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COVER NOTE

from: Mr Jerzy BUZEK, President of the European Parliament
date of reception: 8th March 2010
to: Mr Jose Luis Zapatero, President of the Council of the European Union

Subject : Relations between the European Parliament and the Council - International
agreements

Delegations will find annexed a copy of the above letter.



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The President

José Luis Zapatero,
 President-in-Office,
 Council of the European Union,
 175 rue de la Loi,
 B-1048 Brussels.

SECRETARIAT DU CONSEIL DE L'UNION EUROPÉENNE	
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M. CLOOS	
M. COOPER	303556 05.03.2010
M. BIZIAK	
BUREAU DES ACCORDS	
M. EVANS	

Excellency, Mr. Prince Helmut, Dear José Luis.

Thank you for your letter of 9 February 2010 concerning the interim 'SWIFT' Agreement on the processing and transfer of financial messaging data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (TFTP). You kindly attached a declaration by the Council on this important matter.

As I reported to the informal meeting of the European Council on 11 February, the European Parliament voted that same day - by a majority of 378 to 196 votes, with 31 abstentions - to withhold its consent from the interim SWIFT Agreement. The majority view in the Parliament was clearly that the agreement did not strike the right balance between the competing needs for security, on the one hand, and respect for civil liberties, especially in regard to protection of sensitive personal data, on the other.

As you know, the Lisbon Treaty has extended the range of international agreements subject to the consent of the European Parliament, so that these now include nearly all trade agreements, cooperation agreements, and (as in this case) agreements in the field of Justice and Home Affairs. There are inevitably important institutional implications of this change that need to be taken seriously into account by the Council - and indeed by the Commission when the latter is presenting draft negotiating guidelines to the Council or negotiating on the Council's behalf with third countries.

Most obviously, the European Parliament cannot reasonably be expected to give its approval to international agreements that are submitted to it by the Council only one week before they are due to enter into effect, as was the case with the interim SWIFT Agreement. I appreciate that there may have been, in this case and some others in recent months, particular problems of timing caused by the unpredictable date of the entry into force of the Lisbon Treaty. However, equally, I made every effort through a series of letters to flag up the potential problem looming on this issue, starting last autumn. The key point is that the Council must allow the Parliament a reasonable period of time, ideally at least three months, in which to reflect upon whether to give its consent to any agreement.

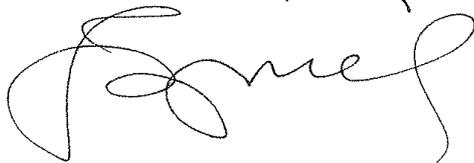
I believe that it would be in the interest of all three institutions - the Council, the Commission and the Parliament - to improve our working methods in dealing with international agreements, now that the Parliament has a right of veto over the great majority of them. If the Parliament's consent is to be secured, it is important that the Council and Commission keep it 'immediately and fully informed at all stages of the procedure', from before the opening of any negotiation to the signing of any agreement - as Article 218(10) TFEU now obliges them to do - and indeed that they take serious account of the Parliament's views during that process. One of the key problems in the SWIFT negotiation was that this approach does not appear to have been followed. Equally, although the Parliament signalled, in a resolution passed in September 2009, that there were still several potentially very serious sticking-points on this issue, it does not seem that these concerns were given the attention they deserved.

Moreover, if the Parliament is to have a right of veto over agreements which contain 'classified' components, as the Lisbon Treaty now allows, then it follows logically that the Parliament needs to be in a position to make a considered and serious judgment about the content and significance of such elements. I therefore welcome the suggestion which you make in your letter that there might be an inter-institutional agreement to enable the Parliament to have 'easier access to the classified parts of international agreements' on which it enjoys the right of consent. I will bring this proposal to the attention of the Parliament's Conference of Presidents for it to consider

In that context, it might be useful if we were look at the possibility of not only a wider discussion, but possibly even an agreement, about how the Council and Parliament should relate in the whole area of international agreements, to promote smoother inter-institutional relations. We might seek to reflect on recent experience and draw lessons from it, in a positive spirit of inter-institutional cooperation and dialogue, so that we can work efficiently and respectfully together in pursuit of the joint enterprise which is so important to us all.

I am copying this letter to José Manuel Barroso, President of the European Commission, and Herman Van Rompuy, President of the European Council, for their information.

I look forward to hearing back from you in due course.

With deep regards


Jerzy Buzek