



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 11 October 2013
(OR. en, fr)**

14007/13

CRS/CRP 33

SUMMARY RECORD

Subject: 2467th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 25 September 2013

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1. Adoption of the provisional agenda and "I" items

doc. 13896/13 OJ/CRP1 33

13937/1/13 REV 1 OJ/CRP2 33 + REV 1 ADD 1

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

The following item is **added** :

(Coreper Part 2, under I)

68. Council Decision on the signing, on behalf of the European Union, of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other, and the provisional application of Part IV thereof concerning trade matters

- **Date of the notification referred to in Article 3(2) of the Decision (El Salvador)**

14016/13 COLAC 10 WTO 214 SERVICES 39 COMER 217 PESC 1139

The following items are **withdrawn** :

(Coreper Part 1, under I)

8. Proposal for a Council Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and the Russian Federation on drug precursors

- **Adoption**

12221/13 UD 184

13031/13 UD 204

(Coreper Part 2, under I)

29. Handling within the Council of the Communication from the Commission - Draft Council Regulation laying down the form of the laissez-passer issued to members and servants of the Institutions

13876/13 POLGEN 172 STAT 27 RELEX 844 VISA 190 FIN 548

33. Council Regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

13853/13 EF 178 ECOFIN 807

9044/13 EF 85 ECOFIN 316

+ COR 1 (de) + COR 2 (pl) + COR 3 (lt) + COR 4 (fr)

+ REV 1 (es) + REV 1 COR 1 (es)

+ REV 3 (pt) + REV 4 (el) + REV 6 (et)

+ REV 7 (it) + REV 8 (nl)

35. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) n° 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) n° .../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (First reading)

- **Adoption of the legislative act**
13766/13 CODEC 2044 EF 175 ECOFIN 799
PE-CONS 22/13 EF 81 ECOFIN 307 CODEC 909

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

CY made a statement on the following item :

11. Proposal for a Regulation of the European Parliament and of the Council laying down Union Customs Code (recast) (First reading) (Legislative deliberation)

– **Adoption of the legislative act**

PE-CONS 36/13 UD 119 ENFOCUSTOM 100 MI 485 COMER 137

TRANS 294 CODEC 1288

13770/13 CODEC 2047 UD 240 ENFOCUSTOM 140 MI 770 COMER 211

TRANS 479

"Cyprus wishes to remind that Article 1.1 of Protocol No. 10 of the Act of Accession of the Republic of Cyprus to the European Union foresees the suspension of the application of the acquis in those areas of the Republic of Cyprus in which the government of the Republic of Cyprus does not exercise effective control.

This suspension has a territorial application; while the application of the acquis is suspended in the non-government controlled areas, it can be applied in issues / cases that concern the non-government controlled areas."

Coreper Part 1

II

- 12. Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (First reading) (Legislative deliberation)**
– **Presidency debriefing on the outcome of the informal trilogue**

The Committee was debriefed by the Presidency on the outcome of the first informal trilogue, which took place on 24 September 2013. It will revert to this issue on 16 October 2013 in preparation of the second informal trilogue.

- 13. Setting of the provisional agenda of the Council meeting (Environment) on 14 October 2013**

The Committee approved the provisional agenda which will be set out in 14494/13.

- 14. Setting of the provisional agenda for the Council meeting (Agriculture and Fisheries) on 17 and 18 October 2013 (For the items in the remit of the Permanent Representative Committee)**

The Committee agreed on the provisional agenda for the forthcoming Council meeting (Agriculture and Fisheries) on 17 and 18 October 2013 which will be set out in 14689/13.

- 15. Setting of the provisional agenda for the Council meeting (Employment, Social Policy, Health and Consumer Affairs) on 15 October 2013**

The Committee agreed on the provisional agenda of the forthcoming meeting of the Council (EPSCO) which will be set out in 14508/13.

- 16. 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 and consideration of the outcome of the informal trilogue**

The Committee was informed on the major results of the second informal trilogue held on 17 September 2013. It considered the new compromise proposals on the most important open issues. The Presidency will continue the negotiations on the basis of the general approach and considerations presented in the meeting.

17. Audit

- a) **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)**
- b) **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)**
- **Preparation for the informal trilogue**
13746/13 DRS 170 CODEC 2041

The Committee discussed the Presidency compromise as set out in 13746/13 with a view to agreeing on a mandate for a first informal trilogue with the European Parliament. The Committee will return to this issue at one of its next meetings.

18. Preparation of the Council meeting (Transport, Telecommunications and Energy) on 10 October 2013

- 1. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air (First reading) (Legislative deliberation)**
 - **Orientation debate**
7615/13 AVIATION 47 CONSOM 47 CODEC 616
13830/13 AVIATION 154 CONSOM 167 CODEC 2061

The Committee took note of the draft questions presented by the Presidency in order to structure the ministerial debate at the TTE Council on 10 October 2013.

- 2. **Proposal for a Council Regulation amending Regulation (EC) No 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2014 (First reading) (Legislative deliberation)**
 - **Adoption of Council position**
12392/13 AVIATION 109
+ REV 1 (fr)
13831/13 AVIATION 155

The Committee examined the Presidency's compromise proposals included in the above mentioned document with a view to preparing the adoption of a Council position at the TTE Council on 10 October 2013.

- 3. Proposal for a Regulation of the European Parliament and of the Council on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations (First reading) (*Legislative deliberation*)**
- **General approach**
8219/13 MAR 33 FIN 173 CODEC 753 ENV 280
13771/13 MAR 135 FIN 538 CODEC 2048 ENV 834

The Committee examined the draft general approach as contained in document 13771/13 and solved all the outstanding issues. Only a substantive reservation by Poland on the financial envelope remains. The Committee decided to transmit it to the TTE Council for adoption at its session on 10 October 2013.

- 19. Amended proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No 1336/97/EC (First reading) (*Legislative deliberation*)**
- **Preparation for the informal trilogue**
13741/13 TELECOM 236 AUDIO 93 CODEC 2039

In preparation of a first trilogue of an exploratory nature on 2 October 2013 the Committee granted the Presidency a mandate based on the general orientations set out in 13741/13. On this occasion FR recalled its difficulties with the financing of broadband infrastructure and its interest in assigning a first priority in funding to European and Safer Internet while the Commission expressed its opposition to ring-fencing any Digital Service Infrastructure and recalled its formal position on consultative bodies outside comitology procedures.

- 20. Proposal for a Regulation of the European Parliament and of the Council on consumer product safety and repealing Council Directive 87/357/EEC and Directive 2001/95/EC (First reading) (*Legislative deliberation*)**
- **Analysis of article 7 (indication of origin)**
13810/13 ENT 254 MI 778 CONSOM 166 CODEC 2060 COMPET 662

The Committee took note of the comments made by delegations.

The Chair concluded that the Consumer Protection and Information Working Party (Attachés level) will undertake further work on Article 7.

- 21. SMA update**
- **State of play**

The Committee took note of the Presidency non-paper. It was informed of the state of play regarding outstanding SMA I files, notably TEN-Tele, e-identification and posting of workers. Regarding SMA II files, the Commission has presented all the proposals and work is ongoing with the aim to conclude by the end of the current European Parliament term.

Coreper Part 2

II

54. Preparation of the Council meeting (General Affairs) on 30 September 2013

a) Issue paper : Cohesion Policy legislative package

13796/13 FSTR 105 FC 63 REGIO 196 SOC 700 AGRISTR 101 PECHE 387
CADREFIN 236 CODEC 2054

The Committee received an oral briefing of the Presidency on the state of play of negotiations on the Cohesion Policy legislative package with the European Parliament. The Chair announced that an issue paper, intended to serve as a basis for the forthcoming Council's (General Affairs on 30 September 2013) deliberation on that legislative package, would be issued before the Council (doc. 13796/13.)

b) Preparation of the European Council on 24-25 October 2013

- Annotated Draft Agenda

12389/13 CO EUR-PREP 34

The Committee took note of the annotated draft agenda submitted by the President of the European Council, setting out the main items the EC is expected to address on 24-25 October 2013. The EC will focus on the digital economy and innovation, on the economic and monetary union, on growth, competitiveness and jobs.

The LT Presidency will inform on the state of play of the preparations of the Eastern Partnership summit.

c) Other items in connection with the Council meeting

Le Comité a mis au point l'ordre du jour provisoire de la session du Conseil Affaires générales.

55. Cohesion Policy legislative package (First reading)

- **Validation of preliminary results with a view to negotiations with the European Parliament**

13775/13 FSTR 104 FC 62 REGIO 195 SOC 697 AGRISTR 99 PECHE 386

CADREFIN 235 CODEC 2049

+ ADD 1

The Committee:

- validated the compromise on the Financial Management thematic block as set out in the fourth column of ADD 1 to document 13775/13;
- agreed to the modifications proposed in the Presidency room document, distributed during the meeting, which will be reflected in a new ADD 1 REV 1 to this note;
- mandated the Presidency to inform the European Parliament accordingly.

56. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) N° 1083/2006 as regards the financial allocation for certain Member States from the European Social Fund (First reading)

- **Adoption of a general approach**

13875/13 FSTR 107 REGIO 198 SOC 703 CADREFIN 237 CODEC 2071

+ ADD 1

The Committee:

- agreed on a general approach as set out in the ADD 1 to document 13875/13;
- instructed the Presidency to inform the European Parliament accordingly and to invite the Presidency to start the negotiations with the co-legislator on that basis.

57. Draft amending budget N° 7 to the general budget for 2013

13902/13 FIN 551

The Committee reached an agreement on draft amending budget No 7 to the general budget for 2013, as set out in document 12769/13, and on the accompanying proposal for the mobilisation of the Flexibility Instrument, as set out in document 12770/13. The resulting documents (14052/13 and 14070/13) will be submitted as "A" items to the JHA Council on 7 October 2013 for formal adoption.

58. a) **Proposal for a Council Decision amending Council directive 2010/18/EU because of the change in status of Mayotte**
- b) **Proposal for a Directive of the European Parliament and of the Council amending certain Directives in the fields of environment, agriculture, social policy and public health by reason of the change of status of Mayotte with regard to the Union (First reading)**
- 13712/13 POSEIDOM 7 REGIO 194 ENV 832 AGRI 573 SOC 693
SAN 341 CODEC 2033
- 13898/13 POSEIDOM 9 REGIO 199 ENV 844 AGRI 582 SOC 705 SAN 346
- 13899/13 POSEIDOM 10 REGIO 200 ENV 845 AGRI 583 SOC 706
SAN 347 CODEC 2078
- 13829/13 JUR 483 POSEIDOM 8 POSEIMA 3 POSEICAN 5 REGIO 205
FSTR 106 FISC 173 PECHE 396 VETER 88 ENV 850 AGRI 591
SOC 720 SAN 349 CODEC 2092

The Committee:

- Heard a presentation by the Council Legal Service concerning the legal basis as set out in written legal opinion (doc. 13829/13);
- agreed that the legal basis for the proposal in the fields of environment, agriculture, social policy, public health (doc. 13898/13) and the act amending Council Directive 2010/18/EU (doc. 13899/13) should be changed to Article 349 TFEU;
- agreed that Article 349 TFEU should be the legal basis for the Regulation in the field of fisheries and animal health by reason of change of status of Mayotte with regard to the Union (doc. 11092/13) to be further examined in the Working Party on Outermost Regions;
- the Commission representative declared his Institution's intention to submit a declaration for the Minutes of the Council concerning the legal basis at the time of the adoption of the legal texts;
- agreed on the compromise texts as set out in documents 13898/13 and 13899/13, and agreed to come back to those texts as soon as necessary adjustments had been made;
- and authorised the Chair to inform the European Parliament accordingly.

59. Presentation of the agenda of the Council meeting (Foreign Affairs/Trade) on 18 October 2013

The Presidency informed the Committee about the provisional agenda of the Foreign Affairs Council (Trade) of 18 October 2013 (Legislative deliberations: Regulation on managing financial responsibility linked to investor-state dispute settlement; Non-legislative deliberations: Preparations for the Eastern Partnership Summit, Preparations for the IX World Trade Organization Ministerial Conference, EU-China and EU-ASEAN negotiations on investment; lunch item: EU-US TTIP negotiations).

The Presidency concluded that the Committee had endorsed the provisional agenda of the above-mentioned Council meeting and that the Committee would revert to the preparations for that meeting on 9 October 2013.

60. Draft Council Decision authorising the Commission to open negotiations on an agreement between the European Union and Iceland, Norway and Liechtenstein on the future financial contributions of the EEA EFTA states to economic and social cohesion in the European Economic Area

12238/2/13 REV 2 AELE 48 EEE 33 ISL 4 N 5 FL 9 RESTREINT UE

The Committee reached agreement on a Presidency compromise for a draft Council Decision authorising the opening of negotiations on the renewal of the EEA and Norwegian Financial Mechanisms, as set out in 12238/2/13 REV 2 RESTREINT UE.

61. EU-China Summit (Beijing, 21-22 November 2013 (tbc))

- Orientation debate

13789/13 COASI 134 ASIE 41 PESC 1109 CSDP/PSDC 601 RELEX 831
POLGEN 167 DEVGEN 237 CONOP 111 WTO 206 ECOFIN 801
ENER 421 COMPET 660 RECH 408 JAI 791 RESTREINT UE
+ ADD 3 RESTREINT UE

The Committee had a preliminary discussion in relation to the preparations and priorities for the next EU-China Summit on the basis of document 13789/13 + ADD3 RESTREINT UE.

The Committee welcomed the general theme of the Summit - 'Green Growth in a Safer World' - and outlined priorities in the area of trade and investment, global and international issues, human rights, urbanisation, environment, innovation and people-to-people dialogue.

The Committee decided to revert to the Summit's preparations at a later date following further preparations in the relevant preparatory bodies of the Council as regards the Summit agenda, the Joint Statement and the deliverables.

62. EU-Japan Summit (Tokyo, 19 November 2013)

- **Orientation debate**

13789/13 COASI 134 ASIE 41 PESC 1109 CSDP/PSDC 601 RELEX 831
POLGEN 167 DEVGEN 237 CONOP 111 WTO 206 ECOFIN 801
ENER 421 COMPET 660 RECH 408 JAI 791 RESTREINT UE
+ ADD 2 RESTREINT UE

The Committee had a preliminary discussion in relation to the preparations and priorities for the next EU-Japan Summit on the basis of document 13789/13 + ADD2 RESTREINT UE.

The Summit will provide a timely opportunity to strengthen cooperation on bilateral, global and international issues and to take stock of progress in twin negotiations for a Free Trade Agreement and a Framework Agreement, launched in March 2013.

The Committee decided to revert to the Summit's preparations at a later date following further discussions in the relevant preparatory bodies of the Council as regards the Summit agenda, the Joint Statement and the deliverables.

63. EU-Korea Summit (Brussels, 8 November 2013)

- **Orientation debate**

13789/13 COASI 134 ASIE 41 PESC 1109 CSDP/PSDC 601 RELEX 831
POLGEN 167 DEVGEN 237 CONOP 111 WTO 206 ECOFIN 801
ENER 421 COMPET 660 RECH 408 JAI 791 RESTREINT UE
+ ADD 1 RESTREINT UE

The Committee had a preliminary discussion in relation to the preparations and priorities for the next EU-Republic of Korea Summit on the basis of document 13789/13 + ADD1 RESTREINT UE.

The Summit should contribute to further developing ongoing political and sectoral cooperation, including by encouraging full implementation of the Free Trade Agreement as a means of promoting mutual economic prosperity.

The Committee decided to revert to the Summit's preparations at a later date following further discussions in the relevant preparatory bodies of the Council as regards the Summit agenda, the Joint Statement and the Joint Declaration on the occasion of the 50th anniversary of the establishment of diplomatic relations between the EU and the Republic of Korea.

64. Debriefing from the meeting of the ad hoc EU-US working group on data protection on 19-20 September 2013 (restricted session)

The Presidency debriefed the Member States on the most important elements of the meeting which took place on 19-20 September 2013 in Washington. The Commission concurred with the summary provided by the Presidency and added a few points on which additional clarification was being sought from the US in view of an upcoming meeting of the Ad hoc Group.

65. Preparation of the Council meeting (Justice and Home Affairs) on 7/8 October 2013

a) Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (First reading)

- The one-stop-shop mechanism

13643/13 DATAPROTECT 127 JAI 781 MI 767 DRS 169 DAPIX 109
FREMP 126 COMIX 502 CODEC 2025

Following a presentation by the Presidency of its discussion note, the Committee engaged in a lengthy discussions of the issues raised in the paper. The vast majority of delegations intervening indicated that the need of 'proximity' of the supervisory authority was crucial element to be taken into account. Whilst many could lend support to the philosophy underlying the so-called one-stop-shop mechanism, only few Member states could accept the full implications referred to in question 1 of the Presidency note. Delegations gave varying answers regarding the alternatives in question 2.

b) Other items in connection with the Council meeting

The Chair informed the Committee about the handling at the Council of the following issues:

- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (EPPO) (First reading)
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) (First reading)
- Provisional arrangements to host CEPOL

- Issues related to the free movement of persons
- = Interim report from the Commission

Lunch topics at the Council will be :

- for the Justice part: Debriefing concerning the ad hoc EU-US working group on data protection;
- for the Home Affairs part: Provisional arrangements to host CEPOL.

66. Presentation of the agenda of the Council meeting (Economic and Financial Affairs) on 15 October 2013

The Committee agreed the provisional agenda for this Council meeting.

67. Proposal for a Regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending directive 98/26/EC (First reading)

- **General approach**
- 13748/13 EF 173 ECOFIN 797 CODEC 2042
- 13749/13 EF 174 ECOFIN 798 CODEC 2043

Following a discussion, the Committee reached an agreement on the general approach as set out in document 13748/13 + COR 1 and mandated the Presidency to pursue negotiations with the European Parliament on the basis of that general approach.

Member States made the following declarations:

Declaration by Finland

"The openness and transparency of financial markets is a crucial objective for the rules of financial services. Finland considers it very important that the openness and transparency of the securities markets is maintained as high as possible and the current Finnish rules concerning the publicly available shareholder information can remain and authorities' access to relevant information is safeguarded.

The proposed CSDR Regulation compromise does not include rules that fully safeguard the publicly available shareholder information in accordance with the Finnish national requirements. Therefore, Finland cannot give support for the currently proposed compromise for the Regulation, and we stress the importance to strengthen these provisions during the negotiations with the European Parliament and before the adoption of the Regulation."

Declaration by Austria

"The Austrian constitutional law presently does not allow for administrative pecuniary sanctions in the amount provided for in Article 59 a para 4 lit. f and g CSDR. Therefore, we cannot currently commit to the implementation of this provision, as implementation would require an amendment to constitutional law. It is not predictable whether such an amendment to the Constitution will be adopted."

Declaration by Italy, the Netherlands, Portugal and Spain

"Central securities depositories (CSDs) are crucial players in the financial markets, performing services that allow, at a minimum, the registration, safekeeping, settlement and consequently the efficient processing of securities transactions.

In many ways, CSDs are a central point for the entire market. By virtue of their unique function, CSDs are systemically important post-trading infrastructures for the market they serve. Therefore, there is a strong need for an appropriate regulatory framework.

The EU legislation shall address the pan-European dimension of the CSDs' activities, taking into account their significant systemic importance and the critical services for the securities market they perform. In such a context, the viability of a CSD and the risks taken by it are not just a national matter. Moreover, the cross-border dimension of CSD activities is expected to grow even more after the adoption of the Regulation under discussion.

Therefore, to address the European scale of CSDs' business, Italy, Netherlands, Portugal and Spain have a strong preference for the binding mediation of ESMA to be kept under Article 53 in case of conflict among national competent authorities involved in the authorization of CSDs to provide ancillary banking services.

Bearing in mind the rationale behind the Presidency's compromise and the urgency to adopt this piece of legislation, mainly in view of the advent of TARGET2-Securities, the abovementioned Member States are able to support the mandate to negotiate on the basis of the proposed global package and expect these subjects will be revisited in the course of the inter-institutional trilogue.

Furthermore, Italy, Netherlands, Portugal and Spain are also concerned by the fact that, as the Presidency recently pointed out, the procedure for authorizing banking services will mainly affect operating CSDs and not affect future CSDs that would establish themselves in the EU after the adoption of the regulation. These Member States hope this aspect would be revisited by means of renewed authorization processes and/or another solution acceptable to all."

- **Any other business**

= **Arbitration with the Faroe Islands- Nomination of the Arbitrator**

The FR, ES, IT, IE, DE,NL, UK, MT, PT, SE delegations expressed serious concerns over the fact that, without any prior approval of the Council, the Commission had accepted the recourse to the arbitral proceedings, and had proceeded to the appointment of the arbitrator on behalf of the Union. The Commission's lack of respect for the Council's prerogatives and its lack of transparency in this matter of political importance were not compatible with the principle of loyal cooperation among the institutions.

The Commission, regretted the late information to the Council due to the time constraints and drew attention to the need to weigh the concern for transparency against the integrity of the proceedings. It took the view that according to Article 335 TEU, the Commission represents EU in judicial proceedings. It indicated that meanwhile all relevant documents had been transmitted to the Council and that it intended to continue keeping the Council fully informed. Three further arbitrators had to be agreed by 15 October 2013. The Commission suggested that Member States indicate the names of possible candidates.

The Council Legal Service confirmed the position which it already expressed at the Working Party on Internal and External Fisheries Policy on 19 September 2013. As regards the appointment of arbitrators, it has a direct impact on the substance of the dispute and has accordingly to be regarded as falling amongst policy choices to be made by the Council under Article 16 TEU. Consequently, the Commission should seek the approval of the Council before any appointment or any submission is made to the special arbitral tribunal. As regards the procedure for the dispute settlement, while it is correct that arbitration proceedings are the default procedure for dispute settlements under UNCLOS between the Faroe Islands and the Union, it was still open for the Union to seek an agreement with the Faroe Islands on a different procedure, in accordance with Article 287(5) UNCLOS.

It was concluded that the Committee strongly urged the Commission to take seriously into account the concerns expressed by delegations. The FR delegation indicated that it would reflect on either asking the Committee to revert to this issue under part II of its agenda or raising it at Council level.

= **European semester**

The Commission informed on the next round of the European Semester bilateral consultations between the Commission and the Member States.
