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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(General Affairs)
19 March 2019

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1. Adoption of the agenda

The Council adopted the agenda set out in 7258/19.

2. Approval of "A" items

a) Non-legislative list

7260/19

The Council adopted the "A" items listed in 7260/19 including COR and REV documents presented for adoption.

For the following items the documents should read as follows:

Justice and Home Affairs

9. Status Agreement with Montenegro on actions carried out by EBCG Agency in Montenegro

6857/19
FRONT

- a) Council Decision on the signing
Adoption

☐ 6845/19
+ **COR 1 (hu)**
6846/19
+ **COR 1 (pl)**

- b) Council Decision on the conclusion
Request for the consent of the European Parliament
approved by Coreper, Part 2, on 13.03.2019

☐ 6847/19

- b) Legislative list (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

7261/19

General Affairs

1. Free and fair European elections

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

☐☐ 7129/19 + ADD 1
PE-CONS 14/19

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 106a EURATOM and Article 224 TFEU). Statements to this item are set out in the Annex.

2. **Regulation in order to allow for the continuation of the territorial cooperation programmes PEACE IV (Ireland-UK) and UK-Ireland (Ireland-Northern Ireland-Scotland) in the context of the withdrawal of the UK from the EU**



7134/19

PE-CONS 12/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 178 TFEU)

Foreign Affairs

3. **Regulation for the export of certain dual-use items from the Union to the United Kingdom and Northern Ireland**



7132/19

PE-CONS 23/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 207(2) TFEU)

Education

4. **Regulation on the Erasmus+ programme: "Brexit" contingency**



7143/19 + ADD 1

PE-CONS 55/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 165(4) and 166(4) TFEU). Statements to this item are set out in the Annex.

5. Regulation on measures in the field of social security coordination: "Brexit" contingency



7163/19

+ ADD 1 REV 1

PE-CONS 62/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 48 TFEU).

Statements to this item are set out in the Annex.

Transport

6. Amending Regulation 1316/2013 to prepare for Brexit (CEF)



7173/19

PE-CONS 22/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

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

7. Regulation on road transportation sector: "Brexit" contingency



7164/19

+ ADD 1 REV 1

PE-CONS 67/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91(1) TFEU).

Statements to this item are set out in the Annex.

8. Regulation amending Regulation 391/2009 to prepare for "Brexit" (maritime transport/shipping inspections)



7172/19

PE-CONS 13/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 100(2) TFEU)

9. Regulation on aviation safety: "Brexit" contingency



7145/19

PE-CONS 17/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 100(2) TFEU)

10. Regulation on air connectivity: "Brexit" contingency



7165/19

+ ADD 1 REV 1

PE-CONS 68/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 100(2) TFEU)

Fisheries

11. Regulation amending Regulation (EU) No 508/2014 on certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union



7140/19 + ADD 1

PE-CONS 35/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 42 and Article 43(2) TFEU). Statements to this item are set out in the Annex.

12. **Regulation amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters** **IC** 7136/19 + ADD 1
PE-CONS 36/19

Adoption of the legislative act

approved by Coreper, Part 2, on 15.03.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 42 and Article 43(2) TFEU). Statements to this item are set out in the Annex.

Legislative deliberations

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

3. **Multiannual Financial Framework 2021-2027** **SC** 6443/1/19 REV 1
Policy debate 6444/19 + COR 1

The Council took note of the progress report on the progress achieved on sectoral MFF files and authorised the Presidency to send a letter to the European Parliament on behalf of the Council. The Council also held a policy debate on the Multiannual Financial Framework 2021-2027.

4. **Regulation establishing the Instrument for Pre-accession Assistance (IPA III)** **IC** 7456/19
Partial general approach

The Council agreed on a partial general approach.

Non-legislative activities

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|----|--|------------------|
| 5. | Preparation of the European Council on 21-22 March 2019:
Conclusions
<i>Exchange of views</i> | 5158/19 |
| 6. | European Council follow-up
<i>State of play</i> | |
| 7. | European Semester | |
| a) | Synthesis report on Council contributions on the 2019
European semester
<i>Exchange of views</i> | 7137/1/19 REV 1 |
| b) | Updated roadmap on the 2019 European semester
<i>Presentation by the Presidency</i> | 12451/2/18 REV 2 |
| c) | Draft Recommendation on the economic policy of the euro
area: transmission to the European Council
<i>Transmission to the European Council</i> | 5097/19 |
| 8. | Any other business | |



First reading



Special legislative procedure



Item based on a Commission proposal

Statements to the legislative "A" items set out in 7261/19**Ad "A" item 1:** **Free and fair European elections***Adoption of the legislative act***STATEMENT BY HUNGARY**

"Hungary is strongly committed to the European values enshrined in the Treaties and forming part of the European *aquis*. The protection of these fundamental rights, such as the rule of law, freedom of association, freedom of expression and information, the right to vote and to stand as a candidate at elections to the European Parliament are the cornerstones of the democratic system the EU is built on.

Hungary appreciates the efforts made by the co-legislators during the trilogues aiming to create a legal framework that ensures free and fair legal environment for the future European elections. Therefore Hungary can accept the final outcome of these negotiations.

Nevertheless, Hungary would also like to express its view that the final compromise does not fully guarantee the objective of the proposal, hence there is still a risk that the agreed mechanism will not guarantee the full compliance with the principle of subsidiarity and the respect of the procedural rights of the actors concerned. Hungary considers that certain provisions of the agreed text are lacking legal certainty (legal basis, sufficient consideration of the GDPR, detailed procedural guarantees in the process of the committee of eminent persons). Moreover, other provisions should have been included *expressis verbis* in the final text (e.g. concrete reference to the fact that the European Authority can exclusively proceed based on the decision of the competent national authorities in the Member States and avoid the possibility of collecting information based on "other reasonable grounds").

Ad "A" item 4: **Regulation on the Erasmus+ programme: "Brexit" contingency***Adoption of the legislative act***STATEMENT BY THE UNITED KINGDOM**

"We note the substance of the measure, and ask the Council to note our position is that all such relevant contingency measures should apply in relation to Gibraltar, where Gibraltar has previously been covered by the relevant area of EU law."

Ad "A" item 5: **Regulation on measures in the field of social security coordination:**
"Brexit" contingency
Adoption of the legislative act

STATEMENT BY THE UNITED KINGDOM

"The United Kingdom notes these measures, which seek to protect citizens of the EU and United Kingdom, who have engaged with the social security system of the United Kingdom under the Coordination Regulations whilst the United Kingdom was a Member State.

However, we would encourage the Commission to continue to explore additional contingency measures in this area, including on reciprocal healthcare, that would further protect the rights of all EU citizens, citizens of the United Kingdom, and also rights of third country nationals covered by the EU acquis in the field of social security coordination at the date the United Kingdom ceases to be a Member State.

We ask the Council to note our position that all such relevant contingency measures should apply with respect to Gibraltar, where Gibraltar has previously been covered by the relevant area of EU law."

COMMISSION STATEMENT
on the coverage of third country nationals

"The Regulation on establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union is based on Article 48 of the Treaty on the Functioning of the European Union (TFEU) as it concerns measures in the field of social security coordination. An extension of this Regulation to third-country nationals in the same legal act is not possible due to the incompatibility of the legal bases, as such an extension would need to be based on Article 79(2)(b) TFEU.

The Commission considers that third-country nationals covered by Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 should continue to benefit from the basic principles of social security coordination intended to be codified in the Regulation on establishing contingency measures in the field of social security coordination, based on the provisions of Regulation (EU) No 1231/2010 and of Regulations (EC) No 883/2004 and 987/2009, which remain in force.

The Commission will consider, however, if it becomes necessary at a later stage, to have the principles set out in this Regulation extended to third country nationals legally resident in a Member State who, pursuant to Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010, are or have been covered by the EU legislation on coordination of social security systems to confirm their entitlements in relation to the period when the United Kingdom was a Member State."

COMMISSION STATEMENT

on a coordinated approach to social security coordination

"The Commission would like to express its concerns as regards the introduction of recital 4(a) and Article 5(a) to the proposal for a Regulation establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the European Union. The Commission considers that it is not necessary to include these elements in the Regulation.

The Withdrawal Agreement is the best possible solution for safeguarding social security entitlements of the concerned persons. The Commission acknowledges that, in the absence of a Withdrawal Agreement, administrative arrangements remain essential for the implementation of the contingency Regulation, and therefore stands ready to fully support Member States in a coordinated approach to these arrangements with the United Kingdom. Furthermore, the Commission will work closely with Member States in order to achieve for the future a common approach to social security coordination with the United Kingdom."

Ad "A" item 7: **Regulation on road transportation sector: "Brexit" contingency** *Adoption of the legislative act*

JOINT STATEMENT BY AUSTRIA, BELGIUM, DENMARK, GERMANY AND ITALY

"Austria, Belgium, Denmark, Germany and Italy support the objective of ensuring basic connectivity in road transport after the withdrawal of the United Kingdom from the European Union without a withdrawal agreement and welcome the proposed temporary measures enabling road haulage and coach and bus service operators licensed in the UK to carry goods and passengers to and from the EU Member States. These measures are necessary to prevent serious disruptions in the context of such operations immediately after the UK's withdrawal, also and especially with regard to public order.

Austria, Belgium, Denmark, Germany and Italy are concerned, however, that the extended scope with regard to a certain number of cabotage operations in road freight is not in line with the guidelines on contingency measures agreed by the European Council on EU 27 general conduct, as these operations are not strictly necessary to ensure basic connectivity between the UK and the EU 27. Our concerns will not be dispelled by the fact that the Regulation ceases to apply on 31 December 2019.

However, mindful of overarching economic concerns, Austria, Belgium, Denmark, Germany and Italy believe that the rights granted to UK hauliers under the condition of reciprocity are an appropriate way of responding to the unique situation of a Member State leaving the European Union. This Regulation will not rule out further negotiations with the UK or other third countries and will not be considered as a precedent. In order to ensure a formally and substantively legal framework as of 1 January 2020, we affirm our conviction that EU Member States will be able to negotiate bilateral agreements with the UK during the period of application of this Regulation."

STATEMENT BY THE UNITED KINGDOM

The United Kingdom (UK):

- Welcomes the intention of this proposal which will help ensure minimal disruption to citizens and businesses across Europe and beyond in the event of a no deal scenario. It is a pragmatic solution which would help to provide certainty for citizens and business, and the UK is prepared to grant reciprocal access to EU operators as the proposal requires.
- Regrets that Gibraltar has not been included in the scope of this measure and reiterates its intention that, when it comes to the future relationship with the EU, it will negotiate on behalf of the entire UK family, including its Overseas Territories.
- Welcomes Spanish Foreign Minister Borrell's statement to Spanish Congress in October 2018 that they "don't want to complicate anyone's life, don't want [to] put up or create difficulties, [and] don't want to close the border..." We are confident that all sides are committed to putting in place the appropriate measures [at all levels/in all fora] to protect citizens on both sides of the border and avoid disruption in a no-deal scenario.
- Reiterates its certainty of its sovereignty over Gibraltar.

STATEMENT BY THE COMMISSION

"The Commission takes note of the statement made by Austria, Belgium, Denmark, Germany and Italy. As regards the part of the statement concerning the negotiation of bilateral agreements with the United Kingdom during the period of application of this Regulation, the Commission recalls that such negotiation would be incompatible with the Union's exclusive external competence. Such exclusive competence emerges from Article 3(2) TFEU in combination with Articles 1(2) and (3) of Regulations (EC) No 1072/2009 and 1073/2009.

Having regard to European Council Guidelines of 23 March 2018 on the future relation with the United Kingdom, established with a view to the opening of negotiations on the overall understanding of the framework for the future relationship, the Commission intends to take any initiatives necessary to establish appropriate connectivity for the period following the expiry of the Regulation."

Ad "A" item 10: **Regulation on air connectivity: "Brexit" contingency**
Adoption of the legislative act

STATEMENT BY AUSTRIA, BELGIUM, BULGARIA, CROATIA, CYPRUS, CZECH REPUBLIC, DENMARK, ESTONIA, FINLAND, FRANCE, GERMANY, GREECE, HUNGARY, IRELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, NETHERLANDS, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN AND SWEDEN.

"The Member States consider that swift negotiations for a future comprehensive air transport agreement with the UK are important. The decision to give an authorisation for the Commission to negotiate such an agreement requires however a detailed examination of the Commission's recommendation.

The Member States consider appropriate for the future comprehensive air transport agreement with the UK to be a mixed agreement of the Union and the Member States. It is the Member States' view that nothing in the regulation (in particular recital 5 sentence 2 thereof) precludes a decision in this sense."

STATEMENT BY THE UNITED KINGDOM

"The United Kingdom (UK):

- Welcomes the intention of this proposal which will help ensure minimal disruption to citizens and businesses across Europe and beyond in the event of a no deal scenario. It is a pragmatic solution which would help to provide certainty for citizens and business, and the UK is prepared to grant reciprocal access to EU operators as the proposal requires.
- However, is clear that it does not accept the positions set out on Gibraltar.
- Reiterates its certainty over its sovereignty over Gibraltar (including the territory in which Gibraltar Airport is situated).
- As such, is clear and puts on the record that the UK rejects recital 7b which is not consistent with the legal position of the UK.
- Is adamant that, as this measure will be adopted while the UK is still a member state, the legal position of the UK should be reflected in the recitals.
- Makes clear that, in the process of finalising the text, it would be more appropriate to use the established language within the Regulation, which states: 'This regulation is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport of Gibraltar is situated'.
- Notes its regret that Gibraltar has not been included in the scope of this measure and reiterates its intention that, when it comes to the future relationship with the EU, it will negotiate on behalf of the entire UK family, including its Overseas Territories."

STATEMENT BY SPAIN

"Spain reiterates that the territorial scope of the Regulation excludes Gibraltar, as stated in recital 13. Furthermore, in connection with recital 14 Spain also reiterates that it does not recognise any British sovereignty over the isthmus on which the airport is located, since it was ceded neither in Article X of the Treaty of Utrecht nor subsequently, but was the subject of a gradual, de facto appropriation by the United Kingdom with no legal basis whatsoever, which has always been rejected by Spain."

STATEMENT BY THE COMMISSION

"The Commission concurs with the statements made in Article [1bis] and Recital [5a] as regards the effects of the Regulation on the division of competences between the Union and the Member States in accordance with Article 2(2) TFEU. The Commission recalls that that division is exhaustively dealt with in the Treaties, both for usual and exceptional circumstances.

Against this background, the Commission considers that this Regulation does not prejudice the nature of the future relationship with the United Kingdom in the area of aviation and that the exercise of competence in the Regulation is temporary and strictly limited to its period of validity. It will be for the Council to establish the terms of any decision authorising the opening of negotiations for a future relationship in accordance with Article 218(3) and (4) TFEU and generally with Union law, and in full respect of the division of competences between the Union and the Member States.

The Commission furthermore recalls the **European Council** Guidelines of 23 March 2018 on the future relation with the United Kingdom, established with a view to the opening of negotiations on the overall understanding of the framework for the future relationship. According to point 11 of those Guidelines, in the area of aviation the aim should be to ensure continued connectivity between the United Kingdom and the EU after the former's withdrawal from the Union; this could be achieved, inter alia, through an air transport agreement, combined with aviation safety and security agreements, while ensuring a strong level playing field.

Having regard to those Guidelines, the Commission intends to submit the relevant recommendation to the Council as soon as possible in due time."

Ad "A" item 11: **Regulation amending Regulation (EU) No 508/2014 on certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union**

Adoption of the legislative act

Ad "A" item 12: **Regulation amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters**
Adoption of the legislative act

STATEMENT BY THE UNITED KINGDOM

"Gibraltar has never been covered by the Common Fisheries Policy. The United Kingdom, therefore, notes the territorial scope of this Regulation and any reference to the United Kingdom therein does not include Gibraltar."