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NOTE

du :	Secrétariat général du Conseil de l'Union européenne
aux :	Délégations
Objet:	Session plénière du Parlement européen - Strasbourg, le 13 septembre 2012 Rapport sur la conclusion d'un accord interinstitutionnel entre le Parlement européen et le Conseil relatif à la transmission au Parlement européen et au traitement par celui-ci des informations classifiées détenues par le Conseil concernant des questions autres que celles relevant de la politique étrangère et de sécurité commune [2012/2069(ACI)] Rapport: Gerald Häfner (A7-0245/2012)

Le rapporteur, M. Häfner (Verts/ALE, DE), a salué le projet d'accord interinstitutionnel qu'il considère comme un moyen d'accroître la légitimité démocratique de l'UE et le contrôle des décisions prises par le Conseil. Se référant à un cas spécifique, celui de l'ACAC, le rapporteur a dit que le nouvel accord devrait enfin permettre au PE de s'exprimer en connaissance de cause sur les accords internationaux, puisqu'il aura accès aux documents classés jusqu'au niveau "très secret". M. Häfner a également lancé un appel au sens des responsabilités de ses collègues, affirmant que, si la connaissance est synonyme de "pouvoir", elle comporte aussi une responsabilité, à savoir celle de protéger la confidentialité des documents. Enfin, il a rappelé que le dossier n'est pas clos, les questions des pouvoirs des commissions d'enquête du PE et de

l'accès du PE aux informations classifiées dans le domaine de la PESC devant encore être réglées.

Les députés suivants sont intervenus au nom des groupes politiques:

- M. Trzaskowski (PPE, PL) a tenu à féliciter l'équipe des négociateurs du PE d'avoir obtenu des résultats importants dans une matière qui - loin d'être purement technique - devrait permettre l'exercice d'un contrôle démocratique plus complet. Il a ajouté qu'il revenait maintenant au PE de mettre en place un système approprié pour assurer la mise en œuvre de l'accord. Il a constaté que quelques-unes des dispositions de celui-ci laissaient une certaine liberté d'interprétation et il s'est dit confiant que le Conseil allait les aborder avec la même ouverture d'esprit qu'il avait manifestée lors des négociations. Enfin, il a rappelé que d'autres volets restaient encore ouverts, à savoir celui des commissions d'enquête et celui de l'accès aux informations dans le domaine de la PESC.
- M. Guerrero Salom (S&D, ES) a lui aussi salué un accord qui devrait contribuer à accroître la transparence de l'UE et le contrôle démocratique des institutions. Il s'est réjoui, en particulier, des trois aspects suivants de l'accord: la reconnaissance de la "dignité" des députés, puisqu'ils pourront consulter les documents dans les enceintes du PE, l'augmentation du nombre de députés ayant accès à ces informations et, en revanche, la réduction du nombre de documents pour lesquels une habilitation de sécurité sera nécessaire.
- Mme Jäätteenmäki (ADLE, FI) s'est voulue plus critique, soulignant qu'il ne s'agit pas d'un pas en avant fondamental et que le volet de la PESC fait encore défaut.
- M. Fox (CRE, UK) a exprimé le soutien de son groupe à l'accord, estimant que celui-ci permettrait un contrôle plus efficace du Conseil, par exemple pour vérifier comment l'argent du contribuable est dépensé. En guise de conclusion, il a déclaré qu'en fin de compte, l'accord contribuera à une meilleure gouvernance européenne.

Lors de la seule intervention à titre individuel, M. Ehrenhauser (NI, AT) a informé les collègues des questions qu'il avait posées à la Commission, au Conseil et au PE sur le nombre de documents classifiés existants. Tout en saluant l'esprit d'ouverture du Conseil qui, contrairement à la Commission, a fourni des données complètes, il a constaté que le PE demeurait le

destinataire d'une part très réduite des documents classifiés existants et qu'on pouvait dès lors en conclure qu'il était pratiquement exclu de l'information confidentielle.

Reprenant la parole à la fin du débat, le rapporteur, M. Häfner, a dit que là où les citoyens n'ont pas accès à l'information, règne la dictature. Il a rappelé l'exemple de l'ancienne présidente de la sous-commission DROI, qui a dû frapper à de nombreuses portes au Conseil avant d'obtenir des informations au sujet du dialogue sur les droits de l'homme avec la Chine, sans pouvoir les partager avec d'autres membres de la sous-commission. Il a donc fait valoir que le nouvel accord représentait un grand pas en avant et il a souhaité qu'une véritable culture de la confiance puisse s'installer dans la pratique lors de la mise en œuvre de l'accord.

Le 13 septembre 2012, le PE a adopté la décision sur la conclusion de l'accord interinstitutionnel (587 voix pour, 7 contre et 6 abstentions), en chargeant son Président de le signer avec le Président du Conseil (en Annexe).

P7_TA-PROV(2012)0339**Forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy**

European Parliament decision of 13 September 2012 on the conclusion of an interinstitutional agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy (2012/2069(ACI))

The European Parliament,

- having regard to the letter from its President of 10 April 2012,
 - having regard to the draft interinstitutional agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy,
 - having regard to the second paragraph of Article 1, Articles 2, 6, 10 and 11 of the Treaty on European Union (TEU) and Articles 15 and 295 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹ and in particular Articles 2(5) and 9 thereof,
 - having regard to its resolution of 14 September 2011 on public access to documents (Rule 104(7)) for the years 2009-2010² and in particular paragraph 12 thereof,
 - having regard to Rule 23(12) and Rule 127(1) of, and Annex VIII to, its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A7-0245/2012),
- A. whereas transparency and access to all relevant documents and information form the basis of, and are a compulsory precondition for, democracy and, in particular, enable the European Parliament to do its work for the people as provided for in the Treaties,
- B. whereas the Lisbon Treaty reinforces the requirements of transparency and the rights of citizens to participate in the decision-making of the Union; whereas limits on the right of

¹ OJ L 145, 31.5.2001, p. 43.

² Texts adopted, P7_TA(2011)0378.

Parliament and its Members to share relevant information with the public must constitute clearly framed and justified exceptions,

- C. whereas the principle of sincere cooperation between the European institutions is enshrined in the Treaties, specifically in Article 13(2) TEU,
- D. whereas Article 14(1) TEU states that the European Parliament shall, jointly with the Council, exercise legislative and budgetary functions and that it shall exercise functions of political control and consultation as laid down in the Treaties, and whereas, in order to exercise effectively the functions assigned to it by the Treaty, Parliament must have access to relevant Council documents,
- E. whereas the Treaties provide that the Council must consult Parliament and obtain its consent before certain legal acts can be adopted,
- F. whereas Article 218(10) TFEU requires that Parliament be immediately and fully informed at all stages of the procedure relating to international agreements,
- G. whereas rules on classification and declassification of Union documents should be laid down by means of regulations adopted by the European Parliament and the Council on the basis of Article 15(3) TFEU¹,
- H. whereas the Framework Agreement on relations between the European Parliament and the European Commission² already lays down the rules concerning the forwarding of confidential information from the Commission to Parliament,
- I. whereas the decision of the Bureau of the European Parliament of 6 June 2011³ lays down the rules governing the treatment of confidential information by the European Parliament,
- J. whereas the Conference of Presidents nominated a negotiating team to conduct talks with the Council of Ministers on three specific issues: the inclusion of correlation tables in Union directives, rules on Parliament's participation in international conferences and access to classified documents held by the Council; whereas the issues of correlation tables and of Parliament's participation in international conferences have meanwhile been settled⁴,

¹ See also in this context Parliament's legislative resolution of 15 December 2011 on the proposal for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast) (P7_TA(2011)0580) and its above-mentioned resolution of 14 September 2011 on public access to documents (Rule 104(7)) for the years 2009-2010.

² OJ L 304, 20.11.2010, p. 47.

³ OJ C 190, 30.6.2011, p. 2.

⁴ For correlation tables, see the Joint Political Declaration of the European Parliament, the Council and the Commission on explanatory documents annexed to Parliament's legislative resolution of 27 October 2011 on the proposal for a directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (recast) (P7_TA(2011)0469); as regards Parliament's participation, the matter was concluded by way of an exchange of letters.

1. Considers the agreement concerning the forwarding to and handling by Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy ("the agreement") to be an indispensable instrument enabling Parliament to fully exercise its powers and functions; points out that the agreement is without prejudice to the regulations on access to documents adopted in accordance with Article 15(3) TFEU;
2. Points out that, while the scope of the agreement concerns classified information on matters other than those in the area of the common foreign and security policy, international agreements under Article 218(6) TFEU which do not relate exclusively to the common foreign and security policy ('mixed' agreements) are covered by the agreement, including any part thereof that falls under the common foreign and security policy; underlines, moreover, that access by Parliament to any classified information which relates exclusively to the common foreign and security policy will continue to be governed by arrangements under an ad hoc Council decision or under the Interinstitutional Agreement of 20 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy¹ ("the 2002 Interinstitutional Agreement") until other arrangements are agreed;
3. Draws attention in that context to the statement by the European Parliament and the Council attached to the agreement, which states that a review of the 2002 Interinstitutional Agreement should begin in the course of 2012 and should take account of the experience gained in implementing both the agreement and the 2002 Interinstitutional Agreement;
4. Deplores the fact that the 2002 Interinstitutional Agreement did not set out more clear-cut arrangements on access to classified information concerning the common foreign and security policy than the adoption of ad hoc decisions; stresses, therefore, that it is of the utmost importance that Parliament and the Council begin negotiations with a view to amending the 2002 Interinstitutional Agreement to reflect both the reforms carried out since it was concluded and the current situation;
5. Welcomes the statement attached to the agreement concerning the classification of documents; regrets however that, unlike the Framework Agreement between the Commission and Parliament, the agreement does not lay down a detailed procedure to be followed in cases of doubt regarding the confidential nature of an item of information or its appropriate level of classification;
6. Welcomes, in particular, the following aspects contained in the agreement:
 - a differentiation in the handling and storage of documents depending on the level of classification;
 - a differentiation in procedures as regards security clearance for Members and staff depending on the level of classification, whereby no security clearance will be necessary for Members in respect of documents beneath the level of "CONFIDENTIEL UE/EU CONFIDENTIAL" or equivalent, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;

¹ OJ C 298, 30.11.2002, p. 1.

- the inclusion of documents classified at the level of "TRÈS SECRET UE/EU TOP SECRET" or equivalent within the scope of the agreement, as is the case in the abovementioned Framework Agreement between Parliament and the Commission;
 - the fact that access to documents, as appropriate, may be granted also to rapporteurs, shadow rapporteurs, or all or certain members of the committee(s) concerned;
 - provisions on close cooperation between Parliament and the Council to ensure equivalent levels of protection for classified documents;
7. Invites the Bureau, in accordance with Rule 23(12) of Parliament's Rules of Procedure, to adapt its abovementioned decision of 6 June 2011 to take account of the agreement;
 8. Approves conclusion of the agreement in the form annexed hereto and decides to annex it to its Rules of Procedure;
 9. Instructs its President to sign the agreement with the President of the Council;
 10. Instructs its President to forward this decision, including its annex, to the Council and the Commission, for information.

**INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN PARLIAMENT AND
THE COUNCIL CONCERNING THE FORWARDING TO AND HANDLING BY THE
EUROPEAN PARLIAMENT OF CLASSIFIED INFORMATION HELD BY THE COUNCIL
ON MATTERS OTHER THAN THOSE IN THE AREA OF THE COMMON FOREIGN AND
SECURITY POLICY**

THE EUROPEAN PARLIAMENT AND THE COUNCIL,

Whereas:

- (1) Article 14(1) of the Treaty on European Union (TEU) provides that the European Parliament jointly with the Council, is to exercise legislative and budgetary functions and that it is to exercise functions of political control and consultation as laid down in the Treaties.
- (2) Article 13(2) TEU provides that each institution is to act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. That provision also stipulates that the institutions are to practice mutual sincere cooperation. Article 295 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Parliament and the Council, inter alia, are to make arrangements for their cooperation and that, to that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.
- (3) The Treaties and, as appropriate, other relevant provisions provide that either in the context of a special legislative procedure or under other decision-making procedures, the Council is to consult or obtain the consent of the European Parliament before adopting a legal act. The Treaties also provide that, in certain cases, the European Parliament is to be informed about the progress or the results of a given procedure or be involved in the evaluation or the scrutiny of certain Union agencies.
- (4) In particular, Article 218(6) TFEU provides that, except where an international agreement relates exclusively to the common foreign and security policy, the Council is to adopt the decision concluding the agreement in question after obtaining the consent of or consulting the European Parliament; all such international agreements which do not relate exclusively to the common foreign and security policy are therefore covered by this Interinstitutional Agreement.
- (5) Article 218(10) of the TFEU provides that the European Parliament is to be immediately and fully informed at all stages of the procedure; that provision also applies to agreements relating to the common foreign and security policy.
- (6) In cases where implementation of the Treaties and, as appropriate, other relevant provisions would require access by the European Parliament to classified information held by the Council, appropriate arrangements governing such access should be agreed upon between the European Parliament and the Council.

- (7) Where the Council decides to grant the European Parliament access to classified information held by the Council in the area of the common foreign and security policy, it either takes ad hoc decisions to that effect or uses the Interinstitutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy¹ (hereinafter "the Interinstitutional Agreement of 20 November 2002"), as appropriate.
- (8) The Declaration by the High Representative on political accountability², made upon the adoption of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service³, states that the High Representative will review and where necessary propose to adjust the existing provisions on access for Members of the European Parliament to classified documents and information in the field of security and defence policy (i.e. the Interinstitutional Agreement of 20 November 2002).
- (9) It is important that the European Parliament be associated with the principles, standards and rules for protecting classified information which are necessary in order to protect the interests of the European Union and of the Member States. Moreover, the European Parliament will be in a position to provide classified information to the Council.
- (10) On 31 March 2011 the Council adopted Decision 2011/292/EU on the security rules for protecting EU classified information⁴ (hereinafter "the Council's security rules").
- (11) On 6 June 2011, the Bureau of the European Parliament adopted a Decision concerning the rules governing the treatment of confidential information by the European Parliament⁵ (hereinafter "the European Parliament's security rules").
- (12) The security rules of Union institutions, bodies, offices or agencies should together constitute a comprehensive and coherent general framework within the European Union for protecting classified information, and should ensure equivalence of basic principles and minimum standards. The basic principles and minimum standards laid down in the European Parliament's security rules and in the Council's security rules should accordingly be equivalent.
- (13) The level of protection afforded to classified information under the European Parliament's security rules should be equivalent to that afforded to classified information under the Council's security rules.
- (14) The relevant services of the European Parliament's Secretariat and of the General Secretariat of the Council will cooperate closely to ensure that equivalent levels of protection are applied to classified information in both institutions.

¹ OJ C 298, 30.11.2002, p. 1.

² OJ C 210, 3.8.2010, p. 1.

³ OJ L 201, 3.8.2010, p. 30.

⁴ OJ L 141, 27.5.2011, p. 17.

⁵ OJ C 190, 30.6.2011, p. 2.

- (15) This Agreement is without prejudice to existing and future rules on access to documents adopted in accordance with Article 15(3) TFEU; rules on the protection of personal data adopted in accordance with Article 16(2) TFEU; rules on the European Parliament's right of inquiry adopted in accordance with third paragraph of Article 226 TFEU; and relevant provisions relating to the European Anti-Fraud Office (OLAF),

HAVE AGREED AS FOLLOWS:

Article 1
Purpose and scope

This Agreement sets out arrangements governing the forwarding to and handling by the European Parliament of classified information held by the Council, on matters other than those in the area of the common foreign and security policy, which is relevant in order for the European Parliament to exercise its powers and functions. It concerns all such matters, namely:

- (a) proposals subject to a special legislative procedure or to another decision-making procedure under which the European Parliament is to be consulted or is required to give its consent;
- (b) international agreements on which the European Parliament is to be consulted or is required to give its consent pursuant to Article 218(6) TFEU;
- (c) negotiating directives for international agreements referred to in point (b);
- (d) activities, evaluation reports or other documents on which the European Parliament is to be informed; and
- (e) documents on the activities of those Union agencies in the evaluation or scrutiny of which the European Parliament is to be involved.

Article 2
Definition of "classified information"

For the purposes of this Agreement, "classified information" shall mean any or all of the following:

- (a) "EU classified information" (EUCI) as defined in the European Parliament's security rules and in the Council's security rules and bearing one of the following security classification markings:
 - RESTREINT UE/EU RESTRICTED;
 - CONFIDENTIEL UE/EU CONFIDENTIAL;
 - SECRET UE/EU SECRET;
 - TRÈS SECRET UE/EU TOP SECRET;

- (b) classified information provided to the Council by Member States and bearing a national security classification marking equivalent to one of the security classification markings used for EUCI listed in point (a);
- (c) classified information provided to the European Union by third States or international organisations which bears a security classification marking equivalent to one of the security classification markings used for EUCI listed in point (a), as provided for in the relevant security of information agreements or administrative arrangements.

Article 3
Protection of classified information

1. The European Parliament shall protect, in accordance with its security rules and with this Agreement, any classified information provided to it by the Council.
2. As equivalence is to be maintained between the basic principles and minimum standards for protecting classified information laid down by the European Parliament and by the Council in their respective security rules, the European Parliament shall ensure that the security measures in place in its premises afford a level of protection to classified information equivalent to that afforded to such information on Council premises. The relevant services of the European Parliament and the Council shall cooperate closely to that effect.
3. The European Parliament shall take the appropriate measures to ensure that classified information provided to it by the Council shall not:
 - (a) be used for purposes other than those for which access was provided;
 - (b) be disclosed to persons other than those to whom access has been granted in accordance with Articles 4 and 5, or made public;
 - (c) be released to other Union institutions, bodies, offices or agencies, or to Member States, third States or international organisations without the prior written consent of the Council.
4. The Council may grant the European Parliament access to classified information which originates in other Union institutions, bodies, offices or agencies, or in Member States, third States or international organisations only with the prior written consent of the originator.

Article 4
Personnel security

1. Access to classified information shall be granted to Members of the European Parliament in accordance with Article 5(4).

2. Where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, access may be granted only to Members of the European Parliament authorised by the President of the European Parliament:
 - (a) who have been security-cleared in accordance with the European Parliament's security rules; or
 - (b) for whom notification has been made by a competent national authority that they are duly authorised by virtue of their functions in accordance with national laws and regulations.

Notwithstanding the first subparagraph, where the information concerned is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent, access may also be granted to those Members of the European Parliament determined in accordance with Article 5(4) who have signed a solemn declaration of non-disclosure in accordance with the European Parliament's security rules. The Council shall be informed of the names of the Members of the European Parliament granted access under this subparagraph.

3. Before being granted access to classified information, Members of the European Parliament shall be briefed on and acknowledge their responsibilities to protect such information in accordance with the European Parliament's security rules, and briefed on the means of ensuring such protection.
4. Access to classified information shall be granted only to those officials of the European Parliament and other Parliament employees working for political groups who:
 - (a) have been designated in advance as having a need-to-know by the relevant parliamentary body or office-holder determined in accordance with Article 5(4);
 - (b) have been security-cleared to the appropriate level in accordance with the European Parliament's security rules where the information is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent; and
 - (c) have been briefed and received written instructions on their responsibilities for protecting such information as well as on the means of ensuring such protection, and have signed a declaration acknowledging receipt of those instructions and undertaking to comply with them in accordance with the European Parliament's security rules.

Article 5
Procedure for accessing classified information

1. The Council shall provide classified information as referred to in Article 1 to the European Parliament where it is under a legal obligation to do so pursuant to the Treaties or to legal acts adopted on the basis of the Treaties. The parliamentary bodies

or office-holders referred to in paragraph 3 may also present a written request for such information.

2. In other cases, the Council may provide classified information as referred to in Article 1 to the European Parliament either at its own initiative or on written request from one of the parliamentary bodies or office-holders referred to in paragraph 3.
3. The following parliamentary bodies or office-holders may present written requests to the Council:
 - (a) the President;
 - (b) the Conference of Presidents;
 - (c) the Bureau;
 - (d) the chair(s) of the committee(s) concerned;
 - (e) the rapporteur(s) concerned.

Requests from other Members of the European Parliament shall be made via one of the parliamentary bodies or office-holders referred to in the first subparagraph.

The Council shall respond to such requests without delay.

4. Where the Council is under a legal obligation to, or has decided to, grant the European Parliament access to classified information, it shall determine the following in writing before that information is forwarded, together with the relevant body or office-holder as listed in paragraph 3:
 - (a) that such access may be granted to one or more of the following:
 - (i) the President;
 - (ii) the Conference of Presidents;
 - (iii) the Bureau;
 - (iv) the chair(s) of the committee(s) concerned;
 - (v) the rapporteur(s) concerned;
 - (vi) all or certain members of the committee(s) concerned; and
 - (b) any specific handling arrangements for protecting such information.

Article 6
Registration, storage, consultation and discussion
of classified information in the European Parliament

1. Classified information provided by the Council to the European Parliament, where it is classified at the level CONFIDENTIEL UE/EU CONFIDENTIAL, SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent:
 - (a) shall be registered for security purposes to record its life-cycle and ensure its traceability at all times;
 - (b) shall be stored in a secure area which meets the minimum standards of physical security laid down in the Council's security rules and the European Parliament's security rules, which shall be equivalent; and
 - (c) may be consulted by the relevant Members of the European Parliament, officials of the European Parliament and other Parliament employees working for political groups referred to in Article 4(4) and Article 5(4) only in a secure reading room within the European Parliament's premises. In this case, the following conditions shall apply:
 - (i) the information shall not be copied by any means, such as photocopying or photographing;
 - (ii) no notes shall be taken; and
 - (iii) no electronic communication devices may be taken into the room.
2. Classified information provided by the Council to the European Parliament, where it is classified at the level RESTREINT UE/EU RESTRICTED or its equivalent, shall be handled and stored in accordance with the European Parliament's security rules which shall afford a level of protection for such classified information equivalent to that of the Council.

Notwithstanding the first subparagraph, for a period of 12 months following the entry into force of this Agreement, information classified at the level RESTREINT UE/EU RESTRICTED or its equivalent shall be handled and stored in accordance with paragraph 1. Access to such classified information shall be governed by points (a) and (c) of Article 4(4) and by Article 5(4).
3. Classified information may be handled only on communication and information systems which have been duly accredited or approved in accordance with standards equivalent to those laid down in the Council's security rules.
4. Classified information provided orally to recipients in the European Parliament shall be subject to the equivalent level of protection as that afforded to classified information in written form.
5. Notwithstanding point (c) of paragraph 1 of this Article, information classified up to the level of CONFIDENTIEL UE/EU CONFIDENTIAL or its equivalent provided by the Council to the European Parliament may be discussed at meetings held in camera

and attended only by Members of the European Parliament and those officials of the European Parliament and other Parliament employees working for political groups who have been granted access to the information in accordance with Article 4(4) and Article 5(4). The following conditions shall apply:

- documents shall be distributed at the beginning of the meeting and collected again at the end;
- documents shall not be copied by any means, such as photocopying or photographing;
- no notes shall be taken;
- no electronic communication devices may be taken into the room; and
- the minutes of the meeting shall make no mention of the discussion of the item containing classified information.

6. Where meetings are necessary to discuss information classified at the level SECRET UE/EU SECRET or TRÈS SECRET UE/EU TOP SECRET or its equivalent, specific arrangements shall be agreed on a case-by-case basis between the European Parliament and the Council.

Article 7

Breach of security, loss or compromise of classified information

1. In the case of a proven or suspected loss or compromise of classified information provided by the Council, the Secretary-General of the European Parliament shall immediately inform the Secretary-General of the Council thereof. The Secretary-General of the European Parliament shall conduct an investigation and shall inform the Secretary-General of the Council of the results of the investigation and of measures taken to prevent a recurrence. Where a Member of the European Parliament is concerned, the President of the European Parliament shall act together with the Secretary-General of the European Parliament.
2. Any Member of the European Parliament who is responsible for a breach of the provisions laid down in the European Parliament's security rules or in this Agreement may be liable to measures and penalties in accordance with Rules 9(2) and 152 to 154 of the European Parliament's Rules of Procedure.
3. Any official of the European Parliament or other Parliament employee working for a political group who is responsible for a breach of the provisions laid down in the European Parliament's security rules or in this Agreement may be liable to the penalties set out in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68¹.

¹ OJ L 56, 4.3.1968, p. 1.

4. Persons responsible for losing or compromising classified information may be liable to disciplinary and/or legal action in accordance with the applicable laws, rules and regulations.

Article 8
Final provisions

1. The European Parliament and the Council, each for its own part, shall take all necessary measures to ensure implementation of this Agreement. They shall cooperate to that effect, in particular by organising visits to monitor the implementation of the security-technical aspects of this Agreement.
2. The relevant services of the European Parliament's Secretariat and of the General Secretariat of the Council shall consult each other before either institution modifies its respective security rules, in order to ensure that equivalence of basic principles and minimum standards for protecting classified information is maintained.
3. Classified information shall be provided to the European Parliament under this Agreement once the Council, together with the European Parliament, has determined that equivalence has been achieved between the basic principles and minimum standards for protecting classified information in the European Parliament's and in the Council's security rules, on the one hand, and between the level of protection afforded to classified information in the premises of the European Parliament and of the Council, on the other.
4. This Agreement may be reviewed at the request of either institution in the light of experience in implementing it.
5. This Agreement shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at ... on ...

For the European Parliament
The President

For the Council
The President

STATEMENTS

(a) **Statement by the European Parliament and the Council on Article 8(3)**

The European Parliament and the Council will cooperate so that the determination referred to in Article 8(3) of the Interinstitutional Agreement of ...* between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy can be made by the date of entry into force of that Agreement.

(b) **Statement by the European Parliament and the Council on the classification of documents**

The European Parliament and the Council recall that the underclassification or overclassification of documents undermines the credibility of security rules.

The Council will continue to ensure that the correct level of classification is applied to information originating within the Council in accordance with its security rules. The Council will review the level of classification of any document before forwarding it to the European Parliament, in particular to verify whether such level of classification is still appropriate.

The European Parliament will protect any classified information provided to it in a manner commensurate with its level of classification. In the event of it requesting whether a classified document provided by the Council may be downgraded or declassified, such downgrading or declassification may occur only with the prior written consent of the Council.

(c) **Statement by the European Parliament and the Council on access to classified information in the area of the common foreign and security policy**

Recalling the Declaration by the High Representative on political accountability¹, the European Parliament and the Council consider that a review of the Interinstitutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy² should begin in the course of 2012.

This review will be undertaken respecting the specific role of the European Parliament in the area of the common foreign and security policy and taking account of experience gained in implementing both the Interinstitutional Agreement of ...* between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy and the above-mentioned Interinstitutional Agreement of 20 November 2002.

* OJ: please insert the date of signature of the Interinstitutional Agreement.

¹ OJ C 210, 3.8.2010, p. 1.

² OJ C 298, 30.11.2002, p. 1.

* OJ: please insert the date of signature of the Interinstitutional Agreement.

Pending completion of this review, where the Council decides to grant the European Parliament access to classified information held by the Council in the area of the common foreign and security policy, it proceeds as described in recital 7 of the Interinstitutional Agreement of ...* between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy and in accordance with paragraph 2 of the Declaration by the High Representative referred to above.

The European Parliament and the Council agree that the implementation of this statement will take duly into account the specific nature and the especially sensitive content of information in the area of the common foreign and security policy.

(d) Statement by the Council on unclassified Council documents

The Council confirms that the Interinstitutional Agreement of ...* between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy does not apply to unclassified documents internal to the Council (i.e. those marked "LIMITÉ").

(e) Statement by the European Parliament on classified information held by the Commission

The European Parliament underlines that classified information of which the European Commission is the originator and/or which is forwarded to the European Parliament by the European Commission shall be forwarded and handled in accordance with the provisions set out in the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission¹.

* OJ: please insert the date of signature of the Interinstitutional Agreement.

* OJ: please insert the date of signature of the Interinstitutional Agreement.

¹ OJ L 304, 20.11.2010, p. 47.