



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 April 2012

8539/12

CRS/CRP 13

SUMMARY RECORD

**Subject : 2403rd meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 3 and 4 April 2012**

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 - d) 3125th meeting of the Council of the European Union (General Affairs), held in Brussels on 15 November 2011
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1. Adoption of the provisional agenda and "I" items

doc. 8406/12 OJ/CRP1 13

8416/12 OJ/CRP2 13 COMIX 208

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

The following items are **withdrawn** :

(Coreper Part 1, under I)

17. Proposal for a Directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances (Seveso III) (First reading) (Legislative deliberation)

- **Approval of the final compromise text**

8402/12 ENV 259 IND 72 PROCIV 51 CODEC 888

(Coreper Part 2, under I)

37. Multiannual Financial Framework (2014-2020)

- **Schengen relatedness of some of the JHA financial instruments (First reading)**

7338/1/12 REV 1 JAI 145 JAIEX 11 CADREFIN 127 ENFOPOL 59 ASIM 25
PROCIV 31 CODEC 575

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

Coreper Part 1

II

2. **Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (First reading) (Legislative deliberation)**
 - **Preparation for the informal trilogue**
 - 7659/12 ENER 94 ENV 206 TRANS 81 ECOFIN 259 RECH 88 CODEC 662
 - + ADD 1
 - + ADD 2

Having first recalled his intention to proceed on the basis of a broad mandate with the shared understanding that what the European Council is calling for is an agreement with the European Parliament by the end of June the Chair outlined the key principles for this mandate and the main changes brought to the text (doc. 7659/12). The Commission agreed with the Presidency approach as well as with the key principles set out in 7659/12 while noting that the current text would close only 1/3 of the gap to the 20% target. Following the comprehensive exchange of views conducted then by the Committee the Chair concluded that delegations could give their broad support to a mandate allowing the Presidency to enter into discussions with the European Parliament, on the occasion of a first informal trilogue of an exploratory nature, on the basis of the 11 key principles set out on p. 3 of 7659/12 and on the preliminary position set out in 7659/12, while being aware of remaining difficulties here and there. It was also noted that a significant amount of technical work needs to be carried out, which will be done in parallel with discussions with the European Parliament.

While all comments and suggestions were duly recorded and overall consistency of dates and time periods has to be further checked, without prejudice to considering other changes the Presidency noted that changes could be reflected in the preliminary Council position in particular concerning Art. 3 (reference to primary and/or final energy consumption), Art. 4 (innovative financing, reference to "owned and occupied" buildings), Art. 6 (gradual phasing-in of the target, handling of ETS-covered activities, cut-off date for early actions, further work on additionality), Art. 10 (threshold for CHP) and Art. 19 (alignment of reporting dates).

- 3. Proposal for a Regulation of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (First reading) (Legislative deliberation)**
- **Preparation for the informal trilogue**
8262/12 COMPET 182 MI 212 CODEC 852

The Committee mandates the Presidency to enter into negotiations with representatives of the European Parliament and the European Commission on the basis of the text set out in the Annex to document 8262/12 and in a Presidency Working document.

- 4. Proposal for a Directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels (First reading) (Legislative deliberation)**
- **Preparation for the informal trilogue**
8110/12 ENV 236 MAR 28 MI 203 CODEC 794

The Committee agreed to a Presidency mandate with a view to a second informal trilogue to be held on 11 April 2012 in the framework of negotiations with the European Parliament to reach an agreement in first reading on the proposed Directive.

- 20. Setting of the provisional agenda for the Council meeting Agriculture and Fisheries on 26 and 27 April 2012 (For the items in the remit of the Permanent Representative Committee)**

The Committee agreed the provisional agenda for the forthcoming Council meeting (Agriculture and Fisheries) on 26 and 27 April 2012 as set out in 8891/12.

- 21. Proposal for a Regulation (EU) [.../....] of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (First reading) (Legislative deliberation)**
- **Preparation for the informal trilogue**
8152/12 MAR 30 CODEC 808

The Committee solved the outstanding issues and gave the Presidency a mandate to negotiate with the European Parliament at the informal trilogue on 12 April 2012.

- 22. Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Accounting Directive) (First reading) (Legislative deliberation)**
- **Guidance for future work**
8153/12 DRS 48 COMPET 176 ECOFIN 291 CODEC 809

The Committee discussed the main outstanding issues on the basis of the Presidency discussion paper set out in the Annex of document 8153/12, took note of delegations' preference for the second option as regards report on payments to governments presented in that discussion paper and decided to revert to the issue of harmonisation for small undertakings at a forthcoming meeting.

Coreper Part 2

II

38. Draft Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (First reading)

- **Preparation for the informal trilogue**
8218/1/12 REV 1 VISA 70 CODEC 832 COMIX 197

The Committee took note of the outcome of the discussions in the Mixed Committee (doc. 8813/12).

39. Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (First reading)

- **Preparation for the informal trilogue**
8232/12 ASILE 56 CODEC 839

The outcome of proceedings on this item is set out in 8550/12.

40. Presentation of the provisional agenda for the Council meeting (Justice and Home Affairs) on 26 and 27 April 2012

The Chair presented the agenda of the next JHA Council to be held on the 26 and 27 April 2012. The Commission requested a change in the order of the items on Friday 27th, HU asked for the introduction of an AOB item on the commemoration of victims of totalitarian regimes, and several other delegations (FI,HU,RO,BG,AT) made suggestions for items on the agenda. The Presidency considered that the multiannual framework of the Fundamental Rights Agency suggested by FI is not ready for discussion in April and that it will reflect on the inclusion of the Roma national strategy.

41. Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences (First reading)

- Preparation for the informal trilogue

8293/12 SPG 18 WTO 125 CODEC 862 OC 171

The Committee reached agreement and gave a negotiating mandate to the Presidency to enter into informal trilogue with the European Parliament on the basis of the positions set out in 8293/12. The Committee took note of the following declarations of Sweden and the Netherlands and the statement of the Commission :

"Declaration by Sweden regarding Article 9(1)(b) of the draft Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences

Sweden does not intend to object to the proposal by the Presidency, but would like the following declaration on its legal position taken to the record of the proceedings.

"Sweden declares that the position of Sweden to the proposed amendments to the Regulation of the European Parliament and of the Council applying a schema of generalised tariff preferences, and especially Article 9.1b thereof, shall be without prejudice to Sweden's legal position regarding reservations to treaties and the legal effect of invalid reservations. Sweden would like to underline that according to the Vienna Convention on the Law of Treaties (and confirmed by State practice) a reservation that is contrary to the object and purpose of the convention is to be considered null and void. As such the reservation is without legal effect. Sweden, and a growing number of states, have developed a practice of severing invalid reservations from the treaty relation between the States concerned. Instead of excluding bilateral treaty relations entirely when objecting to invalid reservations, the option of severability secures bilateral treaty relations and opens the possibility of dialogue within the treaty regime. In line with this a convention to may enter into force in its entirety without the reserving state benefitting from its reservation.

In addition, Sweden would like to underline that any state party to a convention has the right to evaluate reservations made."

"Declaration by the Netherlands related to article 9(1)(b) of the draft Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences"

The position of the Netherlands to the proposed amendments to the Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences, and especially Article 9.1b thereof, shall be without prejudice to the Netherlands' position regarding the law on reservations to treaties and the legal effect of invalid reservations."

"Statement by the Commission"

As per paragraph 4 of the Common Understanding, the Commission, when preparing and drawing up delegated acts, will ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council and carry out appropriate and transparent consultations well in advance, including at expert level."

42. Presentation of the provisional agenda for the Council meeting (Foreign Affairs) on 23 April 2012

The Committee received a presentation by ESG Pierre Vimont on the provisional agenda of the Foreign Affairs Council on 23 April 2012.

Main items: **Burma/Myanmar** (following by-elections on 1 April, Ministers will discuss a way forward, in particular as regards the review of restrictive measures, Council conclusions to be adopted); **BIH** (assessment of the implementation of the EU strategy towards BIH, discussion on a way forward in particular as regards the SAA, EU membership application and reinforced EU presence, no Council conclusions foreseen); **Afghanistan** (with a view to the NATO Chicago Summit discussion on Afghanistan beyond 2014, the HR will aim an coordinated EU approach); **Syria** (follow up of the Friends of the Syrian people meeting in Istanbul on 1 April, state of play of the implementation of the Anna Plan for ceasefire, humanitarian situation and the activities in the UN).

During lunch, Ministers will discuss the **Middle East** and the state of play of **nuclear negotiations with Iran**.

The FAC should start at 10 am, and should normally end with the lunch.

43. Follow-up to the EU-Republic of Korea Summit (Seoul, 28 March 2012)

The EEAS and the Commission debriefed the Committee on the results of the EU-RoK Summit held in Seoul on 28 March 2012.

The Summit concentrated on the following issues: bilateral relations, global economy and Democratic People's Republic of Korea. It was a short, good and consensual meeting that re-affirmed the new Strategic Partnership with Korea and acknowledged the political cooperation in existing and new areas, including on human rights, international development, anti-piracy. Both sides agreed to further strengthen cooperation in trade, climate change, education, science and technology.

44. Proposals for external financing instruments under Heading 4 (2014-2020)

- State of play of work undertaken in the Friends of the Presidency Group (Heading 4) in the first trimester of 2012

8337/12 CADREFIN 169 DEVGEN 76 ACP 43 RELEX 294 COASI 41 ASIE 27
COMEM 120 COLAT 11 COEST 112 COWEB 47 ELARG 30 CODEC 877
PE 135 ATO 44

On the basis of the Presidency note contained in document 8337/12 the Chair brought to the attention of the Committee what is happening in the area of external financing instruments. He confirmed that the Danish Presidency intends to reach partial general approaches on all proposals for financing instruments under Heading 4. The Committee would come back to this issue in late May, with a view to an A item at the June General Affairs Council. The Chair highlighted the methodology and the Presidency approach set out in the Note to the Committee and stressed the coordinating role of the Friends of the Presidency group. The Commission representative expressed full support for the Presidency approach, with a view to the timely adoption of the instruments. The Commission underlined the importance of flexibility. No delegations took the floor.

45. Presentation of the provisional agenda for the Council meeting (General Affairs) on 24 April 2012

Le Comité a pris note de la liste des points susceptibles de figurer à l'ordre du jour provisoire de la session du Conseil susvisée.

46. Presentation of the provisional agenda for the extraordinary Council meeting (Economic and Financial Affairs) on 2 May 2012

The Committee agreed the provisional agenda for this Council meeting.

47. Multiannual Financial Framework (2014-2020)

- **Section of the Negotiating Box relating to Heading 1 (cohesion and CEF)**
8285/12 CADREFIN 168 POLGEN 56

The Committee had an exchange of views on the sections of the Negotiating Box relating to Heading 1 (cohesion and CEF).

48. Cohesion Policy legislative package (First reading)

- **Elements of a partial general approach**
8207/12 FSTR 26 FC 17 REGIO 39 SOC 240 AGRISTR 40 PECHE 103
CADREFIN 165 CODEC 831
+ ADD 1 to 6

The Committee examined the elements of a partial general approach of the Cohesion Policy legislative package as outlined in ADD 1 to 6 to document 8207/12. The Committee invited the Working Party on Structural Measures to re-examine the outstanding issues.

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