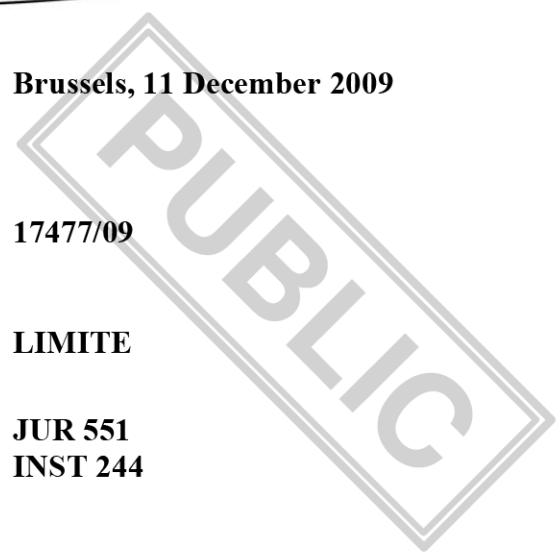|	
COUNCIL OF **THE EUROPEAN UNION**	**Brussels, 11 December 2009** **17477/09** **LIMITE** **JUR 551** **INST 244**

INTRODUCTORY NOTE

from:	Presidency
to:	COREPER II
Subject:	Implementation of the Treaty of Lisbon - Article 290 TFEU - Article 291 TFEU

Following discussions at the meeting of Coreper on 3 December 2009, delegations will find

- in Annex I a draft Council Declaration on the Commission Communication concerning the implementation of Article 290 of the Treaty on the functioning of the European Union;

- in Annex II a draft Declaration of the European Parliament, the Council and the Commission concerning the implementation of Article 291 of the Treaty on the functioning of the European Union.

Coreper is invited to agree on the text of the draft Declarations and to invite the Council to approve them as an "A" Item at one of its forthcoming meetings.

COUNCIL DECLARATION

The Council welcomes the Commission's communication on the implementation of Article 290 of the Treaty on the functioning of the European Union as well as the standard models attached to it in view of their insertion into legislative proposals when these confer delegated powers to the Commission on the basis of Article 290 of the TFEU.

The Council attaches particular importance to the Commission's commitment to, in the preparatory phase, systematically consult experts from the national authorities of all the Member States, which will be responsible for implementing the delegated acts once they have been adopted. The Council notes further that the Commission will carry out the consultations in plenty of time, to give the experts an opportunity to make a useful and effective contribution.

The Council also notes with satisfaction the Commission's commitment to inform the experts of the conclusions it believes should be drawn from the discussions, its preliminary reactions and how it intends to proceed. In addition, the Council regards as relevant and necessary the Commission's commitment to accompany delegated acts by explanatory memoranda setting out in a detailed manner the grounds for the act and providing information about the preparatory work undertaken by the Commission.

The Council draws the Commission's attention to the fundamental importance of the immediate implementation of the above mentioned commitments in order to create confidence in the new procedure foreseen under Article 290 of the TFEU and to ensure a smooth and fruitful operation of the delegation of powers.

In the light of the importance of the new procedure foreseen under Article 290 TFEU and once sufficient experience has been gained, the Council intends to assess how the consultation of experts is functioning.

Declaration of the European Parliament, the Council and the Commission concerning the implementation of Article 291 of the Treaty on the functioning of the European Union

Noting that, under the terms of Article 291 of the Treaty on the functioning of the European Union, as amended by the Treaty of Lisbon, rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure;

Considering that, in accordance with this provision of the new Treaty, the Commission will shortly submit a proposal for a regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the implementing powers conferred on the Commission (hereafter "the new Regulation");

The European Parliament and the Council, noting the Commission's intention to submit a proposal as one of the first acts of the new Commission, undertake to endeavour to achieve speedy agreement on the new Regulation, with a view to its entry into force already during the Spanish Presidency. In the meantime, Council Decision 1999/468/EC of 28 June 1999 continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

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