



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 29 January 2014
(OR. en)**

**17517/13
ADD 1**

**PV CONS 61
TRANS 660
TELECOM 342
ENER 572**

DRAFT MINUTES

Subject: **3278th** meeting of the Council of the European Union
(**TRANSPORT, TELECOMMUNICATIONS AND ENERGY**) held in
Brussels on 5 December 2013

PUBLIC DELIBERATION ITEMS¹

Page

LEGISLATIVE DELIBERATIONS

"A" ITEMS (doc. 17013/13)

1. Regulation of the European Parliament and of the Council establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC [First reading] (LA+S)..... 5
2. 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] (LA+S) 6
3. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, to the decommitment rules for certain Member States, and to the rules on payments of the final balance [First reading] (LA) 7
4. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards the financial allocation for certain Member States from the European Social Fund [First reading] (LA)..... 7
5. Directive of the European Parliament and of the Council amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain Directives (Solvency I) [First reading] (LA) 8
6. Decision of the European Parliament and of the Council on providing macro-financial assistance to the Hashemite Kingdom of Jordan [First reading] (LA) 8
7. 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 No 624/2007/EC [First reading] (LA+S)..... 8
8. Regulation of the European Parliament and of the Council on a European Union Programme for Employment and Social Innovation ("EaSI") and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion [First reading] (LA) 9

¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

9.	Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC [First reading] (LA)	10
10.	Regulation of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 [First reading] (LA + S).....	10
11.	Regulation of the European Parliament and of the Council establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC [First reading] (LA + S).....	11
12.	Regulation of the European Parliament and of the Council amending certain legislative acts in the field of agricultural and fishery statistics [First reading] (LA + S).....	12
13.	Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 [First reading] (LA + S)	13
14.	Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council [First reading] (LA + S)	16
15.	Regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network and repealing Decision No 661/2010/EU [First reading] (LA + S)	18

"B" ITEMS (doc. 17011/13)

TELECOMMUNICATIONS

4.	Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union [First reading]	20
5.	Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks [First reading] ..	20
6.	Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 [First reading]	20

TRANSPORT

7. 4th Railway Package - Proposal for a Regulation of the EP and the Council on the European Union Agency for railways and repealing Regulation (EC) n°881/2004 [First reading] 20
8. Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure (Clean power) [First reading]..... 21
9. 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]..... 22

11. Any other business 22
 - (a) 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]
 - (b) Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market [First reading]
 - (e) The impact of State aid rules on large-scale infrastructure projects in Europe
 - (g) Blue Belt

*

* *

LEGISLATIVE DELIBERATIONS

(public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Regulation of the European Parliament and of the Council establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC

[First reading] (LA + S)

PE-CONS 33/13 FISC 111 CODEC 1236

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 114 and 197 of the TFEU).

Statement by the Member States

"Considering the importance of full participation of all participating countries in joint actions and in order to fully attain the objectives of the programme, Member States declare their willingness, when taking positions in the committee, within the meaning of Regulation (EU) No 182/2011, to seek continuation of the current practise of financing grants at 100 % of the eligible costs where the latter are travel and accommodation costs, costs linked to organisation of events and daily allowances."

Statement by Greece and Cyprus

"Greece and Cyprus stress their commitment to the objectives of the Fiscalis programme. In this context, Greece and Cyprus reiterate their concerns that the possible co-financing of grants by national budgets may exclude Member States under budgetary constraints from participation in the programme's eligible actions."

Statement by the Commission

"Regarding the budgetary ceiling of 5 % for administrative expenditure introduced in the FISCALIS programme, the Commission considers that it is not in line with the horizontal approach aiming at simplifying and streamlining the basic acts of sectoral MFF programmes. The Commission notes, however, that this budgetary ceiling of 5 % is applied already in the framework of the current FISCALIS Programme (art 14 §2), that it therefore corresponds to a specificity of this programme and cannot be seen as a precedent for other MFF programmes."

Statement by Spain, France, Luxembourg and Italy

"Concerning the proposal for a Regulation establishing the Fiscalis 2020 programme, Spain, France, Luxembourg and Italy noted the formal opt-in notification communicated by the United Kingdom in accordance, in its opinion, with Article 3 paragraph 1 of Protocol 21 to the Lisbon Treaty. It is clear from the recent case-law of the Court of Justice that Protocol 21 is not applicable if the act does not have a legal basis falling under Title V of Part Three of the TFEU (see Judgment of 22 October 2013, in case C-137/12, paragraphs 73 to 75). Spain, France, Luxembourg and Italy therefore consider that the United Kingdom's notification is unfounded and consequently does not bind them. They also take this position for any other measure not falling under Part Three, Title V, of the Treaty on the Functioning of the European Union, but for which the United Kingdom notifies an opt-in or considers to be in an opt-out position."

2. 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] (LA + S)

PE-CONS 65/13 VISA 152 COMIX 446 CODEC 1709

+ REV 1 (cs)

+ REV 2 (lv)

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the German delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Irish and the United Kingdom delegations did not participate in the vote (Legal basis: Article 77(2)(a) of the TFEU).

Statement by the Commission

"The Commission welcomes the adoption by the European Parliament and the Council of its proposal amending Regulation n° 539/2001 aiming at enhancing the credibility of the common visa policy and ensuring more solidarity amongst Member States. However, the Commission regrets that the powers conferred on the Commission with regard to the revised reciprocity mechanism are, in the opinion of the Commission, not in compliance with Articles 290 and 291 of the TFEU. The Commission therefore reserves the right to make use of the remedies available under the Treaty with a view to having this point clarified by the Court of Justice."

Statement by Belgium, Germany, Estonia, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland and Sweden
regarding paragraphs 1 and 2 of Article 1

"The amendment of Regulation 539/2001 especially concerning the reciprocity mechanism (Article 1(1)) and also the suspension clause (Article 1(2)) could have far reaching implications for the external relations of the Union and its Member States.

We therefore underline that according to the relevant provisions, the relevant Union institutions are obliged, prior to any proposal or decision, to extensively scrutinise and take into account potential adverse political consequences that might arise from such proposals or decisions for the external relations, both of the Union and its Member States. This applies in particular to external relations with strategic partners. In our view, the Council should ensure that, for its part, these obligations are carried out in full."

- 3. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, to the decommitment rules for certain Member States, and to the rules on payments of the final balance [First reading] (LA)**
PE-CONS 101/13 FSTR 130 FC 75 REGIO 229 SOC 848 CADREFIN 263
FIN 668 CODEC 2323

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Hungarian delegation voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 177 of the TFEU).

- 4. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards the financial allocation for certain Member States from the European Social Fund [First reading] (LA)**
PE-CONS 102/13 FSTR 131 REGIO 230 SOC 849 CADREFIN 264
CODEC 2324

The Council approved the European Parliament's position at first reading and adopted the proposed act, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 177 of the TFEU).

5. Directive of the European Parliament and of the Council amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain Directives (Solvency I) [First Reading] (LA)

PE-CONS 98/13 EF 190 ECOFIN 871 SURE 16 CODEC 2233

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 53(1) and 62 of the TFEU).

6. Decision of the European Parliament and of the Council on providing macro-financial assistance to the Hashemite Kingdom of Jordan [First Reading] (LA)

PE-CONS 109/13 ECOFIN 933 RELEX 957 MED 36 CODEC 2380

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 212 of the TFEU).

7. 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 No 624/2007/EC [First reading] (LA + S)

PE-CONS 72/13 UD 197 AELE 50 CODEC 1823

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 33 of the TFEU).

Statement by the Council

"Effective, efficient, modern and harmonised approaches to customs controls at the external border of the EU are essential:

- to protect the financial interests of the Union and its Member States;
- to fight against illegal trade while allowing facilitations for legitimate business activity;
- to ensure the safety and security of the Union and its inhabitants, and the protection of the environment;
- to protect intellectual property rights, and
- to secure compliance with the common commercial policy.

In order to exercise such controls, it is crucial for customs to have access to the appropriate tools, such as detection equipment and technology. The need for these tools is exemplified, amongst others, in the 2011 Europol's Organized Crime Threat Assessment Report, which states that the economic impact of cigarette smuggling represents a loss to budgets of the Member States and of the Union estimated at around 10 billion Euros per year.

At present, the several instruments of the Multiannual Financial Framework (MFF) available to co-fund the acquisition of such tools are not exploited to the fullest extent. To achieve efficient allocation of funding resources, the Council invites the Commission to present a report, No later than mid-2018, on the provision of the necessary financial resources to purchase appropriate tools for customs controls in the area referred to in Art. 3(a) of the TFEU, including the possibility of allocating these resources through a single fund."

Statement by the Council and the Commission

"This Regulation cannot be interpreted as including or conferring any powers or obligations which fall under Title V of Part III of the Treaty on the Functioning of the European Union."

Statement by the Netherlands and Denmark on Article 14

"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 and Denmark 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 and Denmark 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."

8. Regulation of the European Parliament and of the Council on a European Union Programme for Employment and Social Innovation ("EaSI") and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion [First reading] (LA)

PE-CONS 80/13 SOC 642 ECOFIN 752 COMPET 613 CADREFIN 212
CODEC 1915

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 46(d), 149, 153(2)(a) and the third paragraph of Article 175 of the TFEU).

9. **Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC [First reading] (LA)**
PE-CONS 58/13 COMPET 533 IND 198 MI 592 CODEC 1635
+ REV 1 (pt)

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 173 and 195 of the TFEU).

10. **Regulation of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 [First reading] (LA + S)**
PE-CONS 70/13 ENV 742 ENER 372 CADREFIN 200 CODEC 1814

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192 of the TFEU).

Commission statements

Maximum amount that a single IP may receive

"The Commission attaches high importance to ensuring a proportionate distribution of funds among integrated projects in order to fund as many integrated projects as possible and guarantee a balanced distribution of integrated projects among all Member States. In this context, the Commission will propose when discussing the draft work programme with the members of the LIFE committee the maximum amount that a single integrated project may receive. This proposal will be submitted as part of the methodology for project selection to be adopted as part of the multiannual work programme."

Status of funding Biodiversity in OCTs

"The Commission attaches high importance to the protection of environment and biodiversity in Overseas Countries and Territories, as is illustrated by the Overseas Association Decision proposal which includes these sectors in the areas of cooperation between the European Union and OCTs and outlines the different actions which could be eligible for funding by the European Union in this regard.

The BEST preparatory action has been a successful initiative that has been embraced by OCTs and has delivered tangible results for biodiversity and ecosystem services. As BEST is drawing to a close, the Commission is favourably considering following up on it under one of the new instruments, namely Global Public Goods and Challenges programme under the Development Cooperation Instrument.

This specific possibility for funding biodiversity in OCTs will be complemented by the opportunities offered under Article 6 of the LIFE programme for the period 2014-2020."

11. Regulation of the European Parliament and of the Council establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC [First reading] (LA + S)

PE-CONS 77/13 AUDIO 88 CULT 91 CADREFIN 204 RELEX 709
CODEC 1837

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Austrian delegation voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 166(4), 167(5) and 173(3) of the TFEU).

Commission statement
on logos

"The Commission has a single visual identity which essentially consists of the European flag. This policy allows for an easy identification of Commission activities by the European citizens across Europe, while the existence of various logos blurs this visibility. The Commission therefore regrets that, in the Creative Europe programme, the co-legislators have imposed on the Commission the use of logos for both sub-programmes. The Commission considers that this outcome is an isolated case and will not constitute a precedent for other programmes."

Commission statement
on committee procedures

"The Commission is of the view that the adoption of non-binding guidelines by the Commission should not be subject to comitology since the Commission has its own autonomous right under the Treaty to do so. Thus the Commission considers that the provision in Article 17(3) for guidelines to be adopted by advisory procedure cannot affect this right."

Commission statement
on budget

"The Commission regrets that, in the Creative Europe programme, the co-legislators have imposed on the Commission a breakdown of the budget of the programme without flexibility margins. The Commission stresses that a rigid allocation of the budget, especially for programmes with a limited financial envelope, does not correspond to the principles of sound financial management and optimisation of the allocation of resources over a programming period of seven years. In order to respond to the operational needs during the implementation of the programme a certain margin of flexibility is necessary where unforeseen changes in the social and economic environment occur. For these reasons the Commission considers that this outcome is an isolated case and will not constitute a precedent for other programmes."

Statement by Austria

"In Article 167 of the Treaty on the Functioning of the European Union, the EU undertakes to improve the knowledge and dissemination of culture and history in Europe, to conserve cultural heritage and to support non-commercial cultural exchange and artistic creation, including in the audiovisual sector. The EU is also committed to the protection and promotion of the diversity of cultural expressions, and acceded to the relevant UNESCO Convention in 2006.

Boosting non-commercial cultural creation is a matter of particular importance to Austria. Unlike the European Culture Programme (2007 to 2013), the Culture Sub-Programme under the EU's new Creative Europe Programme (2014 to 2020) allows commercial cultural creation to be financed from EU funds. Austria is not in favour of this new approach in the Culture Sub-Programme, since the not-for-profit cultural and creative sector does not obey the same rules as the for-profit sector, and each should therefore be targeted by separate supportive measures to produce the most effective leverage and incentives.

There is a danger that extending funding opportunities to for-profit cultural activities would weaken the not-for-profit cultural sector in Europe. Austria is therefore unable to accept the relevant provisions of Article 13 of the Regulation."

Statement by the Federal Republic of Germany

"In principle, Germany supports Creative Europe as a European programme to foster culture and the media. However, we would have serious misgivings about agreeing to the text as it currently stands.

Our concerns relate to substantive aspects and issues linked to competence for cultural policy, which Article 167(5) TFEU identifies as one of the legal bases of the programme: in Germany's view, only cultural, not-for-profit projects ought to be entitled to support under the Culture Sub-Programme. Germany rejects the delegated legislative powers provided for in Articles 20 and 21 and the legal instrument chosen - a regulation - on the grounds of the subsidiarity principle and the prohibition of harmonisation in the area of culture. Specific qualitative evaluation criteria ought to be identified and established by the European legislator (i.e. the European Parliament and the Council) rather than by the Commission through delegated law-making."

12. Regulation of the European Parliament and of the Council amending certain legislative acts in the field of agricultural and fishery statistics [First reading] (LA + S)

PE-CONS 86/13 STATIS 83 AGRI 546 CODEC 1967

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Austrian and the German delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 338(1) of the TFEU).

Commission statement

"The Commission recognises the effort for a more differentiated approach, but, taking note of the "No opinion" clause in the case of Directive 96/16/EC on statistical surveys of milk and milk products, recalls that the recourse to Article 5(4) of Regulation (EU) No 182/2011 (OJ L 55, 28.2.2011, p. 13), subparagraph 2, point b) must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when No opinion is delivered. Given that it is an exception, it cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner, and thus must be justified in a recital."

13. Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 [First reading] (LA + S)

PE-CONS 76/13 TRANS 419 FIN 480 CADREFIN 203 POLGEN 149
REGIO 167 ENER 377 TELECOM 215 COMPET 597 MI 682
ECO 149 CODEC 1834

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 172 of the TFEU).

Statements by the Commission

1. "The Commission recalls that the decision to present projects for funding under the CEF is a prerogative of Member States. This prerogative is not affected in any way by the indicative percentages for specific transport objectives listed in Part IV of the Annex."
2. "The Commission strongly regrets the inclusion of article 18 introducing the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 for the granting of Union financial assistance to the projects or parts of projects selected following every call for proposals on the basis of the multiannual or annual work programmes referred to in article 17 of the Connecting Europe Facility Regulation. The Commission recalls that it did not propose this procedure in any of the sectoral MFF acts. This was intended to simplify the MFF programmes to the benefit of the recipients of EU funding. The approval of grant decisions without committee scrutiny would accelerate the procedure reducing the time-to-grant for project promoters and avoiding unnecessary red tape and costs. Moreover, the Commission recalls that the taking of grant decisions is part of its institutional prerogative relating to the execution of the budget and therefore should not be adopted through comitology. The Commission also considers that this inclusion cannot serve as a precedent for other funding instruments because of the particular nature of the infrastructure projects in terms of impact on the territory of the Member States."

3. "The Commission regrets the inclusion in article 2(5) and article 5(2) of references to the costs of the executive agency entrusted by the Commission for the implementation of specific parts of the Connecting Europe Facility, in the context of programme support actions. The Commission recalls that it is the prerogative of the Commission itself to decide, after a prior cost-benefit analysis, to set up an executive agency with a view to entrusting it with certain tasks relating to the management of a programme, in accordance with the provisions of Council Regulation (EC) No 58/2003. The process of carrying out the cost-benefit analysis for the purpose of entrusting tasks to an executive agency for the implementation of the Connecting Europe Facility should not be pre-empted by the text of the CEF Regulation. The Commission also considers that the cap cannot serve as a precedent for other funding instruments, because of the particular nature of the infrastructure projects managed by the Agency".

Statement by the Federal Republic of Germany

"The harmonisation of freight corridors has become an element of the negotiations in the deliberations on the Regulation on the establishment of the "Connecting Europe" Facility.

Germany would like to express once again that it does not generally reject the harmonisation of freight corridors with other corridor structures.

In this context, Germany has explicitly pointed out that the conditions and rules of Regulation (EU) No. 913/2010 governing the existing corridors must apply in case of modifications to or an expansion of freight corridors. Germany has also noted that it is absolutely necessary to take into account experience gathered from the existing corridors the first of which are going into operation in November 2013.

With this statement, Germany would like to reaffirm its position. Our concerns regarding the formal aspects of the chosen procedure have not been dispelled."

Statement by the United Kingdom

"Overall, the UK supports the development of Rail Freight Corridors where this is done in accordance with the mechanisms already in place under the Rail Freight Corridor Regulation (913/2010) where there is a demonstrated market justification for this. We are already in discussions with other Member States and the European Commission in accordance with that Regulation to extend Corridor 2 through the Channel Tunnel and up until London. This decision has been on the basis of a sound market and socio-economic benefit analysis.

The harmonisation of freight corridors has become an element of the negotiations in the deliberations on the Regulation on the establishment of the Connecting Europe Facility.

However, we do not believe it is right to use the CEF Regulation to propose changes to the Rail Freight Corridors, or to set timescales for them. This approach circumvents approval procedures guaranteed by pre-existing legislation, and has neither been agreed with the respective Member States involved, nor is it supported by market and socio-economic benefit analysis.

We believe that the proposed extensions of the Rail Freight Corridors have a direct effect on the territory of a Member State. Therefore, the proposed extension should be subject to the approval of the Member State concerned, as provided for under the second paragraph of Article 172 of the Treaty.

For the UK, this would mean that including locations extending past London in a Rail Freight Corridor require our agreement. We do not support their inclusion and London should remain as the end point for the Rail Freight Corridors in the UK.

More generally, we believe the intention is that extensions to the Rail Freight Corridors should *only* take place if supported by a positive socio-economic benefit analysis.

As a result, we will be abstaining on the Regulation on the establishment of the Connecting Europe Facility."

Statement by Latvia

"Latvia supports the objectives of the proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility and welcomes the overall outcome of discussions on this proposal.

In the meantime, Latvia maintains its concerns regarding the proposal to replace the Annex of the Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight (hereinafter – Rail Freight Corridors Regulation).

The final compromise proposal concerning the extension of the "North Sea – Baltic" rail freight corridor in case of Latvia for the period between 10th November 2020 at the latest and the finalisation of the Rail Baltica line in 1435 mm nominal track gauge would apply to a railway line of a 1520 mm track gauge. Latvia notes that without a justification based on sound cost-benefit analysis it holds substantial doubts concerning the possible interest of applicants regarding this part of the "North Sea – Baltic" rail freight corridor. Therefore Latvia does not expect that the right balance of socio-economic costs and benefits can be achieved.

Until the finalisation and consequently the inclusion of the Rail Baltica line in 1435 mm nominal track gauge in the rail freight corridor "North Sea – Baltic" an uninterrupted train traffic to this extension of the rail freight corridor is not practically possible due to the differences in track gauge. Therefore the path allocation as well as the coordination of the operational issues for this section of the rail freight corridor must be done separately from its 1435 mm nominal track gauge part.

In addition to the above mentioned Latvia expresses concerns that the approach used - to replace the Annex of the Rail Freight Corridors Regulation without reviewing also the main text of this Regulation – rises concerns that several provisions such as the criteria for definition of further rail freight corridors (Article 4) as well as the provisions for the selection of further freight corridors (Article 5, especially points 3 and 4), have not been duly adhered to.

Latvia strongly believes that the most appropriate line for the extension of the "North Sea – Baltic" rail freight corridor is the Rail Baltica line in 1435 mm nominal track gauge, which after its construction must be fully integrated in all structures and procedures of the "North Sea - Baltic" freight corridor as set by the Rail Freight Corridors Regulation."

14. Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council [First reading] (LA + S)

PE-CONS 26/13 TRANS 263 MAR 59 AVIATION 68 CAB 22 ESPACE 35
FIN 294 CSC 48 CODEC 1199

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 172 of the TFEU).

Joint declaration by the European Parliament, the Council and the European Commission on the GALILEO Interinstitutional Panel (GIP)

- "1. In view of the importance, uniqueness and complexity of the European GNSS programmes, the Union ownership of systems resulting from the programmes, the full financing of the Union budget of the programmes for the period 2014-2020, the European Parliament, the Council, and the European Commission recognise the need for close cooperation of the three institutions.
1. A Galileo Interinstitutional Panel (GIP) will meet with the objective to facilitate each institution exercising its respective responsibility. To this end, the GIP will be set up in order to follow closely:
 - a) the progress on the implementation of the European GNSS programmes, in particular with regard to the implementation of the procurement and the contract agreements, in particular with regard to the ESA;
 - b) the International Agreements with third countries without prejudice to the provisions of Article 218 of the Treaty on the Functioning of the European Union;
 - c) the preparation of satellite navigation markets;
 - d) the effectiveness of the governance arrangements; and
 - e) the annual review of the work programme.
 2. In accordance with existing rules, the GIP will respect the need for discretion in particular in view of the commercial-in-confidence and sensitive nature of certain data.
 3. The Commission will take account of the views expressed by the GIP.
 4. The GIP will be composed of seven representatives, of which:
 - three from the Council,
 - three from the EP,
 - one from the Commission,and will meet on a regular basis (in principle four times per year).
 5. The GIP does not affect the established responsibilities or interinstitutional relationships."

Statement by the Council
regarding the involvement of Member States security experts

"Considering the security implications in respect of the systems and their operation, the Council underlines that it is essential that the Commission consults the relevant security experts of the Member States and takes full account of their opinion, when laying down the high level objectives necessary to ensure the security of the programmes.

The Council stresses the intention of the Member States to designate as experts in this process the representatives of their respective national authorities in the Security Board for the European GNSS Systems, established by Commission Decision 2009/334/EC. It also stresses the position of the Member States that these experts should advise the Commission on the basis of consensus, as far as possible. The Council welcomes the Commission's intention to work together with these experts to this end.

The Council reiterates the importance of the above consultations and the need for the Commission to take full account of the Member States experts' opinion. The Council reserves the right to consider the options provided for under this Regulation on the European satellite navigation systems, in particular the expression of objection to the respective delegated acts."

Commission statement
regarding Article 14(1)

"1. The Commission will, when preparing the delegated acts referred to in Article 14(2), ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council, carry out appropriate and transparent consultations well in advance, including where appropriate as regards the practical effect to be given to these delegated acts, in particular with experts from the national authorities of all the Member States which will be responsible for implementing these delegated acts once they have been adopted or amended, and take full account of the opinions of these experts.

2. In view of the fact that questions of national security are particularly relevant when preparing, drawing up, amending and where appropriate giving practical effect to the delegated acts referred to in Article 14(2), the Commission welcomes the intention by Member States to designate as experts in this process the representatives of their respective national authorities in the Security Board for the European GNSS Systems, established by Commission Decision 2009/334/EC, and also welcomes the position of the Member States that these experts, working together with the Commission, should endeavour, as far as possible, to advise the Commission on the basis of consensus."

Statement by France, Germany and the United Kingdom

"France, Germany and the United Kingdom point out that use of delegated acts is justified only when there is a proven need to supplement or amend non-essential elements of a legislative act, while the essential elements of an area are reserved by the Treaty for the legislative act itself. The power of delegation cannot therefore be regarded as an adjustment variable in the negotiations.

In the present case, France, Germany and the United Kingdom believe that security issues, for which provision is made in this instance for the use of delegated acts, should have fallen under the basic act. In addition, they regret the combined use of delegated acts and implementing measures, which will not in any way constitute a simplification or help to make the law clearer or more accessible. They will therefore pay particular attention to the content of delegated acts which might subsequently be adopted in this context."

Statement by the Federal Republic of Germany

"Taking into account the importance of security related issues the Federal Republic of Germany would like to stress the fact that on 25.11.2013 the Council Security Committee (CSC) unanimously adopted its opinion on the Commission Delegated Decision concerning the adoption of Common Minimum Standards (CMS) for the Public Regulated Service (PRS) of the European GNSS Programme (Doc 16439/13).

In this opinion the CSC concluded that delegated acts in general were "unsuited an instrument for addressing security-sensitive matters" given that the Council could only take an all or nothing approach during the formal adoption process. The CSC also stated that this point "should be borne in mind by the legislator when adopting future legislative acts touching on security."

This opinion had not been delivered at the time when the GNSS Regulation was negotiated earlier this year and therefore could not be taken into consideration.

Nevertheless, it should be borne in mind for future amendments of the GNSS Regulation."

15. Regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network and repealing Decision No 661/2010/EU [First reading] (LA + S)

PE-CONS 42/13 TRANS 316 ECOFIN 533 ENV 546 RECH 265 CODEC 1403

+ ADD 1 to 8

+ REV 1 (cs)

+ REV 2 (bg)

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 172 of the TFEU).

Joint statement by Slovenia and Croatia

"In the light of the next review of the Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network (the Regulation), Slovenia and Croatia agree to consider a common study. Taking into consideration the most appropriate alignment of the TEN-T network between the relevant main/core nodes (e.g. Ljubljana, Zagreb, München, Wien), the study would aim to explore the most appropriate alignment of the railway connection between Zagreb and Maribor.

The study would take into account all relevant social, economic, financial, climate and environmental benefits and costs, future transport needs and flows as well as the methodology and objectives set out in the Regulation. The European Commission will be asked to co-finance this study."

Statement by Italy

"Italy strongly disapproves of the failure to include the port of Civitavecchia in Annex II of the Regulation on guidelines for the Trans-European Transport Network.

The request to include the port of Civitavecchia in the list of ports of the core network was made repeatedly at both technical and political level. It was also made repeatedly in Parliament.

The port of Civitavecchia serves the primary urban node of Rome, which is not only a capital city but also, based on the European methodology, a MEGA node and a Larger Urban Zone (LUZ) with more than one million inhabitants.

Both Article 47(1) of the Regulation on guidelines and the methodology adopted by the Commission (Annex 2, point 2 of SEC(2011) 101 final of 19 January 2011)¹ sanction the inclusion of the port of Civitavecchia in the core network.

The port of Civitavecchia is at the top of the European rankings in terms of the number of embarkations, disembarkations and transits.

The geographical distance between the port of Civitavecchia and the urban node of Rome is justified by the depth of the navigable channels.

It is an incontrovertible fact that, for historical and geographical reasons, the port of Civitavecchia is the main port serving the city of Rome.

Civitavecchia is the Port of Rome.

Italy reserves the right to undertake any initiative that may remedy the unjustified failure to include Civitavecchia in the core network."

Statement by the Commission

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 (4), subparagraph (2), point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when No opinion is delivered. Given that it is an exception to the general rule established by Article 5 (4), recourse to subparagraph (2), point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified."

¹ The text of the Regulation on guidelines (Article 47(1), first indent) states that nodes of the core network include "**urban nodes, including their ports and airports**". Under the Commission methodology (Annex 2, point 2.2, page 25 of the English version), a primary node is: "a capital city of an EU Member State", "a Metropolitan Growth Area" (MEGA) or "a conurbation (...) which exceeds 1 million inhabitants".

"B" ITEMS

4. Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union [First reading]

Interinstitutional file: 2013/0027 (COD)

– Progress report

6342/13 TELECOM 24 DATAPROTECT 14 CYBER 2 MI 104 CODEC 313
16630/13 TELECOM 322 DATAPROTECT 178 CYBER 33 MI 1064
CODEC 2676

The Council took note of the progress report set out in doc. 16630/13.

5. Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks [First reading]

Interinstitutional file: 2013/0080 (COD)

– Progress report

7999/13 TELECOM 60 COMPET 177 CODEC 686
17014/13 TELECOM 331 COMPET 880 CODEC 2767

The Council took note of the progress report set out in doc. 17014/13.

6. Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 [First reading]

Interinstitutional file: 2013/0309 (COD)

– Orientation debate

13555/13 TELECOM 232 COMPET 646 MI 753 CONSOM 161
CODEC 2000
+ ADD 2

16637/13 TELECOM 324 COMPET 868 MI 1067 CONSOM 202 CODEC 2679

The Council held an orientation debate on the basis of the questions set out in doc. 16637/13.

7. 4th Railway Package

Proposal for a Regulation of the EP and the Council on the European Union Agency for railways and repealing Regulation (EC) n°881/2004 [First reading]

Interinstitutional file: 2013/0014 (COD)

– Progress report

6012/13 TRANS 38 CODEC 225
16407/13 TRANS 598 CODEC 2628

The Council examined and took note of the progress report on the above proposal, as set out in doc. 16407/13.

8. Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure (Clean power) [First reading]

Interinstitutional file: 2013/0012 (COD)

– General approach

5899/13 TRANS 93 AVIATION 12 MAR 12 ENER 21 ENV 74 IND 28
RECH 29 CAB 4 CODEC 193

17004/13 TRANS 631 AVIATION 230 MAR 187 ENER 551 ENV 1143
IND 351 RECH 578 CAB 49 CODEC 2765

The Council adopted a general approach on the above proposal, as set out in doc. 17004/13, and agreed to enter in these minutes statements by Italy and Hungary (as set out hereafter).

Statement by Italy

"Italy regrets the removal of the reference to "minimum requirements" from the scope of the Directive (Article 1). Without this reference, it is difficult to ensure that common minimal infrastructure levels will be attained in all Member States within specific deadlines, a necessary precondition for ensuring interoperability and gaining the confidence of market operators.

Moreover we believe it is appropriate, with regard to national policy frameworks, to maintain the double reference to both fuels and the related infrastructure (Article 3), since both elements are essential to achieving the aims of the Directive.

"We would also like the 2020 deadline to be reinserted for completion of the infrastructure for recharging electric vehicles (Article 4) and for refuelling with natural gas (Article 6), considering that prompt implementation of the Directive will be fundamental in sending out the signals expected by the market and guiding growth towards sustainability.

Finally, we would like the maximum distances relating to the creation of LNG and CNG refuelling points to be reinserted (Article 6(3) and (6)), in order to overcome market fragmentation and guarantee genuine interoperability across Europe."

Statement by Hungary

"Hungary takes note of the compromise text and continues to have concerns to delegate powers to the Commission in case of non-existing standards to supplement Article 4 and 6 of the Directive as well as the corresponding parts of Annex III to make these standards legally binding. Nevertheless Hungary recognises that this delegation will apply to a limited number of specific cases clearly identified in the text."

9. 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]

Interinstitutional file: 2013/0072 (COD)

– Progress report

7615/13 AVIATION 47 CONSOM 47 CODEC 616

16577/13 AVIATION 225 CONSOM 201 CODEC 2663

+ ADD 1

The Council examined and took note of the progress report on the above proposal, as set out in doc. 16577/13.

11. Any other business

(a) 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]

Interinstitutional file: 2011/0299 (COD)]

– Information from the Presidency

16681/13 TELECOM 327 AUDIO 116 CODEC 2687

The Presidency informed the Council on the conclusions of the negotiations with the EP on the proposal for a Regulation on guidelines for trans-European telecommunications networks.

(b) Proposal for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market [First reading]

Interinstitutional file: 2012/0146 (COD)

– Information from the Presidency

16677/13 TELECOM 326 MI 1068 DATAPROTECT 180 EJUSTICE 100
CODEC 2684

The Presidency informed the Council on the state of play concerning the negotiations with the EP on the proposal for a Regulation on electronic identification and trust services for electronic transactions in the internal market.

(e) The impact of State aid rules on large-scale infrastructure projects in Europe

– Information from the Danish delegation, supported by the German delegation

17099/13 TRANS 636

The Council took note of the information provided by the Danish delegation on the above issue (doc. 17099/13) and the interventions made by most ministers in the exchange of views that ensued.

(g) **Blue Belt**

- Information from the Commission
17040/13 TRANS 633 MAR 188

The Council took note of the information provided by the Commission on the above issue (doc. 17040/13).
