

THE CHAIRMAN

301442 06.11.2001

His Excellency Mr Lund
Permanent Representative of
Sweden to the EU
Square de Meeûs 30
Brussels B-1000

Dear Ambassador

In the conclusions of the first official trilogue meeting of 24 January 2001 between the three institutions we agreed to exchange our points of view on the issues for discussion before the second trilogue. I attach a working document in which I have, with the help of the rapporteurs, sought to re-draft the text voted by the European Parliament on 16 November 2000 in a way that will meet some of the concerns you have raised. This document is for discussion and further consideration needs to be given, in particular to those parts in square brackets [].

As far as the drafting is concerned, we have sought to shorten as far as possible the Parliament text and to draft it more rigorously from a legal point of view, to eliminate redundant passages, and to incorporate as far as possible the Presidency compromise text and the new proposal dealing with direct access to Council documents (as far as possible a reference is included at the end of each article).

As far as the content is concerned, this is clearly more difficult. Not only does this working document seek to remain consistent with the objectives highlighted by Mrs Fontaine, President of the European Parliament in her letter of 14 December 2000, but also this takes account of the following political concerns.

Status quo - the Parliament considers that the new Regulation cannot in any case be a step backwards from the current situation as interpreted by the European Court of Justice. In particular, this means that documents should not be defined in a more restrictive manner.

"Space to think" - under the current rules of all three institutions internal or preparatory documents are not excluded and therefore a more restrictive definition of documents is effectively a step backwards, and could not be accepted by the Parliament. In order to take into account the Commission and Council's concerns regarding the space to think, and contrary to the Parliament's original text, this working document proposes a new paragraph, based on Article 4(2) of the Presidency text, which would only apply to internal and preparatory documents.

Authorship rule - the Parliament cannot accept as a general principle the so-called "authorship rule" under which the consent of the third party will be required before documents of third

parties can be disclosed. Except in cases where there is a legal requirement not to disclose the document without the consent of the third party, consistent with the legislation in most Member States, the institution receiving the request must decide according to the law in force whether or not access will be granted.

We hope that this working document, viewed in the context of the remarks made above, could be submitted for political discussion within the Commission and Council with the aim of reaching a compromise text which could be voted in the Council in the forthcoming weeks in the hope of meeting the Treaty deadline of May 2001.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Graham Watson', with a large, stylized initial 'G'.

Mr Graham WATSON

Enc. Working Document

THE CHAIRMAN

301443 06. 11 2001

Commissioner BARNIER
Commissioner for Regional Policy
European Commission
200 rue de la Loi/Wetstraat 200
Brussels B-1049

Dear Commissioner

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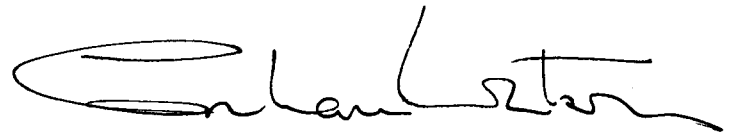
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