



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 March 2013

**6865/1/13
REV 1**

GENVAL 9

NOTE

From: Presidency

To: Working Party on General Matters including Evaluations (GENVAL)

No. prev. doc.: 17338/12 GENVAL 94

Subject : Follow-up to mutual Evaluation Reports

1. At the GENVAL meeting on 16 January, delegations had a discussion on the follow-up to mutual evaluation reports on the basis of document 17338/12, circulated in December 2012. The question of a more rigorous follow-up of the evaluation reports had equally been briefly touched upon during the JHA-Council of October 2012 in relation to the discussion of the final report of the fifth evaluation round.
2. A vast majority of delegations expressed initial views at the meeting. Furthermore, eight delegations (AT, CZ, DE, FR, IT, PT, SI, SK and UK) and the Commission sent in written comments following the meeting.

3. Despite weaknesses perceived in the current system, most delegations seem to be in favour of keeping it as it is or only making marginal adjustments. The "peer pressure approach", putting the emphasis rather on learning from each others' best practices through a constructive expert dialogue than introducing a more stringent control and sanction system, seems to be preferred by a vast majority of delegations. The current system is in general found to be well-functioning and satisfactory. Reluctance to introduce new procedures entailing additional costs and bureaucracy that risked creating excessive burdens both on national administrations and GENVAL, was another argument submitted by many delegations for not wanting to change the current system fundamentally, at any rate at this stage.
4. In addition, it was argued that contrary to other follow-up / control mechanisms mentioned, such as FATF (Financial Action Task Force) and GRECO (Group of States against Corruption), the wide scope of the evaluation rounds focusing rather on systems and policies than on specific rules and covering different sectors, made it difficult to compare the mechanisms.
5. A smaller number of delegations would like to see a strengthened follow-up. Most of these delegations initially stressed that there was no need for improvement at the fact-finding stage. Considering the follow-up the 18 months period to implement / take into account the recommendations contained in each specific country report was equally considered appropriate. However, it was considered essential always to let the findings of the final reports be examined by the Council. This would ensure political support for possible changes to be suggested. As regards the follow-up mechanism, one delegation proposed to let a group of competent assessors prepare a questionnaire aimed at verifying the implementation of recommendations given in the country reports. On the basis of an evaluation this group of assessors should then prepare a report which should be discussed by GENVAL and forwarded to the Council for information and possible further follow-up.

Another way to ensure consistency in the assessments of Member States would be to conduct a methodology and training of evaluators prior to the starting of an evaluation cycle. This methodology should be based on previously agreed recommendations against which Member States would be assessed while taking into account their different legal cultures and models. Following the evaluation, each Member State would be provided with a rating on the degree of compliance with the recommendations (non-compliant, partially compliant, largely compliant and compliant).

6. The Commission [...] welcomes the debate on a strengthened follow-up. While noting the reference made to the FATF mechanism, the Commission wishes to recall that a fully-fledged FATF style mechanism would entail a significant investment from the Council Secretariat, the Member States and the Commission increasing costs and bureaucracy. That is why the Commission would favour less committal approaches.
7. A number of concrete proposals to improve and further reinforce the follow-up, while maintaining the overall structure, were put forward as well. These were, among other things:
 - in order to clarify the procedure, to set up procedural rules stipulating the deadlines for sending comments, as well as concerning minimal periods between the sending of the report and the pre-meeting date or discussion in the GENVAL group;
 - to attach possible comments from the evaluated Member State - and/or other Member States - to the report (or footnote these) (this has already been done in the past);
 - discussion in GENVAL after 18 months of what has been undertaken following the experts' recommendations, which would include participation of the three Member States' experts.
8. In view of the discussion and the written comments, the Presidency proposes to maintain the current system for the time being. Delegations are however invited to continue to reflect on this issue and to consider the proposals contained in point 7 of this document. Furthermore, delegations are requested to consider whether the topic should be taken to CATS in May for a strategic discussion.