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from : Presidency
to : Permanent Representatives Committee (part 2)/Council

No. prev. doc.: 15243/2/11 REV 2, 15247/1/11 REV 1, 15253/1/11 REV 1
No. Cion prop.: COM(2011) 615 final/2, COM(2011) 607 final/2, COM(2011) 611 final/2

Subject: Cohesion Policy legislative package
 - elements of a partial general approach

1. On 6 October 2011, the Commission transmitted to the Council the Cohesion Policy legislative package, containing amongst others the following proposals:
 - a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, The European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the

European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (doc. 15243/11 FSTR 49 FC 39 REGIO 83 SOC 859 AGRISTR 56 PECHE 279 CADREFIN 87 CODEC 1632), hereinafter referred to as the Common Provisions Regulation,

- a Regulation of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006 (doc. 15247/11 FSTR 50 SOC 860 REGIO 84 CADREFIN 88 CODEC 1633), hereinafter referred to as the ESF Regulation and
- a Regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (doc. 15253/11 REGIO 88 CADREFIN 92 FSTR 52 CODEC 1637), hereinafter referred to as the ETC Regulation.

2. On 14 March 2012, the Commission submitted corrigenda to the above mentioned proposals for the Common Provisions Regulation (doc. 15243/2/11 REV 2), the ESF Regulation (doc. 15247/1/11 REV 1) and the ETC Regulation (doc. 15253/1/11 REV 1).
3. The examination has been structured around thematic blocs, elements of which can be found in the Common Provisions Regulation, the ESF Regulation and the ETC Regulation.
4. For the following thematic blocs the negotiations have advanced to a stage where agreement on elements of a partial general approach can be reached:
 - programming,
 - ex ante conditionality,
 - management and control,
 - monitoring and evaluation,
 - eligibility and,
 - major projects.

5. The Permanent Representatives Committee has examined these blocs at its meetings on 4 and 18 April 2012.
6. The elements of these thematic blocs on which broad agreement has been reached in the Permanent Representatives Committee are set out in Addendum 1-6 to this note.
7. It is important to note that any preliminary agreement on these thematic blocs has to be seen in the overall context of the negotiations on the Cohesion Policy legislative package and understood on the basis of the principle that "nothing is agreed until everything is agreed." In particular, the elements for a partial general approach submitted herewith do not prejudice the outcome of negotiations on other negotiation blocs, the financial regulation or the multiannual financial framework, while necessary consequential amendments in the blocs submitted herewith may occur as a result of the negotiations on these other blocs as a global picture emerges as well as on the triennial revision of the financial regulation. A statement to this effect will be entered into the Council minutes.
8. In addition to the amendments already made and minor new amendments reflected in ADD 1 and ADD 2, the Presidency proposes the following additional elements to address concerns raised by delegations in Coreper:
 - a) Country-specific recommendations in the context of programming
In addition to earlier specific adjustments in ADD 1 to this note to make clear that country specific recommendations only apply as a reference point for national programming documents if they are relevant to Cohesion Policy, a joint Council/Commission statement or alternatively, a recital with the following wording could be envisaged:

"Country-specific recommendations will be taken into account as reference points for national programming documents to the extent that they are relevant to Cohesion policy. When taking country-specific recommendations as a reference point in the context of programming it is necessary to take full account of the special needs and the territorial context of Member States and their regions respecting their competences in the process of programming as well as the multi-annual character of Cohesion programming and the need for a stable programming framework."

b) The audit and management authority as part of the same public body

Specific adjustments are introduced in Article 113 (5) in ADD 3 to make clear that the audit authority may be part of the same public authority as the managing authority in the case of programmes exceeding EUR 250 000 000 if the Commission has informed the Member State that it can rely principally on the opinion of its audit authority or if the Commission is satisfied on the basis of the experience of the previous programming period that the institutional organisation and accountability of the audit authority provide adequate guarantees of its functional independence and reliability. In addition, the Commission has submitted a reinforced statement included in ADD 7 REV 1 on its intentions in this respect. The Presidency hopes that this addresses the need for clarification expressed by some delegations.

c) Ex ante conditionality

The Commission has submitted an explanatory note on the suspension provision in the context of the assessment of ex ante conditionalities which has been circulated to delegations (9014/12). The Presidency hopes that this addresses the concerns raised by some delegations.

9. On this basis the Council is invited to:

- agree on the following elements for a partial general approach concerning:
 - a) programming, as set out in ADD 1 REV 2 to this note,
 - b) ex ante conditionality, as set out in ADD 2 REV 2,
 - c) management and control, as set out in ADD 3 REV 2,
 - d) monitoring and evaluation, as set out in ADD 4 REV 2,
 - e) eligibility, as set out in ADD 5 REV 2,
 - f) major projects, as set out in ADD 6 REV 2.

- decide that the above preliminary agreement on these thematic blocs has to be seen in the overall context of the negotiations on the Cohesion Policy legislative package and understood on the basis of the principle that "nothing is agreed until everything is agreed" as set out in paragraph 7 above and that this is entered into the Council minutes.

- decide to enter in the minutes of that meeting the statements set out in Addendum 7 REV 1 to this note.
