



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 May 2012

9651/12

CRS/CRP 17

SUMMARY RECORD

**Subject : 2407th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 8, 10 and 14 May 2012**

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

doc. 9592/12 OJ/CRP1 17 + ADD 1

9606/1/12 REV 1 OJ/CRP2 17 + CM 2950/1/12 REV 1

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

The following items are **added** :

(Coreper Part 2, under I)

52. Relations with Ukraine

- **Establishment of the position of the European Union for the fifteenth meeting of the EU-Ukraine Cooperation Council (Brussels, 15 May 2012)**
9744/12 PESC 574 NIS 40 COEST 146

53. Report prepared for the Second Convention on Nuclear Safety (CNS)

- **Extraordinary Meeting - Vienna, 27-31 August 2012**
9802/12 ATO 74
+ ADD 1

(Coreper Part 1, under II)

54. Proposal for a Decision of the European Parliament and of the Council setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy (First reading) (Legislative deliberation)

- **Presidency debriefing on the outcome of the trilogue**

55. 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)

- **Presidency debriefing on the outcome of the trilogue**

**56. Green Climate Fund Board nominations
(This item will be dealt with in restricted session)**

- **Adoption of Council conclusions**
9668/12 ENV 339 ONU 55 DEVGEN 128 ECOFIN 390 ENER 156 FORETS 34
MAR 57 AVIATION 82

The following items are **withdrawn** :

(Coreper Part 2, under I)

46. Draft Council Decision on the launch of automated data exchange with regard to DNA data in Estonia

9131/12 JAI 283 DAPIX 61 CRIMORG 48 ENFOPOL 116 ENFOCUSTOM 37

9135/12 JAI 284 DAPIX 62 CRIMORG 49 ENFOPOL 117 ENFOCUSTOM 38

8202/12 JAI 200 DAPIX 39 CRIMORG 34 ENFOPOL 83 ENFOCUSTOM 28

(Coreper Part 2, under II)

49. Preparation of the Council meeting (Foreign Affairs/Development) on 14 May 2012

h) (poss.) Bosnia Herzegovina

i) (poss.) Pakistan

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

10. Setting of the provisional agenda for the Council meeting "Competitiveness" (Internal market, Industry, Research and Space) on 30 and 31 May 2012

The Committee set the provisional agenda for the meeting of the Competitiveness Council on 30 and 31 May 2012.

11. 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**
9442/12 ENV 322 MAR 52 MI 282 CODEC 1154

The Committee agreed to a Presidency mandate with a view to the third and last informal trilogue to be held on 15 May 2012 in the framework of negotiations with the European Parliament to reach an agreement in first reading on the proposed Directive.

12. Proposal for a Directive of the European Parliament and of the Council establishing a single European railway area (Recast) (Second reading) (Legislative deliberation)

- **Preparation for the informal trilogue**
9063/12 TRANS 125 CODEC 1057

The Committee discussed the compromise package proposed by the Presidency, as in document 9063/12, with a view to preparing the second informal trilogue on 14 May 2012.

13. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (First reading) (Legislative deliberation)

- **Guidance for future work**
9449/12 SOC 327 SAN 94 CODEC 1158

The Presidency concluded that there was insufficient support for starting informal exploratory talks with the European Parliament based on the elements set out in 9449/12.

- 14. Proposal for a Regulation of the European Parliament and of the Council on food intended for infants and young children and on food for special medical purposes (First reading) (Legislative deliberation)**
- **Preparation for the informal trilogue**
9578/12 DENLEG 42 AGRI 283 SAN 99 CODEC 1197

The Committee completed the partial mandate agreed on 17 April 2012 by reaching agreement, by qualified majority, on the missing Articles 8, 11, 13, 17 as well as on recitals 5a and 21 and Articles 9, 10(2) and 12. DE was opposed to the new Articles.

- 54. Proposal for a Decision of the European Parliament and of the Council setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the trilogue**

The Chairman briefed the Committee on the 3rd trilogue which took place on 9 May 2012. He expressed his disappointment at the way the European Parliament side operated at this trilogue which was supposed to be the last one while the EP was not able to agree to the Council offer, which the Commission could accept, and called for an additional trilogue. At the trilogue the Chairman made it clear that should the EP not be in a position to accept the Council text there might be no majority in Council for the Council to conclude its first reading. In the end the EP asked for a two-week reflection period in order to consider its final position.

The Committee could agree to the text as set out in 9653/12 and to its sending to the European Parliament.

- 55. 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)**
- **Presidency debriefing on the outcome of the trilogue**

The Chairman briefed the Committee on the 3rd trilogue which took place on 8 May 2012 and noted the generally constructive atmosphere in which it took place as reflected in the solid progress made on Art. 12 to 15 while on Art. 7, 8 and 8a additional technical work is needed.

He also noted the Commission's valuable contribution to this progress. The trilogue was also the occasion of a more "political" exchange of views on Art. 3, where the well-known diverging positions of the European Parliament and Council on binding targets were reiterated; 6, where the Chairman outlined a possible approach to flexibility; 10, where discussion on the decision-rule for investment took place and 19 in relation with the ETS (set-aside) issue, where the Council side reiterated its objection to amending the ETS.

The Chair stressed the amount of work still required to complete the negotiations in time as well as the need for a higher level of ambition.

The next trilogue will take place on 29 May 2012 and be prepared on 23 May 2012.

**56. Green Climate Fund Board nominations
(This item will be dealt with in restricted session)**

- Adoption of Council conclusions

9668/12 ENV 339 ONU 55 DEVGEN 128 ECOFIN 390 ENER 156 FORETS 34
MAR 57 AVIATION 82

The Committee received an update from the Commission on its talks with the Russian Federation and the US on the outstanding issue of EU representation on the Green Climate Fund Board. There was not yet a breakthrough but the Commission expressed the hope that the issue could be resolved since no matters of principle had been raised in those bilateral contacts.

The Committee reached agreement on the text of Council conclusions nominating an EU representative from the Commission to sit on the Board of the Green Climate Fund. These conclusions would be submitted to the Council (Ecofin) on 15 May 2012 with a view to their adoption as an A-point.

The Presidency emphasised that in the subsequent submission of developed countries to the UNFCCC Secretariat / interim secretariat of the Green Climate Fund, it would need to be made clear that the submission was being made without prejudice to the resolution of the outstanding issue of EU representation on the Board. It added that this submission would need to be made as soon as possible in order to avoid the risk of a new postponement of the first meeting of the Board on 31 May - 2 June 2012.

Coreper Part 2

II

15. Preparation of the Council meeting (Economic and Financial Affairs) on 15 May 2012

- a) **Draft general budget for 2013**
 - **Presentation by the Commission**

The Committee took note of the presentation of the Commission of its draft budget for 2013.

- b) **Credit Rating Agencies (CRA III)**
 - i) **Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/65/EC and Directive 2011/61/EU in respect of the excessive reliance on credit ratings (First reading)**
 - ii) **Proposal for a Regulation of the European Parliament and of the Council on amending Regulation (EC) No 1060/2009 on credit rating agencies (First reading)**
 - **General approach**
9574/12 EF 109 ECOFIN 386 CODEC 1194
8158/12 EF 75 ECOFIN 293 CODEC 812
+ COR 1
9573/12 EF 108 ECOFIN 385 CODEC 1192

The Committee discussed the Presidency compromise text set out in the above-mentioned documents and decided to return to this item in the next meeting.

- c) **Negotiating mandate for Savings Taxation Agreements with third countries**
 - **Adoption**
6271/12 FISC 20 CH 4 FL 4 MC 2 AND 2 SM 2
6273/12 FISC 21 CH 5 FL 5 MC 3 AND 3 SM 3 RESTREINT UE

The Committee prepared the discussions for ECOFIN Council meeting on 15 May 2012 on the basis of the Presidency notes (doc. 6271/12 and 6273/12). Italy suggested entering a statement in the Council minutes at the moment of adoption of the mandate (as reflected in 9842/12).

d) 2012 Ageing Report

- Council conclusions

9491/12 ECOFIN 382 SOC 328 BUDGET 9 STATIS 37

9492/12 ECOFIN 383 SOC 329 BUDGET 10 STATIS 38

The Committee agreed to changes to the conclusions as set out in 9492/2/12 REV 2 and to forward the conclusions to ECOFIN Council meeting of 15 May 2012.

e) Fast start climate finance

- Council conclusions

9017/1/12 REV 1 ECOFIN 343 ENV 299

9115/1/12 REV 1 ECOFIN 352 ENV 304

The Committee agreed to changes to the conclusions as set out in 9017/2/12 REV 2 and to forward the conclusions to the ECOFIN Council meeting of 15 May 2012.

f) Other items in connection with the Council meeting

The Committee finalised the provisional agenda for this Council meeting and reviewed the state of readiness of the agenda items listed.

16. Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest (First reading)

- Selected outstanding issues

9270/12 DROIPEN 49 COPEN 100 CODEC 1110

Following a discussion on three selected outstanding issues, the Committee invited the JHA Counsellors to refine the text of the draft Directive with a view to presenting a 'compromise package' at a next session of the Committee, so as to allow the Council (JHA) to reach a general approach on the text at its meeting on 8 June 2012.

47. Court of Justice

- a) **Draft Regulation of the European Parliament and of the Council amending the Statute of the Court of Justice of the European Union and to Annex I thereto**
Draft Regulation of the European Parliament and of the Council relating to temporary Judges of the European Union Civil Service Tribunal (First reading)
 - **Preparation for an informal trilogue**
9571/12 CODEC 1191 COUR 20 INST 319 JUR 258
- b) **Draft Rules of Procedure of the Court of Justice**
9572/12 COUR 21 INST 320 JUR 259

The Committee approved the Presidency approach on the reform of the Statute of the Court of Justice, including splitting of the Court's requests, on the basis of a Presidency note set out in 9571/12. It approved, as a first step, a mandate for negotiations with the European Parliament with a view to a first reading agreement on those parts of the Court's requests not linked to increasing of the number of Judges of the General Court, while the Council would remain to be seized of the other parts of the Court's request.

On the basis of a draft mandate to be presented at a later stage, the Committee would examine the possibility of taking forward reflections in the framework of the Friends of the Presidency Group, with a view to identifying solutions to address the General Court's backlog in time for the partial renewal of that Court in September 2013.

The Committee discussed the final draft Rules of Procedure of the Court of Justice (recast), as set out in 9572/12. Following an exchange of views with the representative of the Court of Justice, the Presidency invited the Court of Justice to continue reflections on Article 100(1) of the draft Rules of Procedure on the circumstances in which the Court remains seized of a reference for preliminary ruling.

- #### 48. Recast of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (First reading)
- **Preparation of informal trilogues**
9441/12 INF 75 API 56 JUR 253 CODEC 1153

The Committee agreed to mandate the Presidency to initiate informal trilogues with the European Parliament and the Commission with a view to achieving a political agreement on a pre-negotiated Council position at first reading.

The Committee agreed by qualified majority the draft mandate set out in the fourth column of document 9441/12 with the following modifications:

- Article 4a, paragraph 1: "Access to legal advice relating to issues which are the subject of a decision-making process until the relevant act becomes definitive or regarding a question of law which has not been decided, in last instance, by the Court of Justice, shall be presumed to undermine the protection of legal advice. The applicant may demonstrate that there is an overriding public interest justifying the disclosure of the documents.";
- Article 4a, paragraph 3: "For the purpose of this article, the principles underlying this regulation do not in themselves constitute such an overriding public interest."

SE delegation did not agree with the contents of the mandate, as set out in 9441/12, and made the following statement :

"The compromise text would lead to less transparency in the EU. Hence, Sweden cannot endorse the text."

EE, FI and NL delegations aligned themselves to this statement.

49. Preparation of the Council meeting (Foreign Affairs/Development) on 14 May 2012

EEAS ESG Vimont briefed on the agenda of the FAC of 14 May 2012. Ministers will discuss Afghanistan, Middle East Peace Process (MEPP), Southern Neighbourhood with particular focus on Syria, Libya and elections in Algeria, and EU relations with Mexico. Pakistan, BIH and Iran items have been withdrawn from the agenda. It has also been decided that external aspects of the EU energy policy will be discussed at the June FAC. FAC will aim to adopt conclusions on Somalia, Yemen, MEPP, Afghanistan and Syria.

a) Afghanistan

- **Draft Council conclusions**
= **State of play**
9827/12 PESC 586 COASI 74 ASIE 44 COPS 159 CIVCOM 175

The Committee on 10 May 2012 reached agreement in principle (pending reserves from two delegations) on the following package: paras 1 to 11 as contained in 8727/12, paras 12 and 13 as contained in the PSC Chair compromise proposal tabled on 8 May 2012, and a draft Council Declaration for the Council minutes that will not be made public. The Committee confirmed the agreement at its meeting on 14 May 2012.

b) MEPP

- **Draft Council conclusions**
9876/12 COMEP 14 PESC 596

The Committee confirmed the agreement on draft Council conclusions on the Middle East Peace Process (MEPP) as set out in 9576/12, with the exception of paragraph 3, and agreed that the Committee will revert to text after the Political and Security Committee has finalised paragraph 3 and made possible other amendments in light of the developments on the ground. IT had a general reserve.

The Committee at its meeting on 14 May 2012, agreed the draft Council conclusions on the Middle East Peace Process (MEPP) and submitted them to the Council for adoption as set out in 9876/12.

c) Southern Neighbourhood

- **Syria**
= **Draft Council conclusions**
9601/12 COMAG 38 PESC 560 COHAFA 61 SY 14

The Committee agreed the draft Council conclusions on Syria and submitted them to the Council for adoption as set out in 9601/12.

d) Mexico

No interventions were made under this point.

e) Russia

The Committee took note of information provided by the Secretary General of the EEAS, Mr Vimont, on the expected handling of this item in the Foreign Affairs Council (over lunch).

f) Ukraine

The Committee took note of information provided by the Secretary General of the EEAS, Mr Vimont, on the expected handling of this item in the Foreign Affairs Council (over lunch).

j) Iran

The Committee took note of the information provided by EL regarding the EU embargo on the Iranian crude oil.

Following the information by the Chair of the Committee and the Secretary General of the EEAS, Mr Vimont, the Committee agreed that Iran will be removed from the agenda of the Council of 14 May 2012 and that the item will be included in the agenda of the Council of 25 June 2012.

k) An Agenda for Change and EU Approach to Budget Support to Third Countries

- **Draft Council conclusions Agenda for Change**
9316/12 DEVGEN 106 ACP 62 FIN 302 RELEX 381
- **Draft Council conclusions Budget Support**
9323/12 DEVGEN 109 ACP 65 FIN 303 RELEX 384

The Committee took note of the agreement reached at Working Party level on the two draft Council conclusions which appear in documents 9316/12 and 9323/12 + COR1 (fr) respectively and decided to forward them to the Council (Foreign Affairs/Development) for adoption on 14 May 2012.

l) Annual Report 2012 to the European Council on EU Development Aid Targets

- **Draft Council conclusions**
9318/12 DEVGEN 108 RELEX 383 ACP 64 WTO 157 ONU 48 OCDE 2

The Committee took note of the agreement reached at Working Party level on the draft Council conclusions which appear in document 9318/12 and decided to forward them to the Council (Foreign Affairs/Development) for adoption on 14 May 2012. These Council conclusions contain the second annual report to the European Council on EU development aid targets.

The Greek delegation indicated that they would enter a statement to the minutes of the Council upon adoption.

m) Burma/Myanmar

EEAS informed delegations that Development Ministers would have a discussion on Burma/Myanmar on the basis of an issues paper (doc. 9756/12). No conclusions would be adopted by the Council on 14 May 2012.

n) Rio + 20

The Committee confirmed that Ministers would be given an opportunity to discuss development aspects of preparations of the Rio+20 Conference in June 2012.

o) Other items in connection with the Council meeting

Under AOB, two Ministers will debrief on their visits to BIH. Over lunch, Ministers will have a debate on Ukraine, including on the signature of the Association Agreement and Euro 2012, and on EU relations with Russia on the basis of a non-paper.

One delegation regretted that no agreement on further restrictive measures against Syria were possible and that further work needed to be undertaken in this respect.

One delegation underlined the need for a follow up to Joint Programming with Burma/Myanmar.

50. Presentation of the agenda for the Council meeting (General Affairs) on 29 May 2012

The Committee agreed the provisional agenda for the forthcoming Council meeting (General Affairs) on 29 May 2012, which will focus on the MFF (on the entire Negotiating box) and on the draft annotated agenda for the June European Council.

51. Presentation of the agenda for the Council meeting (Foreign Affairs/Trade) on 31 May 2012

The Committee took note of the provisional agenda of the above-mentioned Council, which should include the following items:

- Legislative deliberations:
 - AOB - Information from the Presidency on current legislative proposals
- Non-legislative deliberations:
 - Green Growth - orientation debate
 - EU-Japan - orientation debate
 - EU-US High Level Working Group for Growth and Jobs - state of play
 - EU-Canada CETA - policy debate/certain issues
 - The Contribution of Trade to the Growth Agenda - orientation debate

It was also indicated that, at their working lunch, Ministers should address the state of play in the EU-India FTA negotiations and EU-China trade relations. The Spanish delegation requested a AOB point on Argentina's restrictive trade and investment measures.

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