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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
No. prev. doc.:	10284/14 JUSTCIV 134 EJUSTICE 54 CODEC 1366 + ADD 1 + COR 1 13276/14 JUSTCIV 224 EJUSTICE 80 CODEC 1835 + COR 1
No. Cion doc.:	17883/12 JUSTCIV 365 CODEC 3077 + ADD 1 + ADD 2
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings [First reading] - Political agreement

I. INTRODUCTION

1. By letter of 13 December 2012, the Commission forwarded to the Council a proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings (the "proposed Regulation"). The proposed Regulation is aimed at modifying Council Regulation (EC) No 1346/2000 on insolvency proceedings (the "current Insolvency Regulation").

2. The proposed Regulation is aimed at making cross-border insolvency proceedings more effective with a view to ensuring the smooth functioning of the internal market and its resilience in economic crises. This objective is in line with the European Union's current political priorities to promote economic recovery and sustainable growth, a higher investment rate and the preservation of employment, as set out in the Europe 2020 strategy, and to safeguard the development and the survival of businesses, as stated in the Small Business Act.
3. As part of the overall Justice for Growth Programme, the proposed Regulation is an important element of the broad European Union response to the significant economic difficulties being experienced by many companies and citizens throughout the Union.
4. In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom¹ and Ireland² have notified their wish to take part in the adoption and application of the proposed Regulation.
5. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of the proposed Regulation and will not be bound by it or subject to its application.
6. The European Economic and Social Committee adopted its opinion on the proposed Regulation on 22 May 2013.
7. On 5 and 6 June 2014, the Council (Justice and Home Affairs) reached an agreement (the "general approach")³ on the normative part of the proposed Regulation and called for work on the remaining recitals and Annexes to be finalised at technical level as soon as possible.

¹ See 6106/13 JUSTCIV 81 CODEC 811.

² See 8325/13 JUSTCIV 79 CODEC 777.

³ See 10284/14 JUSTCIV 134 EJUSTICE 54 CODEC 1366 + ADD 1 + COR 1.

8. Owing to the importance of efficient cross-border insolvency proceedings for the European economy and in response to the European Council's call for a swift examination, the Presidency has put the examination of the proposed Insolvency Regulation at the top of its agenda.
9. On 9 and 10 October 2014, the Council finalised the general approach, reaching agreement on the recitals and annexes¹.

II. STATE OF PLAY

a) Negotiations with the European Parliament

10. On 5 February 2014, during its plenary session, the European Parliament adopted its position at first reading on the proposed Regulation and the accompanying legislative resolution².
11. On the basis of the June and October 2014 general approach, the Presidency has been in contact with the European Parliament, with a view to reaching an early second reading agreement before the end of the year.
12. Two trilogues were held, on 15 October and 10 November 2014, during which the representatives of the Presidency and of the European Parliament had the opportunity to set out the cardinal points of their positions and explore the possibilities for finding compromise. The discussions resulted in a considerable convergence of views between the European Parliament and the Council on a draft compromise package, which is set out in the text contained in the Addendum to this Note (the "compromise package").
13. On 11 November 2014, the rapporteur (Mr. Tadeusz Zwiefka) reported back to the European Parliament's Committee on Legal Affairs on the positive outcome of the negotiations with the Council and informed them that the compromise package would be endorsed by the said Committee at its forthcoming meeting on 1 and 2 December 2014.

¹ See 13276/14 JUSTCIV 224 EJUSTICE 80 CODEC 1835 + COR 1.

² See 5910/14 CODEC 2041 JUSTCIV 19 PE 50.

b) Recast

13. On 10 November 2014, during the second trilogue, it was also agreed that the proposed Insolvency Regulation should be presented as a recast of the current Insolvency Regulation.
14. On 12 November 2014, the Presidency transmitted to the Member States the recast version of the proposed Regulation, amended in the light of the negotiations with the European Parliament, and asked for their comments on the aspects related to the recast, by 17 November 2014. A limited number of corrections were received from the Member States and the text has been amended accordingly.
15. The compromise package set out in the Addendum to this Note reflects the agreement reached with the European Parliament, both on the substance and with respect to the use of the recasting technique.

c) Follow-up

16. After the endorsement of the compromise package by the European Parliament's Committee on Legal Affairs on 1 and 2 December 2014, the Council (Justice and Home Affairs) will be called on to reach a political agreement on the compromise package at its session on 4 and 5 December 2014.
17. After legal-linguistic revision, the Council (Justice and Home Affairs) will adopt its position at first reading as an "A" item at a forthcoming Council session. Subsequently, the Council's position will be communicated to the European Parliament with a view to an approval by the plenary, without amendments in second reading.

III. CONCLUSION

14. Coreper/Council is therefore invited:
 - (a) to confirm the agreement reached with the European Parliament on the compromise package set out in Addendum 1 of document 15414/14 JUSTCIV 285 EJUSTICE 109 CODEC 2225;

- (b) to adopt a political agreement on the compromise package, subject to receipt of a letter from the Chair of the European Parliament's Committee on Legal Affairs confirming that the compromise package is acceptable to the European Parliament;
 - (c) to initiate the legal-linguistic revision of the compromise package; and
 - (d) to submit the compromise package, as finalised by the legal-linguistic experts, and accompanied by the statement of the Council's reasons, as an "A" item, to the Council for adoption of its position at first reading at one of its forthcoming sessions.
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