

EMIS(2016)0310_1

COORDINATORS' MEETING

Draft Agenda

Thursday 10 March 2016, 10.00 – 11.50 (coordinators' meeting)
Strasbourg, Room: LOW N 1.3

1.	CHAIR'S ANNOUNCEMENTS	2
2.	POINTS FOR DECISION	3
2.1	Appointment of Rapporteur(s)	3
2.2	Annual calendar of meetings	4
2.3	Working methods for Coordinators	6
2.4	Working methods for committee meetings	7
2.4.1	Hearings of witnesses and experts	7
2.4.2	Missions	9
2.4.3	Studies, briefings and workshops	10
2.4.4	Requests of documents	11
2.4.5	Handling of confidential information	12
2.4.6	Committee meetings in camera	13
3.	POINTS FOR INFORMATION	14
3.1	Prerogatives of a committee of inquiry	14
3.2	Confidentiality requirements	15
4.	ANY OTHER BUSINESS	16
5	NEXT MEETING	16

1. CHAIR'S ANNOUNCEMENTS

2. POINTS FOR DECISION

2.1 Appointment of Rapporteur(s)

According to Rule 198(5) of the EP Rules of Procedure a committee of inquiry shall "appoint one or more rapporteurs. The committee may also assign responsibilities, duties or specific tasks to its members who must subsequently report to the committee in detail thereon".

The coordinators are invited to appoint the rapporteur(s) in charge of the inquiry report.

The political groups are invited to send the names of the shadow rapporteurs to the Secretariat.

2.2 Annual calendar of meetings

The mandate of the EMIS committee adopted on 17 December 2015 by the plenary foresees that the committee of inquiry shall present an interim report within 6 months and a final report within 12 months of starting its work (constitutive meeting on 2 March 2016).

Coordinators will find hereunder a proposal for <u>calendar of EMIS meetings in 2016</u>, which takes into account the need to limit (or share) overlapping with the standing committees mainly concerned. For 2017 dates will be proposed as soon as the EP calendar for 2017 is available.

Additional slots can be added later, if needed, subject to room availability (and authorisation if held in Strasbourg).

The <u>calendar of coordinators' meetings</u> will then be developed on the basis of the decision taken on the calendar of committee meetings and considered at the next coordinators' meeting.

Tuesday, 22 March, 15h00-18h30	Tuesday, 30 August, 15h00-18h30
Thursday, 7 April, 15h00-18h30 (parallel to ITRE and TRAN)	Monday, 5 September, 15h00-18h30 (parallel to ITRE and IMCO)
Tuesday, 19 April, 15h00-18h30 (parallel to ENVI)	Monday, 26 September, 15h00-18h30 (parallel to ITRE, IMCO and TRAN)
Thursday, 28 April, 15h00-18h30	Monday, 17 October, 15h00-18h30
Tuesday, 24 May, 15h00-18h30 (parallel to TRAN)	Thursday, 20 October, 9h00-12h30
Thursday, 16 June, 9h00-12h30 (parallel to ENVI and TRAN) Thursday, 16 June, 15h00-18h30 (parallel to ENVI)	Monday, 14 November, 15h00-18h30
Thursday, 30 June, 9h00-12h30 Thursday, 30 June, 15h00-18h30	Thursday, 1 December, 15h00-18h30
Wednesday, 13 July, 9h00-12h30 (parallel to IMCO) Thursday, 14 July, 15h00-18h30 (parallel to IMCO)	Monday 5 December, 15h00-18h30 (parallel to IMCO and TRAN)

The Coordinators are invited to:

- endorse the proposed calendar of meetings;
- agree on the possibility to add extra meetings in Brussels and/or Strasbourg, as needed.

2.3 Working methods for Coordinators

The following proposals for Coordinators' working methods are based on the currently existing working methods in the ENVI, IMCO, TRAN and ITRE committees, with due regard to the specific status of the EMIS Committee as a committee of inquiry:

- the Chair, in cooperation with the Secretariat, shall establish a draft agenda for the Coordinators' meetings, which shall be sent to political groups as soon as possible in advance of the meeting;
- coordinators' meetings are held in camera; participation could be limited to the following:
 - Chair and Vice-Chairs;
 - Coordinators;
 - Rapporteur(s);
 - two agents who follow the activities of the committee per political group;
 - the officials whose functions justify their presence: Cabinet of the President, Secretary General's Office, Legal Service, DG COMM, Director of Directorate E, Policy Department(s) and committee secretariat;
 - one assistant for the Chair and one assistant for each Rapporteur;
- decisions shall be taken according to Rule 205(2) of the Rules of Procedure¹, including for determining the memberships of its missions, invitation of witnesses and experts to hearings, commissioning of studies etc.;
- in line with the EP ICT Strategy approved by the Bureau, EMIS committee and coordinators' meetings will be hold without printed documents. Members are invited to consult the relevant meeting documentation using electronic means. Distribution and consultation of confidential documents may represent an exception to the general rule.

The coordinators are invited to discuss and agree on the working arrangements of their meetings, including the rules for participation, as described above.

¹ Excerpt from Rule 205(2): "The coordinators shall endeavour to find a consensus. When consensus cannot be reached, they may act only by a majority that clearly represents a large majority of the committee, having regard to the respective strengths of the various groups."

2.4 Working methods for committee meetings

2.4.1 Hearings of witnesses and experts

• Pursuant to Rule 198(7), in order to carry out its inquiry the committee may invite an institution or body of the EU, the government of a Member State, or any other person to give evidence before it. Such hearings shall take place during the ordinary meeting time of the committee.

In the case of external experts who are not officials of Union institutions or bodies, <u>prior authorisation from the Bureau</u> is required, and the committee may reimburse the expenses of \underline{a} maximum of 16 guests each year.²

- In order to facilitate the gathering of oral evidence, each hearing of a witness or expert could be structured as follows:
 - upon introduction by the Chair, the guest may be invited to make a brief opening oral statement;
 - committee members will then ask questions in accordance with the 'ping-pong' principle, with the answer immediately following each question. In case the questioning member considers the guest's answer evasive, a brief follow-up question may be asked.
 - the first round of questions will be asked by the <u>Rapporteur(s)</u>, followed by <u>one</u> representative for each political group (Coordinator, shadow rapporteur or another designated member);
 - the rest of the questions will be asked by members asking for the floor according to a "catch-the-eye" procedure, with regard to the relative sizes of the political groups.
- In order to keep track of the testimony given by experts and witnesses, and be able to take all relevant information into account for the final report, it would be necessary to have available the verbatim reports of each hearing, as well as their translation into English.

Verbatim reports could be made available electronically to the EMIS Members. In case of in camera meetings specific rules could be applied as to their distribution.

For that purpose, an official request needs to be sent to the relevant EP service by the Chair on behalf of the committee.

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² See the Bureau decision of 18 June 2003 on the Rules on Public Hearings.

The Coordinators are invited to:

- agree on the working methods for the hearings;
- give mandate to the Chair to launch a request for verbatim;
- give mandate to the Rapporteur(s) to submit a draft programme of hearings to be discussed at future coordinators' meetings;

In order to facilitate the Rapporteur(s)'s task, political groups are invited to transmit to the Secretariat <u>by 16 March 2016 at 10.00</u> their suggestions on witnesses and experts to be invited to EMIS hearings.

2.4.2 Missions

The committee may wish to organise fact-finding missions inside and/or outside the Union. The annual quota is 25 Members. The Chair can take part in missions outside that quota.

No more than 12 members (including the Chair) can take part in a mission.

The membership of committee missions could be determined as follows:

- the Chair (outside quota) and the Rapporteur(s) have priority in choosing whether to take part;
- the remaining places could be assigned:
 - OPTION 1: by the coordinators by consensus, on a case-by-case basis, with a view to ensure a balanced representation of groups in each mission and overall;

or:

 OPTION 2: by following the rolling D'Hondt method (see Annex I), possibly with the Rapporteur(s) filling one seat assigned to their group(s).

In 2016, missions should in principle take place during the "turquoise" weeks, i.e. weeks 20, 29, 34, 38 and 44.

However, given EMIS's tight timeframe, the Committee may need to organise missions also outside turquoise weeks, subject to the President's authorisation, e.g. on Fridays of Strasbourg part-session weeks. If this case, a limited language regime will be applied (interpretation into at most one language).

Given that the deadline for submitting the programmes of missions has already passed, an extraordinary request for authorisation of EMIS missions has to be sent to the Bureau.

The Coordinators could discuss and agree on the working methods to determine the membership of committee missions and exchange views on possible destinations of missions.

Political groups are invited to transmit to the Secretariat <u>by 16 March 2016 at 10.00</u> their suggestions on destinations for missions in 2016.

2.4.3 Studies, briefings and workshops

As for standing committees, for the collection and analysis of background information related to its remit EMIS can count on the support of the EP Policy departments (mainly Policy Department A on Economic and Scientific policies).

<u>Briefings</u> (3 to 10 pages), <u>in-depth analyses</u> (11 to 36 pages) and <u>studies</u> (more than 36 pages) can be requested and can be produced either internally or through external experts. A preliminary budget has already been set aside for this purpose.

In order to allow for proper preparation and to respect public procurement rules, up to 12 weeks need to be counted from the receipt of a request until the final product (4 to 9 weeks for briefings).

Additionally, in close cooperation with committee secretariats, policy departments can organise thematic <u>workshops</u> as a platform for dialogue with the expert community. The purpose of workshops is to provide independent external analysis, with experts producing a written contribution, presenting it orally and engaging in discussion with Members and other experts. Notes and studies may also be requested in connection with workshops to serve as background for Committee discussion.

POSSIBLE FIRST REQUESTS: upon suggestion from the Policy Department A, some first topics for briefings could be:

- Overview of the legal obligations of economic operators, EU Member States and of the European Commission, as regards emission measurements in the EU automotive sector;
- Overview of the available information on implementation and enforcement of the legal obligations as regards emission measurements in the EU automotive sector in the relevant Member States, in particular as regards the provision of penalties to manufacturers and the ban on defeat mechanisms.

The Coordinators are invited to:

- decide whether to request the two initial briefings suggested by the Policy Department;
- exchange views on possible subjects for briefings, in-depth analyses, studies and workshops to be undertaken in 2016.

Political groups are invited to transmit to the Secretariat <u>by 16 March 2016 at 10.00</u> their suggestions for briefings, in-depth analyses, studies and workshops. The Policy Department could then be asked to provide input as regards the feasibility of the suggestions.

2.4.4 Requests of documents

 Pursuant to Rule 198(7), the committee may contact institutions or persons with a view to obtaining documents to carry out its inquiry.

In order to ensure a coordinated approach in the request of such written evidence to the parties concerned (Commission, Member States, private entities, etc.) and equal and transparent access to information to all Members of the inquiry committee, all requests could be <u>decided</u> by the coordinators based on a proposal by the Rapporteur(s) or other members of the committee.

Once a decision on a request of document is taken, the request could be channelled via the Chair through the secretariat, who would then ensure the distribution of the documents to all the Members of the committee.

- To kick-start the gathering of written information for the inquiry, a <u>questionnaire</u> could be sent to the Member States with questions proposed by Members of the committee in order to request preliminary information, for example from national type approval authorities or market surveillance bodies, responsible ministries, etc.
- Another possible way to obtain documents to carry out the inquiry could be to allow stakeholders and the public to send documents to the attention of the committee, through a "call for evidence" published on the EMIS committee website.

Such a practice was for example followed by the last EP inquiry committee (EQUI committee, 2006/7) and by the current Special Committee on Tax Rulings (TAXE 2).

The Coordinators are invited to:

- agree to channel all requests of documents via the Chair through the secretariat, as described above;
- decide whether to send a questionnaire to the Member States, in which case the political groups would be invited to transmit to the Secretariat the proposed questions for that questionnaire <u>by 22 March 2016</u>;
- decide whether to open a "call for evidence" on the EMIS website.

2.4.5 Handling of confidential information

It is expected that in the process of conducting its investigations the EMIS committee will have to handle Confidential Information (CI) transmitted by either Commission or the Council or even by private persons and third parties. There are established Rules and Procedures among the three EU institutions (Council, Commission, EP) on how to handle and transmit CI documents between the three – these are detailed in **Annex II**: "Confidential Information/documents - rules, procedures and possible solutions for EMIS".

Based on that information, a number of proposals are made in the Annex on how to approach the handling of CI documents.

The Coordinators are invited to take note of the information presented in Annex II and to mandate the Chair to:

- agree with the Commission (DG GROW) on the setting up of a temporary reading room at their premises, based on the precedent of TAXE;
- agree with the Commission on the transmission of non-classified Confidential Information via encrypted email, for consultation in an appropriate restricted area (Sharepoint) on the EMIS eCommittee website; initiate a request to DG ITEC for the setting up of that area.

2.4.6 Committee meetings in camera

According to the inter-institutional decision governing the Parliament's right of inquiry (Annex VIII of the Rules of Procedure), "Proceedings shall take place in camera if requested by one quarter of the members of the committee of inquiry (12 members), or by the Community or national authorities, or where the temporary committee of inquiry is considering secret information. Witnesses and experts shall have the right to make a statement or provide testimony in camera."

As the Rules do not include specific provisions for meetings held *in camera*, the question of who can be present in the room during those meetings has to be addressed.

In analogy with the rules for Coordinators' meeting (see item 2.3) and with the practice applied by the Committee on Legal Affairs for discussions on immunity cases, the presence in the room where the EMIS committee meets *in camera* could be limited to the following categories:

- the full and substitute members of the committee;
- the agents of the political groups who follow the activities of the committee;
- the officials whose functions justify their presence: Cabinet of the President, Secretary General's Office, Legal Service, DG COMM, Director of Directorate E, Policy Department(s) and committee secretariat;
- one assistant per member.

The Coordinators are invited to decide on the participants in committee meetings held in camera.

3. POINTS FOR INFORMATION

3.1 Prerogatives of a committee of inquiry

The right of inquiry, codified for the first time with the Maastricht Treaty, is one of the core competences of EP to ensure its control function.

The legal basis for setting up a committee of inquiry are provided in Article 226 TFEU and in the EP Rules of Procedure (Rule 198 in particular), as well as in the decision of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry (Annex VIII to RoPs).

An EP Committee of Inquiry shall carry out its inquiries necessary to verify alleged contraventions or maladministration in the implementation of Union law. Examination of general policy areas, actions of third countries authorities and pending cases before a court are excluded.

An EP committee of inquiry may hold hearings with experts, invite witnesses (EU institution or body, public administrative body of a Member State, persons entitled to implement the EU law), request documents and undertake fact-finding missions inside and outside the EU.

Hearings and testimony shall usually take place in public, unless it is requested otherwise by one quarter of the committee Members, or when secret or confidential information is handled (*in camera* testimony can be requested on this ground both by EU and national authorities as well as by individuals).

Contrary to several inquiry committees at national level, an EP committee of inquiry has not the power to subpoena individual witnesses. The Member States concerned and the institutions or bodies of the European Communities are just obliged, in case the person invited refuses, to designate a senior official authorised to appear before the Committee, unless grounds of secrecy or public or national security dictate otherwise by virtue of national or Community legislation.

Witnesses invited before an EP committee of inquiry can claim the same rights enjoyed before a court of their country of origin. They must be informed of these rights before they make a statement to the committee.

Any person named in the course of an inquiry and to whom this might prove prejudicial, must be informed and shall be heard, if that person so requests.

The authorities of the Member States and the institutions or bodies of the European Communities provide the Committee, where it so requests or on their own initiative, with the documents necessary for the performance of its duties, save where prevented from doing so by reasons of secrecy or public or national security arising out of national or Community legislation or rules.

Differently from what happens in committees of inquiry in several Member States, the European Parliament cannot impose sanctions against authorities or persons refusing to cooperate with an EP committee of inquiry (i.e. appearing before the committee or denying access to relevant documents).

3.2 Confidentiality requirements

The information obtained by an EP committee of inquiry shall be used solely for the performance of its duties. It may not be made public if it contains material of a secret or confidential nature or names persons.

The Members of the committee shall give a solemn undertaking not to allow any other person access to secret or confidential information, even after their duties have ceased, and to use such information exclusively for the purposes of drawing up their report for the committee of inquiry.

The request and consultation of confidential information by the Members of the committee shall be done in accordance with the <u>existing EP rules</u>.

4. ANY OTHER BUSINESS

5. NEXT MEETING

The next Coordinators' meeting will take place in Brussels on 16 March 2016 at 15.30 (tbc).