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European Union

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PV/CONS 57  
RELEX 861

## DRAFT MINUTES

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Subject: **3420th** meeting of the Council of the European Union  
(**FOREIGN AFFAIRS**) held in Luxembourg on 26 October 2015

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## **CONTENTS**

### **Page**

1. Adoption of the provisional agenda .....	3
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### **NON-LEGISLATIVE ACTIVITIES**

2. Approval of the list of "A" items .....	3
--	---

3. Humanitarian Affairs .....	3
-------------------------------	---

4. Migration, refugees and development .....	3
--	---

5. Gender and Development .....	4
---------------------------------	---

6. EU-ACP relationship Post 2020 .....	4
--	---

7. Any other business .....	5
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ANNEX - Statements for the Council minutes .....	6
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1. **Adoption of the agenda**

13263/15 OJ/CONS 57 RELEX 846

The Council adopted the above agenda.

**NON-LEGISLATIVE ACTIVITIES**

2. **Approval of the list of "A" items**

13264/15 PTS A 80

The Council approved the "A" items listed in doc. 13264/15.

Statements to these items are set out in the Annex.

3. **Humanitarian Affairs**

- Preparation of the World Humanitarian Summit
- UN Secretary General's High-Level Panel on Humanitarian Financing

Ministers held a comprehensive orientation debate on the World Humanitarian Summit (WHS), following a presentation by Commissioner Stylianides on a recent Commission Communication on the matter. The Working Party on Humanitarian Aid and Food Aid (COHAFA) was given a mandate to work on strong common positions in preparation of the WHS. VP Georgieva informed Ministers on the work of the UN High-Level Panel on Humanitarian Financing, which she co-chairs.

4. **Migration, refugees and development**

The Council held an exchange of views on the role of the development cooperation in tackling migration and refugees crises.

Bearing in mind that the contribution of development policy towards fighting the root causes of migration is by nature long-term, the Council agreed that short-term deliverables are also necessary. In this sense, the Council welcomed the launch of the EU Emergency Trust Fund for Stability and Addressing the root causes of irregular migration and displaced persons in Africa at the Valletta Summit on Migration on 11-12 November 2015.

**5. Gender and Development**

- Gender Action Plan 2016-2020
- = Draft Council conclusions  
13183/15 DEVGEN 198 SOC 594 ACP 146 ONU 129 RELEX 837 COHAFA 97  
COHOM 97

The Council held a discussion on the support to the promotion, fulfilment and protection of women's and girls' rights in EU development policies and programmes.

The Council adopted the Council Conclusions on the Gender Action Plan 2016-2020 (doc. 13201/15). It stressed the importance of ambitious commitments and swift implementation of the Gender Action Plan.

The Maltese delegation presented a statement, as set out in the Annex.

**6. EU-ACP relationship Post 2020**

- 12797/15 ACP 135 PTOM 19 COAFR 292 COASI 144 COLAC 101  
WTO 212 RELEX 779

On the basis of the Joint Consultation Paper from the Commission and the High Representative (doc. 12797/15), the Council held a first orientation debate on the future of the relationship between the EU and the group of African, Caribbean and Pacific states (ACP) after the expiry of the Cotonou Partnership Agreement in 2020.

The Council stressed the need to examine all options concerning future relations between the EU and the ACP and took note of the consultation process and the next steps foreseen which include two Staff Working Documents (SWD).

The Council will revert to the matter in due time.

## 7. **Any other business**

### – **CBSD**

The High Representative informed the Council on the state of implementation of the Capacity Building for Security and Development (CBSD).

### – **African youth**

Following an initiative of the German, the French and the Dutch Delegations on support to African youth, the High Representative confirmed the commitment of the EU to fight the root causes of migration of African youth through dedicated EU instruments.

### – **Colombia peace process**

At the request of the Spanish Delegation, supported by the Portuguese Delegation, the Council took note of the presentation by the High Representative on the progress of the Colombia peace process, including as regards establishment and contribution by the EU to a dedicated Trust Fund.

### – **Climate financing**

At the request of the Swedish Delegation which recalled the importance of climate financing, notably the need to convert pledges to the Green Climate Fund into contribution agreements, the High Representative confirmed the importance by the EU and its Member States to contribute to a successful outcome of the forthcoming 21st Conference of Parties in Paris.

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**STATEMENTS FOR THE COUNCIL MINUTES****Ad "A" item 8:****Relations with Kazakhstan**

- **Draft Council Decision on the signing, on behalf of the European Union, and provisional application of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part**

**STATEMENT BY THE COUNCIL**

"The Council declares that its decision, to the extent that it provides for provisional application by the EU of provisions in the area of transport services, falling within the scope of shared competences between the EU and the Member States, does not prejudge the allocation of competences between them in this area and does not prevent the Member States from exercising their competences with the Republic of Kazakhstan for matters not covered by this Agreement, or with another third country."

**STATEMENT BY THE COMMISSION**

"Given the political and economic relevance of the Enhanced Partnership and Cooperation Agreement (EPCA) with Kazakhstan, the Commission stresses the importance for a swift signature and ratification. The Commission reiterates its position that a "mixed" agreement is legally unnecessary in the present case and that all matters under the agreement fall in the EU's competence. The Commission therefore regrets that Member States insist on signing and ratifying the EPCA with Kazakhstan as a "mixed" agreement. The Commission reserves its position as to the future presentation of acts linked to the legal nature of an international agreement."

**STATEMENT BY THE FEDERAL REPUBLIC OF GERMANY**

"Point b of Article 54(5) of the enhanced EU-Kazakhstan Partnership and Cooperation Agreement falls within Member State's competence and is therefore not included in the provisional application of the Agreement."

In order to implement point b of Article 54(5) of the enhanced EU-Kazakhstan Partnership and Cooperation Agreement, the Federal Republic of Germany requires either the consent or the participation of the parliamentary bodies responsible for federal legislation in such a case with a view to the adoption of a ratification law."

**DELETED**

#### **STATEMENT BY HUNGARY**

"Hungary notes that, should it be necessary to amend its domestic legislation for the provisional application by the European Union of those parts of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part covered by shared competence, such amendments shall be made, because of the nature of its legal order, in conjunction with the national ratification process, which Hungary will initiate as expediently as possible. Should any problem arise as regards any amendments considered necessary, Hungary shall consult with the European Commission with a view to ensure the good faith provisional application of the Agreement."

#### **STATEMENT BY THE EUROPEAN COMMISSION on the statement by Hungary**

"The European Commission takes note of the statement of Hungary and notes that in this light and in the specific circumstances of the provisional application of the EU-Kazakhstan Enhanced Partnership and Cooperation Agreement (EPCA), it has no intention to open proceedings pursuant to Article 258 of the Treaty on the Functioning of the European Union in the event that there is conflict between legislation of Hungary and commitments under the EPCA in areas of shared competence, pending the definitive entry into force of the Agreement or the completion of any necessary domestic procedures, whichever is the earliest."

**DELETED**

**Ad "A" item 9:**      **Council Decision on the conclusion of the Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, on a Framework Agreement between the European Union and the Republic of Tunisia on the general principles for the participation of the Republic of Tunisia in Union programmes**

**STATEMENT BY THE UNITED KINGDOM**

"Considering that Protocol 21 to the Treaty on the Functioning of the European Union on the position of the UK and Ireland in respect of the area of freedom, security and justice is engaged, the UK opted-in to the proposals for a Council Decision on the conclusion of the Protocols to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Tunisia, of the other part, on Framework Agreements between the European Union and the Republic of Tunisia on the general principles for the participation of the Republic of Tunisia in Union programmes, to the extent that this Decision relates to the aforementioned state's participation in the Fiscalis 2020 action programme (Regulation 1286/2013) and Customs 2020 action programme (Regulation 1294/2013). The UK formally notified the President of the Council of the decision to opt-in by a letter dated 31 July 2014.



Furthermore, the UK considers this Council Decision to be an exercise of the EU's external competence in relation to the various sectoral policies pursued by the underlying programmes. Therefore the substantive legal bases for the underlying programmes should have been cited as the legal bases for the proposed Decision on conclusion. Where the programmes have justice and home affairs content, the proposed Council Decision should cite the relevant legal bases from Title V of Part Three TFEU. Accordingly, we do not consider that Article 212 TFEU is appropriate as the sole substantive legal base for the proposed Decision."

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**Ad "B" item 5:**            **Gender and Development**  
                                      –     **Gender Action Plan 2016-2020**  
  =     **Draft Council conclusions**

#### **STATEMENT BY MALTA**

"In recalling the 26<sup>th</sup> May 2015 Council conclusions on "Gender and Development" and in generally welcoming the contribution of the Joint Staff Working Document on "Gender Equality and Women's Empowerment: Transforming the lives of Girls and Women through EU External Relations 2016-2020" as a follow up to the said conclusions, Malta would like to reiterate its position on SRHR as follows:

The achievement and promotion of human rights, gender equality and the empowerment of women, as well as the prevention and elimination of all forms of discrimination and violence against women and girls in development cooperation, is of paramount importance to Malta.

In fulfilling its responsibilities nationally and internationally, Malta recalls its position that any recommendation or commitment made by the European Union related to Gender in Development and Implementation of the Gender Action Plan should not in any way create an obligation on any party to consider abortion as a legitimate form of reproductive health, rights, services or commodities."

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