currently analysing the replies received from stakeholders. Once the scrutiny will have been completed, a modernized and rationalized Civil Society Dialogue-system based on principles of openness, transparency and flexibility will be devised, culminating in a formal consultation of stakeholders. Members will be selected following public calls for application. This bottom-up approach will need time, meaning that the process is likely to last until some point in 2013. Some of the advisory groups include working groups/subgroups. For these, a separate analysis has been done and has shown that for some of them action is needed in order to achieve a better balancing.

Finally, DG AGRI has already modified the composition of the "*Groupe d'experts pour la fourniture de denrées alimentaires au bénéfice des personnes les plus démunies de la Communauté*" in order to improve, *inter alia*, the geographical balance of the organisations which are members of this group.

**DG ENTR** has conducted an analysis to identify those groups where the balance among stakeholders could be improved. As a result, **nineteen groups** where there appears to be Industry over-representation were identified. Depending on the specific situation at hand, different initiatives were taken to address such unbalances.

The composition of thirteen of these groups will be modified as a result of one single call for expressions of interest, which was published on 1 September; the deadline for applications is 31 October 2012. The process is expected to be completed by the start of 2013 at the latest. The call was published in the OJEU<sup>4</sup> and a link to the call was also published on the Register of expert groups. A complete list of these thirteen groups follows:

- ⌚ Working group on Motor Vehicles
- ⌚ Working group on Motorcycles
- ⌚ Working group on Agricultural Tractors
- ⌚ Fertilisers Working group
- ⌚ Working group Measuring Instruments
- ⌚ Advisory Committee on Community Policy regarding Forestry and Forest-based Industries
- ⌚ Working group on Explosives
- ⌚ Eco-design Consultation forum
- ⌚ European Multi-Stakeholders Platform on ICT Standardisation
- ⌚ Ad-hoc Advisory Group on Non-Annex I Products
- ⌚ Raw Materials Supply group
- ⌚ Working Group Gas Appliances
- ⌚ Mission Evolution Advisory Group

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<sup>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:265:0007:0011:EN:PDF>

Concerning the "*expert group on the Annual European Tourism Forum*", the balance was improved by adding NGOs and removing industry-related organisations.

Regarding the "*expert group on the revision of the LeaderSHIP strategy*", the balance was improved by adding trade unions and international organisations, as well as by removing industry-related organisations. In order to have the interests of the general public properly represented, more regional authorities were also added.

Finally, the work of four groups where there appears to be Industry over-representation has ended or will end over the next few months; therefore a modification of the composition of these groups could not be completed in time before they cease their activities. These groups are:

- ⌚ Strategic Advisory Board on Competitiveness and Innovation (STRABO)
- ⌚ CARS 21
- ⌚ High Level Forum for a Better Functioning Food Supply Chain
- ⌚ Ferrous and non-ferrous metals competitiveness expert group

DG ENTR will also apply a new approach to the creation of expert groups in the future, with a view to ensuring full transparency and a fair representation of interests.

**DG ENV** will modify **two important groups** placed under its responsibility. The first group is the "*Competent authorities for Registration, Evaluation, Authorisation and restriction of Chemicals (REACH) and Classification, Labelling and Packaging (CLP)*". This group is composed of Member States' competent authorities and a number of stakeholders were appointed as observers. DG ENV has agreed to extend the list of observers to include more non-industry stakeholders and has, therefore, decided to open up the participation to a number of these stakeholders. Several organisations have been identified and will be invited in time for the next meeting, which should take place in November 2012. The second group is the "*Expert group on the exchange of information on best available techniques related to industrial emissions*". Although, the main environmental NGO at EU level (EEB) is already member of this group, DG ENV has decided to actively promote the participation of other environmental NGOs having an acceptable degree of European representation. To that end, a call for applications was published in the OJEU on 20/07/2012 (C2012/214/07)<sup>5</sup> and a link to the call was also published on the Register of expert groups. The deadline for the replies is September 28<sup>th</sup>. The IED Europa website has also been modified accordingly; it specifies that information on the results of the call for applications will be published on this website and, if appropriate, in the OJEU<sup>6</sup>.

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<sup>5</sup> <http://eur-lex.europa.eu/Notice.do?val=682013:cs&lang=en&list=682025:cs,682012:cs,681916:cs,681945:cs,681961:cs,681984:cs,681911:cs,682013:cs,681912:cs,681954:cs.&pos=8&page=2&nbl=25&pgs=10&hwords=>

<sup>6</sup> <http://ec.europa.eu/environment/air/pollutants/stationary/ied/implementation.htm>

**DG MARKT** has conducted in 2011 a comprehensive review of all existing 'non governmental' expert groups advising the DG in the area of **financial services**, in order to rationalise the groups and to ensure that consumers, retail investors, SMEs and trade unions' representatives are represented. Six Expert Groups were abolished<sup>7</sup>. As a result six expert groups are still operational<sup>8</sup>. One of them, the "*Payment Market Systems Expert Group*" (PSMEG), has been re-shaped to achieve a more balanced representation of concerned stakeholders. In terms of composition of the operational expert groups in the area of financial services, industry representatives account for 28% of total places (20% for members representing the financial services industry) while 50% of places are attributed to consumers, Trade Unions, SMEs and academics.

**DG MARE** envisages modifying **two important expert groups** placed under its responsibility. First, with a view to modernising and adapting the consultation of stakeholders on horizontal aspects of the Common Fisheries Policy (CFP) a new and leaner structure of the "*Advisory Committee on Fisheries and Aquaculture*" is envisaged in the framework of the CFP reform, reinforcing *inter alia* the representation of small scale fisheries in a future expert group. Second, concerning the "*Regional Advisory Councils*" (RACs), as part of the CFP Reform, the role and functioning of advisory bodies on regional and other aspects of the CFP has to be adapted to a more decentralised framework; it is also envisaged to adapt the balance of stakeholder interests and to ensure adequate representation of small scale fishermen within the RACs.

**DG CONNECT** has addressed the composition of two groups, with a view to assessing whether their typically technical character can be counterbalanced by the participation of relevant civil society representatives: the "*Advisory Group – ICT Infrastructure for energy-efficient buildings and neighbourhoods for carbon-neutral cities*" and the "*Expert group on the security and resilience of communication networks and information systems for smart grids*". In particular, concerning the first group, it was decided that an open call for applications will be opened in September for a six weeks period; as a result, the composition of this group will be modified. The second group has finalised its work. DG CONNECT considers that it is not needed any more under the current format and that its activity will not continue.

**DG EAC** intends, in the context of the new programs in the domain of Education and Culture as of 2014, to do a **review of all expert groups** placed under the responsibility of the DG. It implies that actions may be carried out in the near future to review both the mandate and the composition of these groups.

The **two Advisory Groups** set up under the Research Fund for Coal and Steel, which are under the responsibility of **DG RTD**, are governed by a Council decision dating from 2008, which specifies the sectors that should be represented and affirms that the experts are present in a personal capacity. Following a monitoring and assessment exercise, the decision is due to be reviewed in 2013; the Commission will propose the necessary amendment at that stage.

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<sup>7</sup> The European Corporate Governance Forum, the Standards Advice Review Group, the Expert Group on Financial Education, the Group of Experts in Banking Issues, the Expert Group on Market Infrastructure, the Tax Barriers Business Advisory Group.

<sup>8</sup> The Financial Services User Group-FSUG, the Group of financial services employees' representatives-'Uni-Europa', the Expert Group on disclosure of non-financial information by EU Companies, the Insolvency Law Group of Experts, the High Level Expert Group on reforming the structure of the EU banking sector and the Payment Market Systems Expert Group-PSMEG.

## ANNEX 2

### **Groups where membership was clarified in the Register**

#### **DG ENTR - 7 groups:**

- Strategic Advisory Board on Competitiveness and Innovation
- European design leadership board
- Expert Group on the cross-border matching of innovative firms with suitable investors
- FP7 Space Advisory Group
- FP7 Security Advisory Group
- Galileo FOC Timing Interface Expert Group
- Galileo Geodetic Reference Interface Working Group

#### **DG RTD - 13 groups:**

- Technical Group Coal 1 "Coal mining operation, mine infrastructure & management, unconventional use of coal deposits"
- Technical Group Coal 2 "Coal preparation, conversion and upgrading"
- Technical Group Coal 3 "Coal combustion, clean and efficient coal technologies, CO2 capture"
- Technical Group Steel 1 "Ore agglomeration and Ironmaking"
- Technical Group Steel 2 "Steelmaking processes"
- Technical Group Steel 3 "Casting"
- Technical Group Steel 4 "Hot and cold rolling processes"
- Technical Group Steel 5 "Finishing and coating"
- Technical Group Steel 6 "Physical metallurgy and design of new generic steel grades"
- Technical Group Steel 7 " Steel products and applications for automobiles, packaging and home appliances"
- Technical Group Steel 8 "Steel products and applications for building, construction and industry"
- Technical Group Steel 9 "Factory-wide control, social and environmental issues"
- Coordination Group of Coal and Steel Technical Groups chairpersons

#### **DG MARKT - 3 groups:**

- Expert Group on e-Tendering
- Payment Systems Market Expert Group
- Insolvency Law Group of Experts

#### **DG ENV - 2 groups:**

- European Business Awards for the Environment
- National Coordinators of Mobility Wee

#### **DG MOVE - 2 groups:**

- Expert Group on Future Transport Fuels
- Maritime Transport on Short Sea Shipping and Motorways of the Sea



**SG - 2 groups:**

- High Level Group of Independent Stakeholders on Administrative Burdens
- High Level National Regulatory Experts

**DG TAXUD - 1 group:**

- Expert Group on Savings Taxation

**DG MARE - 1 group:**

- Marine Observation and Data Expert Group