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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	9185/17
Subject:	European Intellectual Property Office - Appointment of a chairperson of a Board of Appeal - Examination of the selected candidatures

A. INTRODUCTION

1. By a first letter dated 23 November 2016, the Deputy Chairperson of the Management Board of the European Union Intellectual Property Office (hereinafter "the Office") sent to the Council a copy of the summary of decisions adopted by the Management Board at its 2nd meeting on 15 November 2016 and the list of candidates drawn up by the Management Board for the appointment of the chairperson of a Board of Appeal of the Office, together with the number of votes obtained by each candidate within the Management Board.¹

By a second letter, dated 12 May 2017, the Chairperson of the Office informed the Council that one of the three candidates selected by the Management Board, Mr. Arnaud Hervé FOLLIARD-MONGUIRAL, had withdrawn his candidature.²

¹ These documents were circulated as document 15537/16.

² This letter was circulated as document 9185/17.

B. PROCEDURE

2. The procedure for the appointment of a chairperson of a Board of Appeal of the Office is laid down in Article 136(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, as amended by Regulation (EU) N° 2015/2424 of the European Parliament and of the Council of 16 December 2015 (hereinafter "the Regulation").

Under the Regulation, the Council appoints the chairperson of a Board of Appeal by simple majority from a list of candidates proposed by the Management Board.

3. For the post under consideration, the Management Board has submitted a list of three candidates, one of whom has in the meantime withdrawn his candidature (see above). The European Parliament's Committee on Legal Affairs (JURI) held a hearing of the selected candidates on 3 May 2017³.
4. It is suggested that the procedure for the selection of the successful candidate be as follows:
 - the Committee will deliberate in restricted session ;
 - the members of the Committee will be given the opportunity to express their views on the different candidates if they wish to do so ;
 - each delegation will receive one ballot paper on which the candidates' names will appear in alphabetical order;
 - the Committee will proceed to an indicative vote, by secret ballot, delegations having the option of either voting for a single candidate or abstaining;
 - the Legal Service of the Council will proceed to the counting of the votes;
 - if there is a simple majority in favour of one of the candidates, the Committee will recommend to the Council to appoint, under the A items of one of its forthcoming meetings, the candidate having obtained the simple majority to the post of Chairperson of a Board of Appeal of the Office.

³ See 9169/17.

C. TERM OF OFFICE

5. In accordance with established practice, it is suggested that the Council leave it to the Management Board to set the date on which the term of office of the person appointed by the Council will start.

D. CONCLUSION

6. The Permanent Representatives Committee is invited to :
- a. approve the arrangements set out in points 4 and 5 of this Note and
 - b. select the candidate whom it wishes to recommend to the Council to appoint to the post of Chairperson of a Board of Appeal of the Office.
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