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THE EUROPEAN UNION**

**Brussels, 19 September 2013
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12437/13

CRS/CRP 27

SUMMARY RECORD

Subject: 2461st meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 17, 18 and 22 July 2013

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67. Council and Commission Decision establishing the position concerning a Decision of the EU-Serbia Stabilisation and Association Council on its rules of procedure
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77. Proposal for a Council Decision authorising Member States to ratify, in the interests of the European Union, the Arms Trade Treaty
78. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community Regime for the control of exports, transfer, brokering and transit of dual use items (First reading)
79. Council Decision amending Decision 2010/452/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia
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1. Adoption of the provisional agenda and "I" items

doc. 12302/13 OJ/CRP1 27 + ADD 1
12323/1/13 REV 1 OJ/CRP2 27 + CM 3854/13

The above-mentioned agendas are approved with the following changes :

The following items are **added** :

(Coreper Part 1, under I)

36. Proposal for a Council Decision amending Decision 97/836/EC with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')

– **Adoption**

5978/13 ECO 17 ENT 35 MI 76 UNECE 5 OC 45
12019/13 ECO 133 ENT 212 MI 612 UNECE 20

(Coreper Part 2, under I)

86. Draft Council Conclusions on the first anniversary of the EU Strategic Framework and Action Plan on Human Rights and Democracy and the appointment of the EUSR for Human Rights

12373/13 PESC 881 COHOM 157 COPS 291
12349/13 PESC 879 COHOM 156 COPS 290

87. Draft Council position concerning the conclusion by the EU of Memoranda of Understanding, Joint Statements and other texts containing policy commitments, with third countries and international organisations

12498/13 PESC 913 RELEX 680 INST 419 JUR 378

88. Restrictive measures against certain persons, entities and bodies in view of the situation in Egypt:

– **Letter of reply to lawyers of two persons subject to the restrictive measures provided for in Council Decision 2011/172/CFSP and in Council Regulation (EU) No 270/2011**

12497/13 PESC 912 COMAG 73 FIN 461

The following items are **withdrawn** :

(Coreper Part 1, under I)

- 9. Proposal for a Regulation of the European Parliament and the Council, establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010 (First reading) (Legislative deliberation)**
- **Optional consultation of the European Economic and Social Committee and the Committee of Regions**
12177/13 ESPACE 46 CODEC 1725 COMPET 558 RECH 342 IND 205
TRANS 384 MI 630 ENER 359 ENV 693 COSDP 660 CSC 70 TELECOM
197

(Coreper Part 2, under I)

- 74. Proposal for a Council Decision on the conclusion of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Community and its Member States, of the one part, and the Republic of Indonesia, of the other part**
- **Request by the Council for the consent of the European Parliament**
12009/13 COASI 108 ASIE 32 PESC 825 COHOM 146 CONOP 85 COTER 82
JAI 595 WTO 151 AGRI 454 ENER 350 TRANS 371
TELECOM 191 ENV 673 EDUC 291

The following CRP1 agenda item is **transferred** from Part I to Part II :

- 15. Preparation of the 38th Session of the ICAO Assembly (Montreal, 24 September - 4 October 2013) (2nd and 3rd batch of working papers)**
- **European Union coordination of a common position**
12196/13 AVIATION 103 RELEX 638
12312/13 AVIATION 107 RELEX 654

The Committee approved the "I" items as set out in the summary. Details are contained in the document quoted under item 1.

NL made a statement on the following item :

24. Amended proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N° 624/2007/EC (First reading) (Legislative deliberation)

- **Approval of the final compromise text**
11978/13 UD 174 AELE 46 CODEC 1680

"The Customs 2020 program lays down the rules for financing activities in the field of customs cooperation in the EU. All activities under the program, including the creation of expert teams, are determined in annual work plans on the basis of Article 14.

Expert teams are a new instrument, which potentially touches upon the balance of powers between Member states and the Union's institutions as foreseen in the treaties. In view of the possible major implications of the expert teams for operational activities and competences of customs authorities in the Member states, the Netherlands would have preferred a separate implementing act for the creation and for the rules on the functioning of each expert team, enabling a more transparent decision process at the appropriate level.

Taken this into account,

The Netherlands will whenever the creation of an expert team is being proposed in the work plan insist on a thorough evaluation of the proposed scope of the team, clear rules on the functioning of the team, a detailed business case and an in-depth legal analysis on the basis of the EU treaties, in particular regarding the respective competences of Member States and Union's institutions."

DE made a statement on the following item :

77. Proposal for a Council Decision authorising Member States to ratify, in the interests of the European Union, the Arms Trade Treaty

– **Request by the Council for the consent of the European Parliament**

11448/13 COARM 114 CODUN 39 PESC 765 COMER 171

12178/13 COARM 113 CODUN 36 PESC 853 COMER 169

"Today's Council Decision states that: "With respect to those matters falling under the exclusive competence of the Union, Member States are hereby authorised to ratify the Arms Trade Treaty in the interests of the Union." The Federal Republic of Germany endorses the ratification of the Treaty by the Member States, also in the interests of the Union, and supports the appeal to the Member States to do so.

Nevertheless, the Federal Republic of Germany has doubts as to whether the Decision can be based on Article 218 (6) TFEU and Article 207 (3) TFEU, which refers to Article 218 TFEU. According to the text of Article 218 (1) TFEU, the procedure for concluding agreements in Article 218 TFEU only applies to "agreements between the Union and third countries or international organisations". Analogous application of Article 218 TFEU to the agreements of the Member States is precluded given the principle of conferral enshrined in Article 5 (2) TEU.

The Federal Republic of Germany's cooperation in adopting this Decision is thus without prejudice to its legal position on the interpretation of Article 218 TFEU."

Coreper Part 1

II

**15. Preparation of the 38th Session of the ICAO Assembly
(Montreal, 24 September - 4 October 2013)**

(2nd and 3rd batch of working papers)

– **European Union coordination of a common position**

12196/13 AVIATION 103 RELEX 638

12312/13 AVIATION 107 RELEX 654

The Committee endorsed the draft text of a Working Paper on environmental protection to be submitted to the upcoming ICAO Assembly, with a view to facilitating coordination in preparation for the ICAO Council meeting on 4th September 2013. The text approved by the Committee appears in document 12494/13.

28. Proposal for a Regulation of the European Parliament and of the Council on establishing the Creative Europe Programme (First reading) (Legislative deliberation)

– **Approval of the final compromise text with a view to agreement**

12211/13 AUDIO 83 CULT 85 CADREFIN 188 RELEX 642 CODEC 1731

The Committee approved the text as set out in the annex to document 12211/13 and authorised the Presidency, once the figure for the financial envelope in Article 19(1) is confirmed, to send the customary letter to the European Parliament Committee Chair. UK maintained a parliamentary scrutiny reservation, and specific reservations on the comitology provisions and the financial facility. AT indicated its opposition to the text and its intention to submit a statement to the minutes of the Council that will adopt the regulation. DE and the Commission also indicated their intention to submit such statements.

29. Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE) (First reading) (Legislative deliberation)

– **Analysis of the final compromise text with a view to agreement**

12116/13 ENV 690 ENER 358 CADREFIN 183 CODEC 1706

The Committee confirmed agreement of the compromise text without discussion. IT maintained a reservation. The Commission indicated its intention to make two statements to the Council minutes (respectively, on the maximum amount that a single IP may receive, and on the status of funding biodiversity in OCTs) at the time of adoption of the act.

- 30. Public procurement package (First reading) (Legislative deliberation)**
- a) Proposal for a Directive of the European Parliament and of the Council on public procurement**
 - b) Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors**
 - c) Proposal for a Directive of the European Parliament and of the Council on the award of concession contracts**
 - Analysis of the final compromise text with a view to agreement**
 - 11745/13 MAP 59 MI 594 CODEC 1639
 - 11746/13 MAP 60 MI 595 CODEC 1640
 - 11748/13 MAP 61 MI 596 CODEC 1642

The Committee reached agreement on the final compromise texts of the three Directives on public procurement, as set out in the documents mentioned above.

The Committee took note of the following declaration made by the Commission.

The Committee also took note of the explanations of the Council Legal Service with regard to the status of non-discrimination as a central principle of the European legal order which always has to be observed when transposing and implementing European legislation on the national level.

The Committee gave a mandate to its Chair to inform the Chair of the European Parliament's IMCO Committee that, should the European Parliament adopt the amendments to the Commission proposal in the exact form as set out in the documents above, subject to legal-linguistic verification of all the language versions by Legal-linguists of both Institutions, the Council would adopt the three Directives in the form of the Commission proposals as thus amended by the European Parliament.

"Declaration on Article 16 of the Concessions Directive

1. Pursuant to Article 16 and recital 19a of this Directive, for concessions lasting more than 5 years, the maximum duration of the concession shall not exceed the time that a concessionaire could reasonably be expected to take to recoup the investments made for operating the works or services together with a return on invested capital taking into account the investments required to achieve the specific contractual objectives.

2. To ensure the uniform enforcement of this Directive, the Commission considers that national execution measures of Article 16, as interpreted by Recital 19a, shall provide that the duration of the concession shall be estimated including initial and further investments deemed necessary for the operating of the concession, in particular expenditure on infrastructure, copyrights, patents, equipment, logistics, hiring, training of personnel and initial expenses."

"Declaration on Article 15.2 of the Classical Directive

Article 15(2) is enshrined in the existing applicable Union legislation. It has to be applied in compliance with Union law and in the light of its basic principles, notably, the principles of equal treatment and non-discrimination of economic operators, including economic operators from other Member States.

Commission will closely monitor the application of this Article by Member States and contracting authorities."

31. Auditing

- a) **Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities (First reading) (Legislative deliberation)**
- b) **Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (First reading) (Legislative deliberation)**
 - **Guidance for future works**
12243/13 DRS 133 CODEC 1741

The Committee discussed the main open issues in these files as set out in 12243/13 and provided the following orientations:

There was broad agreement on the principles of dealing with excluded services on the basis of a black list, some details of which need further negotiation. The black list should not be open to modification through a delegated act.

Cooling-off periods would have to be shortened.

A balanced compromise would have to be found on the issue of the cap of fees paid for audit related financial services which should be set at a level agreeable to a large majority of delegations.

With regard to mandatory rotation, the principle of distinction between financial and other enterprises has been retained.

The question of maximum duration would need to be further explored.

With regard to supervision, a clear majority of delegations supports the CEAOB solution in variant A, with a Chair elected by the committee members and the Commission services assuming the secretariat.

On the basis of these orientations and the current Presidency compromise text, the Company Law WP is invited to continue its examination of the texts.

The Committee decided to return to this file in September at one of its next meetings, with a view to providing a mandate for a first trilogue with the European Parliament.

- 32. Preparation of the 38th Session of the ICAO Assembly
(Montreal, 24 September - 4 October 2013)
(4th batch of working papers and information note on international aviation and climate change)**
- **European Union coordination of a common position**
12198/13 AVIATION 104 RELEX 639

The Committee endorsed the revised joint written submission drafted by the Commission, with some changes taking into account suggestions presented by the delegations, with a view to facilitating the coordination between the European ICAO Council representatives in response to the proposals made by the ICAO President and Secretary General. The text approved by the Committee appears in document 12491/13.

- 33. Horizon 2020 (First reading) Legislative deliberation)**
- (a) **Proposal for a Regulation of the European Parliament and the Council establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020)**
 - (b) **Proposal for a Regulation of the European Parliament and of the Council laying down the rules for participation and dissemination in "Horizon 2020" - The Framework Programme for Research and Innovation (2014-2020)**
 - (c) **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology**
 - (d) **Proposal for a Decision of the European Parliament and of the Council on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT): the contribution of the EIT to a more innovative Europe**
 - **Analysis of the final compromise text with a view to agreement**
12106/13 RECH 337 COMPET 553 ATO 76 IND 203 MI 622 EDUC 294
TELECOM 193 ENER 357 ENV 689 REGIO 149 AGRI 465
TRANS 382 SAN 259 CODEC
+ ADD 1-5

The Committee endorsed the compromise package as set out in the document 12106/13 and its addenda as amended and mandated the Presidency to inform the European Parliament of its endorsement.

Furthermore, the Presidency indicated that as the majority of Member States supported an Annex V on programme committee configurations in the Specific Programme of Horizon 2020, such an annex would be included in the consolidated version of this text to be discussed in the autumn.

- 34. Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014-2020) (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the informal trilogue**

The Committee was informed on the major results of the first informal trilogue held on 9 July 2013.

- 35. Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (First reading) (Legislative deliberation)**
- **Guidance for future works**
12175/13 SOC 584 FSTR 76 CADREFIN 186 REGIO 150 CODEC 1724

The Committee discussed how to continue the work on the FEAD. It considered that the Working Party should pursue its work and examine in more detail the broadening of scope of the FEAD with additional flexibility in the implementation and the use of the voluntary part.

Coreper Part 2

II

82. European Union Civil Service Tribunal

- **Appointment of a judge**
 - 12232/13 JUR 364 COUR 67
 - 12031/13 JUR 107 COUR 7
 - + ADD 1
 - + ADD 2

Representatives of the governments of the Members States concluded that there was no unanimity on the appointment of a judge at the European Union Civil Service Tribunal.

83. EU-US Working Group on data protection - Transatlantic discussions on "intelligence collection" (*restricted session*)

- 12183/2/13 REV 2 JAI 617 DATAPROTECT 97 COTER 87
 - ENFOPOL 236 USA 28 RESTREINT UE
- 12307/13 JAI 629 DATAPROTECT 100 COTER 94 ENFOPOL 239
 - USA 32 RESTREINT UE

The outcome of the discussions is set out in 12437/13 ADD 1 LIMITE.

84. Draft budget of the European Union for the financial year 2014

- **Council position**
 - 12222/13 FIN 430
 - + ADD 1
 - + ADD 2
 - + ADD 3
 - + ADD 4
 - + ADD 5

Après avoir entendu les interventions de la délégation belge et de la Commission, le Comité a:

- confirmé, à la majorité qualifiée, le résultat des travaux du Comité budgétaire, tel que repris dans le document 12222/13 FIN 430 + ADD 1 + ADD 2 + ADD 3 + ADD 4 + ADD 5;
- autorisé à l'unanimité le recours à une procédure écrite se terminant le 2 septembre 2013 pour l'adoption de la position du Conseil sur le projet de budget pour l'exercice 2014;

- pris note de l'annulation de la 3255e session du Conseil (Affaires économiques et financières/Budget) convoquée pour le 25 juillet 2013;
- pris note des réserves d'examen parlementaire des délégations britannique et danoise.

La délégation belge a fait la déclaration unilatérale suivante concernant le budget 2014 de l'Union européenne:

"Lors du vote au Conseil sur le budget 2014 de l'Union européenne, la Belgique s'est abstenue. Ce faisant, la Belgique a voulu exprimer ses craintes à l'égard de l'évolution des crédits d'engagements et de paiements au fil des ans. Premier budget du Cadre financier pluriannuel, force est de constater que le budget 2014, fortement sous contraintes, n'est pas de nature à corriger cette tendance. L'inadéquation entre le niveau des crédits de paiements et des crédits d'engagements ne manquera pas, sur le long terme, d'handicaper les politiques structurelles de l'Union ou de limiter ses moyens de faire face à ses obligations. La Belgique le regrette et souhaite à l'avenir un budget plus adéquat et mieux équilibré."

85. Preparation of the Council meeting (Foreign Affairs) on 22 July 2013

a) Implementation of the Strategic Framework and Action Plan on Human Rights

The Committee prepared the discussion to be held at the Foreign Affairs Council (FAC).

b) Southern Neighbourhood

i) Syria

The item was not discussed.

ii) Egypt

- **Draft Council conclusions**
12548/13 COMAG 75 PESC 921

The Committee confirmed and approved the draft Council conclusions, as set out in 12548/13, and transmitted them to the Foreign Affairs Council (FAC) for adoption.

c) **Africa**

i) **Great Lakes/DRC**

- **Draft Council conclusions on the Great Lakes Region**

12206/1/13 REV 1 COAFR 218 ACP 109 DEVGEN 187 RELEX 640 COPS 282
COHAFA 83 CSDP/PSDC 481 CONUN 90

The Committee approved the draft Council conclusions set out in 12206/1/13 REV 1 and forwarded them to Council for adoption.

ii) **Somalia**

- **Draft Council conclusions**

12208/13 COAFR 219 ACP 110 PESC 859 DEVGEN 188 COSDP 664
COTER 89 CONUN 91 POLMIL 40

The Committee approved the draft Council conclusions set out in 12208/13 and forwarded them to Council for adoption.

iii) **Mali**

- **Draft Council conclusions**

12212/13 COAFR 221 ACP 112 PESC 861 DEVGEN 190 COTER 91
COMAG 67 COHAFA 85 RELEX 643

The Committee approved the draft Council conclusions set out in 12212/13 and forwarded them to Council for adoption.

d) **MEPP**

- **Draft Council conclusions**

12529/13 COMEP 25 PESC 916

The Committee confirmed and approved the draft Council conclusions, as set out in 12529/13, and transmitted them to the Foreign Affairs Council (FAC) for adoption.

e) **Water Security**

- **Draft Council conclusions on EU water diplomacy**

12381/13 PESC 884

The Committee confirmed and approved the draft Council conclusions, as set out in 12381/13, and transmitted them to the Foreign Affairs Council (FAC) for adoption.

f) **Myanmar/Burma**

- **Draft Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma**
12052/13 COASI 109 ASIE 33 COPS 271 RELEX 621 PESC 831
CIVCOM 290 CONOP 86 DEVGEN 182 WTO 153 ENV 683
AGRI 460 EDUC 293

The Committee approved the draft Council conclusions on the Comprehensive Framework for the European Union's policy and support to Myanmar/Burma (doc. 12052/13) and submitted them to Council for adoption.

g) **(poss.) Eastern Partnership**

The item was not discussed.

h) **Other items in connection with the Council meeting**

No items were raised under this heading.

i) **Lebanon (*restricted session*)**

The Committee discussed a proposal to include Hezbollah Military Wing in the EU list of terrorist organisations laid down in Council Common Position 2001/931/CFSP and Council Regulation (EC) No 2580/2001. The matter was referred to the Foreign Affairs Council on 22 July 2013 for further discussion.

– **Any other business**

IT asked the Presidency to indicate how they intend to take forward the file on CO2 cars' emissions. Following an exchange of views, the Presidency concluded that they are making every effort to find a solution and would bring back the file to the Committee in September.