



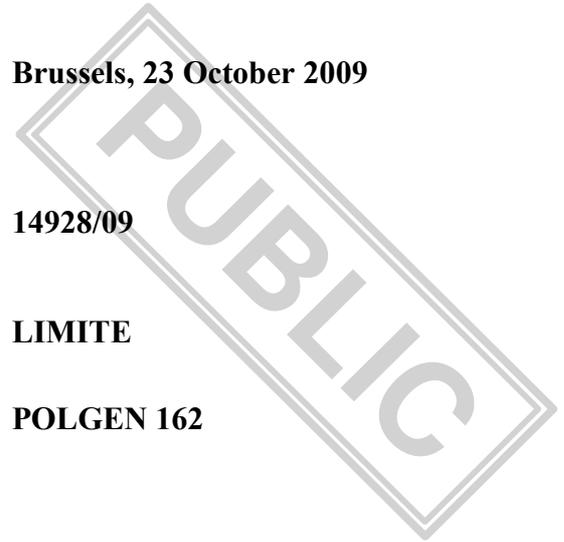
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 October 2009

14928/09

LIMITE

POLGEN 162



NOTE

from : Presidency
to : Council/European Council

Subject : European Council (29 and 30 October 2009)
 Progress report from the Presidency to the European Council
 - Preparatory work in view of the entry into force of the Treaty of Lisbon

Delegations will find attached the progress report from the Presidency to the European Council on preparatory work in view of the entry into force of the Treaty of Lisbon.

PROGRESS REPORT FROM THE PRESIDENCY TO THE EUROPEAN COUNCIL

***PREPARATORY WORK IN VIEW OF
THE ENTRY INTO FORCE OF THE TREATY OF LISBON***

Introduction

1. During the European Council meeting on 18-19 June 2009, Heads of State or Government reaffirmed their wish to see the Treaty of Lisbon enter into force by the end of 2009, on the condition all the instruments of ratification have been deposited.
2. On that basis, the Swedish Presidency undertook, together with other Member States and the Commission, preparatory work in view of the entry into force of the Treaty of Lisbon. It has taken place against the background of the ratification process for the Treaty of Lisbon, which is still underway. It is clear that decisions can only be taken once the Treaty of Lisbon has entered into force after ratification by all 27 Member States.
3. Over the last months, the Presidency has convened a series of meetings of Permanent Representatives (including a Commission representative) to examine the various issues linked to the entry into force of the Treaty of Lisbon with a focus on most urgent issues which need to be settled before that date. This examination built on previous discussions, in particular during the Slovene Presidency, the results of which are summarised in document 10650/08. The present report contains a summary of the main points covered in the context of the 2009 discussions.
4. In view of the fact that a number of issues related to the entry into force of the Treaty of Lisbon will require some form of agreement with the European Parliament (EP), the Presidency has had regular contacts with the EP. These have remained exploratory in nature, but have enabled the Parliament to provide useful information on the issues which are of particular interest to it, and which it considers will require a common understanding between the institutions.

Results and state of play

1. Delegated and Implementing Acts (Articles 290 and 291 TFEU)

As regards delegated acts (i.e. non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act), it would be useful for the European Parliament, the Council and the Commission to reach an understanding on standard language which would be inserted into legislative proposals (Article 290 TFEU). It would also be useful if the Commission could explain how it intends to proceed on the preparation of draft delegated acts.

As regards implementing acts (i.e. acts conferring implementing powers on the Commission, or in some cases, on the Council), all three institutions should reach agreement on the Commission's forthcoming proposal on the control of implementing powers conferred on the Commission (Article 291 TFEU).

2. Transition to co-decision

As a result of the entry into force of the Treaty of Lisbon, the procedure for adopting legislative acts will change in a certain number of areas. In order to ensure that legislative activity is not unduly disrupted as a consequence of the transition to the new Treaty, the European Parliament and the Council could agree that when the European Parliament has already delivered its opinion, it will be considered as a first reading under co-decision.

3. Committee structures in the area of JHA (Article 71 TFEU)

Delegations reached agreement on the draft decision setting up the Standing Committee on operational cooperation on internal security (COSI) (doc. n° 14785/09) which will have to be adopted after entry into force of the Treaty of Lisbon.

As for the overall working structure in the field of Justice and Home Affairs, delegations agreed that the Committee of the Article Thirty Six (CATS) and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) should continue to meet until the end of 2011. Before that time, the necessity of having CATS and SCIFA should be re-evaluated by COREPER, taking into account the efficiency and coherence of Council working structures. In the meantime, CATS and SCIFA should focus their discussions on strategic issues where COSI would not be able to contribute and meet as necessary. The Committees could be involved, when deemed appropriate, in legislative work. COREPER remains solely responsible for preparing legislative acts.

Delegations discussed also a review of the other JHA working structures. Further work is needed on this issue.

The outcome of these discussions will serve as the basis for the future decision on JHA working structures in accordance with Article 19 of the Rules of Procedure of the Council.

4. Budget Procedure

Work is well advanced within the Council on a number of issues which need to be addressed as a matter of urgency in order to allow for the smooth entry into force of the Treaty. These cover in particular : amending budgets, transfers of appropriations, provisional twelfths, pragmatic calendar. Discussions with the European Parliament on these issues are on-going in order to reach an agreement during the Conciliation meeting of November 2009 at the latest.

Discussions among delegations are ongoing on other issues, such as the rules of procedure of the Conciliation Committee. Close contacts with the European Parliament are undertaken also in this respect.

5. Rules of Procedure of the Council (Article 240 TFEU)

On the basis that the Council's Rules of Procedure should only be modified to the extent that this was needed as a result of the entry into force of the Treaty of Lisbon, delegations reached broad agreement on most of the provisions of the preliminary draft amendments to the Council's Rules of Procedure as presented by the Presidency. (doc. n° 14853/09).

6. Rules of Procedure of European Council (Article 235 TFEU)

On the basis of the discussions that took place under the Slovene Presidency, delegations had a preliminary exchange of views on the new elements of draft Rules of Procedure of the European Council. Work on this issue will be continued with a view to its rapid finalisation.

7. Notification regarding Article 1, third subparagraph, of the TEU

The Treaty of Lisbon provides that "*The Union shall replace and succeed the European Community*". It will be necessary to inform third States and international organisations of this legal succession which will be effective at the time of the entry into force of the Treaty. Delegations reached broad agreement on a draft letter which would be sent for this purpose (doc. n° 14784/09). As regards Union Delegations, this draft letter will be adjusted in line with the Presidency report on the European External Action Service (doc. n°14930/09).

8. Chairmanship of preparatory bodies in the area of External Relations (Declaration n° 9)

Delegations discussed the principles for chairmanship of preparatory bodies in the area of external relations on the basis of a categorisation of working parties. The details of the arrangements proposed by the Presidency are set out in doc. n° 14852/09.

9. European External Action Service (Article 27 (3) TEU and Declaration n° 15 of the 2007 IGC)

Delegations agreed on the report (doc. n° 14930/09), which could serve as European Council guidelines for the High Representative in the preparation of the draft Council decision on the organisation and functioning of the EEAS.
