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DRAFT REPORT

on the revision of the framework agreement on relations between the European Parliament and the Commission
(2010/2118(ACI))

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the revision of the framework agreement on relations between the European Parliament and the Commission (2010/2118(ACI))

The European Parliament,

- having regard to Article 295 of the Treaty on the Functioning of the European Union,
 - having regard to its decision of 26 May 2006 on the revision of the framework agreement on relations between the European Parliament and the Commission¹ and to its resolution of 9 February 2010 on a revised framework agreement between the European Parliament and the Commission for the next legislative term²,
 - having regard to the decisions of the Conference of Presidents of 26 November 2009 and of 1 July 2010,
 - having regard to the draft revised framework agreement on relations between the European Parliament and the Commission (hereinafter referred to as ‘the agreement’),
 - having regard to Rules 25(3) and 127 and to Annex VII, point XVIII(4) of its Rules of Procedure,
 - having regard to its decision on the adaptation of Parliament's Rules of Procedure to the revised framework agreement on relations between the European Parliament and the Commission (2010/0000(REG))³,
 - having regard to the report of the Committee on Constitutional Affairs (A7-0000/2010),
- A. whereas the Treaties provide, for the first time, an express legal basis for interinstitutional agreements,
- B. whereas the Treaty of Lisbon entails new powers for the Parliament and for the Commission and provides for a new interinstitutional balance that shall be reflected in the agreement,
- C. whereas the Treaty of Lisbon deepens significantly democracy in the EU, giving to citizens of the Union, mainly through the Parliament, a reinforced power of scrutiny of the Commission,
- D. whereas the Treaty of Lisbon places the Parliament on an equal footing with the Council in the ordinary legislative procedure and in budgetary matters, and enhances its role in the EU's external policy, with the exception of the role relating to Common Foreign and Security Policy,

¹ OJ C 117E, 18.5.2006, p. 123.

² Texts Adopted, P7_TA(2010)0009.

³ Texts Adopted, P7_TA(....)....

- E. whereas the new agreement reflects these developments, even if it requires certain clarifications which are set out below,
1. Considers the revised agreement as an important breakthrough for Parliament in its cooperation with the Commission;
 2. Recalls the traditional powers held by parliaments at the light of the doctrine of separation of powers and that will frame, in full respect of the Treaty of Lisbon, the achievements of the agreement: legislative competences, parliamentary scrutiny of the executive (including the international relations dimension), information duties and the executive's presence in Parliament;
 3. Welcomes, in particular, the following improvements contained in the new agreement:
 - 3.1. Legislative procedure and planning: mutual cooperation
 - (a) the revised provisions regarding the Commission's Work Programme and the EU's programming, improving the involvement of Parliament (paragraphs 27, 30, 41c new and revised annex 4),
 - (b) the review of all pending proposals at the beginning of a new Commission's term of office, taking due account of the views expressed by Parliament (paragraph 32),
 - (c) in areas where Parliament is usually involved in the legislative process, the Commission shall only use soft law on duly justified cases and after previously consulting Parliament (paragraph 36b new),
 - (d) the commitment made by the Commission on adaptation of the *acquis communautaire* as soon as possible to the new regime of delegated acts (paragraph 41a new),
 - (e) the commitment by the Commission to report on the concrete follow-up to any legislative initiative requests pursuant to Article 225 of the Treaty on the Functioning of the EU,
 - 3.2. Parliamentary scrutiny
 - (f) the detailed provisions on the election of the President of the Commission and of the latter as a body and on its composition, its possible modification and reshuffling,
 - (g) the new rules for the participation of Commissioners in election campaigns (paragraph 2b new),
 - (h) the obligation for the Commission to seek Parliament's opinion when it intends to revise the Code of Conduct,
 - (i) the obligation for the nominees for the posts of executive directors of regulatory agencies to come before the responsible parliamentary committees for a hearing

(paragraph 26 new),

3.3. The interinstitutional dimension of EU international relations

- (j) the detailed provisions concerning the enhanced role of Parliament in international negotiations including the undertaking from the Commission to forward confidential documents relating to these negotiations through appropriate procedures and safeguards (paragraphs 19-21b new and new annex 3),

3.4. Information duties

- (k) the acknowledgment by the Commission of the respective roles conferred by the treaties on Parliament and the Council, in particular with reference to the basic principle of equal treatment, especially as regards access to meetings and the provisions of contributions or other information in particular on legislative and budgetary matters (paragraph 8),
- (l) the establishment of a regular dialogue between the President of the Commission and the President of Parliament on key horizontal issues and major legislative proposals (paragraph 10),
- (m) the detailed provisions on the information to be provided to Parliament regarding Commission meetings with national experts and the preparation and implementation of Union legislation and soft law (paragraph 13a new and new annex 1),
- (n) the modalities of cooperation in the area of relations with national parliaments (paragraph 15 a new),
- (o) the detailed provision on Parliament's access to confidential information, including classified documents (revised annex 2),
- (p) invites its competent committee to seek the opinion of the Commission, when it comes forward with a revision of its Rules of Procedure concerning relations with the Commission,

3.5. Commission's presence in Parliament

- (q) the commitment from the Commission to give priority to its presence, if requested, at the plenary sittings or meetings of other bodies of Parliament (paragraph 37),
- (r) the new Question Hour with all Members of the Commission, following the model of the Question Hour with the President of the Commission (paragraph 37 a new),
- (s) speaking time improvements, respecting indicative allocation of time,
- (t) invitation to attend meetings of the Conference of Presidents and the Conference

of Committee Chairs (paragraph 10 indent 3),

4. Takes the view that the opinion foreseen in paragraph 6 of the agreement is an opinion to be forwarded by the President of Parliament, following a decision of the Conference of Presidents; takes the view that before taking such decision, the Conference of Presidents should seek the views of Conference of Committee Chairs on the draft Code of Conduct for Commissioners relating to conflict of interest or ethical behaviour;
5. Notes that in all international conferences the Commission shall grant the status of observers to Members of Parliament and foresee their presence in all relevant meetings, in particular coordination meetings, where the Commission informs about its position in the negotiating process; only in exceptional cases, on the basis of a lack of legal, technical or diplomatic possibilities, can the Commission refuse the observer status to Members of Parliament, but these concepts should be explained beforehand to Parliament and be interpreted very strictly by the Commission;
6. Understands that the words "international conferences", referred to in paragraphs 21 and 21b new of the agreement, should be understood as covering not only multilateral agreements, but also bilateral ones of particular political importance (namely, important political cooperation, trade or fisheries agreements), on which Parliament's consent is in any case requested;
7. Considers that the "meetings of bodies set up by multilateral international agreements" foreseen in paragraph 21a new of the agreement also cover the bodies created by bilateral agreements, provided that the conditions set out in this paragraph are fulfilled;
8. In accordance with Article 218(10) TFEU the Commission shall inform immediately and fully the Parliament when it intends to apply provisionally an international agreement or propose its suspension and should take into account the views of Parliament before the Council takes the decisions;
9. Calls on the Commission to provide Parliament with all information concerning the negotiation of international agreements, including "confidential information" within the meaning of Paragraph 1.2.1 of Annex 2 of the agreement, in accordance with the detailed arrangements set out in this Annex; this applies also to confidential documents from Member States or third States, subject to the originator's consent;
10. Understands that soft law within the context of the agreement shall include recommendations, interpretative communications, voluntary agreements and optional instruments;
11. Approves the agreement annexed to this decision;
12. Decides to annex the agreement to its Rules of Procedure, replacing Annex XIV, in order to facilitate access and to ensure transparency;
13. Instructs its President to forward this decision and the annex to the Council, the Commission, and the parliaments of the Member States, for information.

EXPLANATORY STATEMENT

Until the Lisbon Treaty and the new legal basis of Article 295 TFEU, the Treaties did not explicitly encourage the EU institutions to conclude interinstitutional agreements. Interinstitutional agreements are not allowed to alter primary law stipulations; nevertheless, they do often clarify them. The draft revised framework agreement on relations between Parliament and Commission, which the Conference of Presidents has forwarded to the Committee on Constitutional Affairs with a view to having it approved in plenary, is actually the fifth agreement of this type between the two institutions. It strictly reflects the institutional balance set up by the Lisbon Treaty.

The new agreement represents a clear and significant improvement on the relations with the Commission. As all the agreements, the final text tends to be a compromise between the two parts; but this final compromise presents a balanced judgement and a reasoned and coherent implementation of the Treaty of Lisbon.

Bearing in mind the main pillars of parliamentary architecture that are pointed out in the report – legislative competences, parliamentary scrutiny of the executive (including the international relations dimension), information duties and executive presence in Parliament –, the remarks of the explanatory statement shall be restricted to the items that are not mentioned in the report.

Concerning the **legislative procedure and planning**, two issues, that are not expressly addressed, must be highlighted. Firstly, the amendments on better law-making and the announcement of a revision of the Interinstitutional agreement on Better Law-Making, which is a most significant political position. Secondly, the new rules on the procedure of impact assessment conducted by the Commission. A procedure that shall be transparent, taking into consideration different scenarios, including a ‘do nothing’ option, and that shall in principle be presented to the relevant parliamentary committee during the consultation period with national parliaments under the Lisbon Treaty.

Concerning the **Parliamentary scrutiny**, the most relevant items are exposed in the report. In what respects the **interinstitutional dimension of EU international relations**, it must be remembered that this matter became the most difficult negotiation item. The aim of Parliament is to be fully informed in order to serve the purpose of facilitating Parliament’s consent, to give more predictability to the procedure and to avoid non-conclusion of international agreements when the negotiation has already been completed.

In what concerns **information duties**, the confidential information issues and the office holders who can request information were deeply discussed and the technical details on how and when the information shall be forward took a substantial amount of time. The early cooperation with the Parliament on any legislative initiative requests emanating from citizens’ initiatives becomes a significant measure to assure Parliament’s liaison with citizens. The new rules for better monitoring the transposition and application of Union law are an accomplishment of the new parliamentary competences.

Regarding the Commission’s presence in Parliament, the main provisions are explained in the Report. Even though, it must be underlined that these provisions concern all

Commissioners, including the President and the Vice-President for External Relations / High Representative of the Union for Foreign Affairs and Security Policy.

According to its last paragraph, this framework agreement shall be reviewed in light of practical experience by the end of 2011.

In conclusion, the new framework agreement submitted to Parliament for approval consolidates the achievements of the Treaty of Lisbon and adds a number of provisions, in full respect of the treaties, which represent a major step forward in the process of strengthening political relations between the two institutions.