



**COUNCIL OF
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"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council (**first reading**)
- Adoption of the legislative act (**AL + D**)
= Statements

Statement by the Council regarding the involvement of Member States security experts

"Considering the security implications in respect of the systems and their operation, the Council underlines that it is essential that the Commission consults the relevant security experts of the Member States and takes full account of their opinion, when laying down the high level objectives necessary to ensure the security of the programmes.

The Council stresses the intention of the Member States to designate as experts in this process the representatives of their respective national authorities in the Security Board for the European GNSS Systems, established by Commission Decision 2009/334/EC. It also stresses the position of the Member States that these experts should advise the Commission on the basis of consensus, as far as possible. The Council welcomes the Commission's intention to work together with these experts to this end.

The Council reiterates the importance of the above consultations and the need for the Commission to take full account of the Member States experts' opinion. The Council reserves the right to consider the options provided for under this Regulation on the European satellite navigation systems, in particular the expression of objection to the respective delegated acts."

Commission statement regarding Article 14(1)

"1. The Commission will, when preparing the delegated acts referred to in Article 14(2), ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council, carry out appropriate and transparent consultations well in advance, including where appropriate as regards the practical effect to be given to these delegated acts, in particular with experts from the national authorities of all the Member States which will be responsible for implementing these delegated acts once they have been adopted or amended, and take full account of the opinions of these experts.

2. In view of the fact that questions of national security are particularly relevant when preparing, drawing up, amending and where appropriate giving practical effect to the delegated acts referred to in Article 14(2), the Commission welcomes the intention by Member States to designate as experts in this process the representatives of their respective national authorities in the Security Board for the European GNSS Systems, established by Commission Decision 2009/334/EC, and also welcomes the position of the Member States that these experts, working together with the Commission, should endeavour, as far as possible, to advise the Commission on the basis of consensus."

Statement by France, Germany and the United Kingdom

France, Germany and the United Kingdom point out that use of delegated acts is justified only when there is a proven need to supplement or amend non-essential elements of a legislative act, while the essential elements of an area are reserved by the Treaty for the legislative act itself. The power of delegation cannot therefore be regarded as an adjustment variable in the negotiations.

In the present case, France, Germany and the United Kingdom believe that security issues, for which provision is made in this instance for the use of delegated acts, should have fallen under the basic act. In addition, they regret the combined use of delegated acts and implementing measures, which will not in any way constitute a simplification or help to make the law clearer or more accessible. They will therefore pay particular attention to the content of delegated acts which might subsequently be adopted in this context.

Statement by the Federal Republic of Germany

Taking into account the importance of security related issues the Federal Republic of Germany would like to stress the fact that on 25.11.2013 the Council Security Committee (CSC) unanimously adopted its opinion on the Commission Delegated Decision concerning the adoption of Common Minimum Standards (CMS) for the Public Regulated Service (PRS) of the European GNSS Programme (Doc 16439/13).

In this opinion the CSC concluded that delegated acts in general were “unsuited an instrument for addressing security-sensitive matters” given that the Council could only take an all or nothing approach during the formal adoption process. The CSC also stated that this point “should be borne in mind by the legislator when adopting future legislative acts touching on security.”

This opinion had not been delivered at the time when the GNSS Regulation was negotiated earlier this year and therefore could not be taken into consideration.

Nevertheless, it should be borne in mind for future amendments of the GNSS Regulation.