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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Implementation of the Interinstitutional Agreement on Better Law-Making
- Work undertaken during the Presidency

1. The Interinstitutional Agreement on Better Law-Making (IIA) entered into force on 13 April 2016¹. A significant number of strands of work related to its implementation or follow-up have been taken forward.

During the first semester of 2018, several provisions of the IIA have been addressed at the technical as well as at the political level. As provided for in the IIA (paragraph 50), the Interinstitutional Coordination Group is meeting regularly to **monitor** the implementation of the agreement at the technical level. A meeting at political level to monitor the agreement is to take place in due course in 2018.

The following provides an **overview** of the work undertaken or pursued during the first half of 2018.

¹ OJ L123, 12 May 2016, p.1.

2. On **Annual programming** (paragraphs 6 and 7), an assessment at political level on the implementation of the **joint declaration** on EU's legislative priorities for 2018-2019² is scheduled for 3 July 2018.
3. To follow on the provisions of paragraph 15 of the IIA, a capability for the Council to carry out impact assessments in relation to its substantial amendments to a Commission's legislative proposal when it considers this to be appropriate and necessary for the legislative process was made available in January 2018, following completion of the relevant procurement procedure. On 1 March 2018, Coreper endorsed an updated 'Guidance for Working Party Chairs'³ to include its most recent decisions for providing the Council with a pilot capability to carry out impact assessment of its own on its substantial amendments to a legislative proposal, including a procedure for triggering a request for an impact assessment and a template outlining general terms of reference for such requests⁴. On 25 May 2018, Coreper endorsed the 2018 Annual report on impact assessment within the Council⁵, which contains *inter alia* a number of recommendations towards further improving the handling of impact assessment within the Council.
4. The IIA provides for the three institutions to meet in order to negotiate "practical arrangements for co-operation and information sharing" in relation to **international agreements** (paragraph 40). The discussions have been ongoing since November 2016 with the Parliament, the Commission and the High Representative. A third political-level meeting took place on 30 May 2018 in Strasbourg. It focused on the main political issues, namely draft negotiation directives, transmission of the adopted negotiating directives, provisional application, the exclusivity clause as well as information during negotiations. The Presidency will continue work within the Council and with the negotiating partners and the Council will continue to engage proactively in this negotiation with a view to finding suitable compromise solutions on the outstanding issues.

2 15546/17

3 6270/18

4 7582/17, 8680/17

5 8900/18

5. On the issue of **delegated and implementing acts** (paragraph 27), the Council has completed the examination of the two RPS adaptation proposals and has adopted a partial general approach on each of the two proposals⁶. The kick-off trilogue on the negotiations is scheduled to take place at the end of the term of the Bulgarian Presidency.
6. As concerns paragraph 28 on delegated and implementing acts, more specifically the so-called **delineation criteria** to distinguish between delegated and implementing acts, under the Bulgarian Presidency, Coreper approved an addition to the initial negotiation mandate on 14 March 2018. The Bulgarian Presidency engaged in intensive negotiations on the delineation criteria by representing the Council in one political meeting and six technical meetings, in which the institutions made substantial progress on a number of points. Another technical meeting will take place in the end of this semester.
7. In relation to two important but more technical issues, as part of the efforts to ensure **transparency** and **communication** of the legislative procedure (paragraph 38), work has been ongoing at technical level between the three institutions.

Services of the three institutions kept on working on the development of the **joint database on the state of play of legislative files** (paragraph 39). The discussions have been ongoing between the services of the three Institutions since June 2016. The aim is to offer both further traceability of the various steps in the legislative process, and the possibility to retrieve the related documents. As the main target audience is the general public, the portal would provide easy access to comprehensive information, in an understandable and user-friendly manner, with direct links to existing repositories run by the institutions.

⁶ 6932/18 and 6933/18 + addenda

To this end, services are identifying the available data to be displayed, and the Institution responsible to provide it, with a view to aggregating it in one single joint portal. Four technical meetings took place between January and June 2018. This analysis will provide the Institutions with an overall preliminary estimate of the costs incurred for the adaptation of each Institution's internal systems and procedures. The next step at technical level will be the agreement on the IT structure and display of the portal, in order to present options and an estimate of the costs for its development.
