



Brussels, 17 May 2018
(OR. en)

9028/18

EF 134
ECOFIN 427

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Commission's intervention on behalf of the Union before US Courts as <i>amicus curiae</i> regarding an Order to Conduct Discovery for Use in Foreign Proceedings ('Discovery Petition', Case 1:18-mc-00085-ER)

1. At the Working Party meeting of 7 May 2018, the Commission informed delegations of its intention to intervene on behalf of the Union before a US Court as ***amicus curiae*** regarding an Order to Conduct Discovery for Use in Foreign Proceedings ('Discovery Petition', Case 1:18-mc-00085-ER). The aim of the Commission's intervention is to protect the Union interests that may be at stake in these proceedings.
2. The proceedings in question were launched by a group of Mexican investors who held capital instruments of Banco Popular and who seek to obtain the disclosure of certain documents for use in proceedings that those investors have initiated against the Commission and the Single Resolution Board before the General Court (Case T-510/17), as well as against the Kingdom of Spain before arbitration tribunals, following the resolution of Banco Popular on 7 June 2017.

3. It is suggested that COREPER recommend the COUNCIL to authorise the Commission to intervene on behalf of the Union before US Courts as *amicus curiae* regarding an Order to Conduct Discovery for Use in Foreign Proceedings ('Discovery Petition', Case 1:18-mc-00085-ER) in accordance with the position presented to the Council Working Party on 7 May 2018.
-