



Council of the
European Union

**Brussels, 19 January 2017
(OR. en)**

15672/16

**PV/CONS 71
ENV 812
CLIMA 185**

DRAFT MINUTES

Subject: **3512th** meeting of the Council of the European Union (**Environment**),
held in Brussels on 19 December 2016

CONTENTS

Page

1. Adoption of the agenda	3
---------------------------------	---

NON-LEGISLATIVE ACTIVITIES

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

LEGISLATIVE DELIBERATIONS

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

4. Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments [First reading]	7
--	---

NON-LEGISLATIVE ACTIVITIES

5. Draft Council conclusions on the protection of human health and the environment through the sound management of chemicals	7
--	---

6. Any other business	8
-----------------------------	---

- a) Current legislative proposals
- b) Clean Energy for All Europeans
- c) Report on recent international meeting
- d) Communication from the Commission on next steps for a sustainable European future: European action for sustainability
- e) European Sustainable Development Week (ESDW) (30 May - 5 June 2017)
- f) Budapest Water Summit 2016 (Budapest, 28 - 30 November 2016)
- g) Fitness Check of the EU Nature legislation (Birds and Habitats Directives)
- h) Reports on recent international meetings
- i) Current legislative proposals
- j) REFIT evaluation of the EU Ecolabel
- k) Odour nuisance
- l) Work programme of the incoming Presidency

ANNEX - Statements for the Council minutes	13
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1. **Adoption of the agenda**

15365/16 OJ CONS 70 ENV 787 CLIMA 177

The Council adopted the above agenda.

NON-LEGISLATIVE ACTIVITIES

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

15451/16 PTS A 108

The Council adopted the "A" items listed in 15451/16.

The documents on item 9 should read as follows:

Item 9: 15238/16 PECHE 467
+ ADD 1
15260/16 PECHE 472

Statements on these items are set out in the Annex.

LEGISLATIVE DELIBERATIONS

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

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

15450/16 PTS A 107

The Council adopted the "A" items listed in 15450/16.

The documents on item 1 should read as follows:

Item 1: 14895/2/16 REV 2 CODEC 1748 AGRI 637 VETER 131 AGRILEG 183
ANIMAUX 29 SAN 409 DENLEG 86 PHYTOSAN 40
SEMENCES 18
+ REV 2 ADD 1 REV 1
10755/16 AGRI 381 VETER 66 AGRILEG 103 ANIMAUX 19 SAN 286
DENLEG 65 PHYTOSAN 18 SEMENCES 9 CODEC 985
+ COR 1 (es, hr, ga)
+ COR 2 (de)
+ COR 3 (lv)
+ COR 4 (de, nl)
+ COR 5 (it)
+ ADD 1

Details on these items are set out below:

1. **Draft Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) [First reading]**

= Adoption of the Council's position at first reading and of the statement of the Council's reasons

14895/2/16 REV 2 CODEC 1748 AGRI 637 VETER 131 AGRILEG 183
ANIMAUX 29 SAN 409 DENLEG 86 PHYTOSAN 40
SEMENCES 18

+ REV 2 ADD 1 REV 1

10755/16 AGRI 381 VETER 66 AGRILEG 103 ANIMAUX 19 SAN 286
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+ COR 1 (es, hr, ga)

+ COR 2 (de)

+ COR 3 (lv)

+ COR 4 (de, nl)

+ COR 5 (it)

+ ADD 1

approved by Coreper, Part 1, on 16.12.2016

The Council adopted its position at first reading and the statement of the Council's reasons as set out respectively in 10755/16 and 10755/16 ADD 1, with the Austrian Delegation abstaining. (Legal basis: Articles 43(2), 114 and 168(4)(b) TFEU).

Statement by Germany, Greece, Denmark, Luxembourg, Malta, the Czech Republic, Portugal, Romania, Slovenia, Sweden, Finland, Ireland and the United Kingdom

"We note that the terms 'harmful organism' and 'pest' refer to the same concept in EU legal acts, and are used equivalently.

Reasoning:

Given that existing Commission legal acts and Council Regulations and Directives (e.g. Council Directive 93/85/EEC, Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and Commission Implementing Decision 2012/138/EU) also use the term 'harmful organism' with the same meaning and in an equivalent manner, the fact that the terms 'pest' and 'harmful organism' are synonyms should be clearly emphasised, in order to preclude any uncertainty in the application of existing EU legal acts and the new EU Plant Health Regulation and the new Regulation for Official Controls."

2. Proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022

= Request for the consent of the European Parliament

14647/16 FREMP 192 JAI 967 COHOM 146

+ ADD 1

+ ADD 2

14423/16 FREMP 184 JAI 946 COHOM 143 DROIPEN 184 SOC 707

ASIM 151 MIGR 193

approved by Coreper, Part 2, on 30.11.2016

The Council confirmed the agreement Working Party level on the text of the proposal as finalised by the Jurists-Linguists and set out in 14423/16 and the two accompanying declarations (14647/16 ADD1 and ADD2) and decided to forward the draft decision to the European Parliament for its consent. (Legal basis: Article 352 TFEU).

Statement by the Council concerning the review of the Multiannual Framework

"Under Article 30 (3) and (4) of Council Regulation (EC) N° 168/2007 ('the Regulation') an independent, external evaluation of the EU Agency for Fundamental Rights ('FRA') will be carried out in 2017. As stipulated in Article 31 (2) of the Regulation, the Commission, after having assessed the evaluation report and recommendations made on that basis by the FRA's Management Board, may consider submitting any proposals for amendments to the Regulation which it considers necessary.

In this context, the Council agrees that it will consider carefully any proposals for amendments to the Regulation that the Commission may decide to submit, including those pertaining to the remit of the Agency to cover the areas of police cooperation and judicial cooperation in criminal matters. The Council further agrees that it will consider carefully any proposals to improve procedures for the governance and functioning of the Agency."

Statement by the Council concerning national minorities

"The Council Decision does not intend to define the notion of "national minority" and therefore the activities of the Fundamental Rights Agency under Article 2(b) affect neither the definition nor the existence of the term "national minority" as provided for by national law, nor the distribution of competences between the Union and the Member States in this respect."

Statement by the Commission

"The Commission regrets the lack of agreement on the inclusion of the proposed new thematic areas of police cooperation and judicial cooperation in criminal matters in the EU Agency for Fundamental Rights' Multiannual Framework for 2018-2022.

The Commission recalls that following the entry into force of the Treaty of Lisbon, police cooperation and judicial cooperation in criminal matters have become part of Union law and are therefore covered by the scope of the tasks of the Agency, as all areas falling within the competences of the Union, under Article 3(1) of Council Regulation (EC) n°168/2007.

If these thematic areas are not included in the Council Decision establishing a Multiannual Framework for the Agency for 2018-2022, the Agency will continue to carry out its tasks in these areas upon request from the European Parliament, the Council or the Commission, under Article 5(3) of Council Regulation (EC) n°168/2007".

Statement by Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland.

"Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland regret that the areas of police cooperation and judicial cooperation in criminal matters could not be included in the Multiannual Framework of the Fundamental Rights Agency, despite the fact that these areas are particularly fundamental rights-sensitive and should, therefore, be part of the regular activities of the Agency. Furthermore, it should be recalled that the Agency is already active in these areas upon request in accordance with Article 5 (3) of Council Regulation (EC) No 168/2007.

Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland reiterate their support for the inclusion of police cooperation and judicial cooperation in criminal matters in the Agency's areas of activities and will revert to this issue in the context of proposals for amendment of Council Regulation (EC) No 168/2007. We invite the Commission to submit a proposal to this effect following the independent external evaluation to be carried out in 2017."

4. **Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments [First reading]**

Interinstitutional file: 2015/0148 (COD)

= Progress report

15487/16 CLIMA 180 ENV 796 ENER 436 TRANS 495 IND 267

COMPET 656 MI 795 ECOFIN 1181 CODEC 1878

11065/15 CLIMA 88 ENV 499 ENER 289 TRANS 241 IND 116

COMPET 370 MI 498 ECOFIN 621 CODEC 1059

The Council took note of the Presidency's progress report on the above-mentioned proposal, as contained in 15487/16. During the discussion, in which all delegations participated, Ministers welcomed the efforts and the progress achieved during the Slovak Presidency as a good basis for further work. The President wished the incoming Maltese Presidency success in taking the discussions forward with a view to reaching agreement as soon as possible.

NON-LEGISLATIVE ACTIVITIES

5. **Draft Council conclusions on the protection of human health and the environment through the sound management of chemicals**

= Adoption

(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)

15046/16 ENV 748 COMPET 629 IND 258 RECH 338 ECOFIN 1138 ECO 78

SOC 760 SAN 419 CONSOM 296 MI 765 CHIMIE 72 ENT 220

+ COR 1

The Council adopted the above mentioned conclusions (15673/16) and held a public debate on the protection of human health and the environment through the sound management of chemicals.

Ministers underlined the need to keep a high level of protection of human health and environmental protection and welcomed the conclusions as a timely message on the occasion of the 10th anniversary of the REACH Regulation and ahead of its evaluation and review, and of the fitness check of all other chemicals legislation. Many expressed concerns about the criteria proposed by the Commission as regards endocrine disruptors and underlined the need to move towards a non-toxic environment by 2018, as set out in the 7th Environment Action Programme.

6. **Any other business**

a) **Current legislative proposals**

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

Non-ETS sectors

i) **Proposal for a Regulation of the European Parliament and of the Council on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 for a resilient Energy Union and to meet commitments under the Paris Agreement and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change [First reading]**

Interinstitutional file: 2016/0231 (COD)

ii) **Proposal for a Regulation of the European Parliament and of the Council on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change [First reading]**

Interinstitutional file: 2016/0230 (COD)

= Information from the Presidency on the state of play

15520/16 CLIMA 181 ENV 797 ENER 437 TRANS 502 AGRI 678 FORETS 66
COMPET 658 ECOFIN 1182 ONU 143 CODEC 1884

The Council took note of the information on the state of play on the above-mentioned files on the basis of a note prepared by the Presidency (15520/16) and of comments by several delegations and the Commission.

b) **Clean Energy for All Europeans**

= Information from the Commission

The Council took note of the information provided by the Commission on its latest proposals on clean energy as well as of the comments made by several delegations.

- c) **Report on recent international meeting:**
- **United Nations Framework Convention on Climate Change (UNFCCC) (Marrakech, 7 - 18 November 2016)**
 - **22nd Conference of the Parties to the Convention on Climate Change (COP 22)**
 - **12th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 12)**
 - **First session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA 1)**
- = Information from the Presidency and the Commission
15527/16 CLIMA 182 ENV 798 ONU 144

The Council took note of the information by the Presidency and the Commission on the above.

- d) **Communication from the Commission on next steps for a sustainable European future: European action for sustainability**
- = Information from the Commission
14774/16 DEVGEN 261 ONU 132 ENV 735 ACP 169 FIN 821 RELEX 984

The Commission presented the above mentioned communication as part of a sustainable development package tabled on 22 November 2016. While welcoming the mapping of current EU policies and instruments made, some Ministers regretted the lack of a gap assessment and guidelines for further work, including in the area of EU environmental policy. Ministers also underlined the need for a comprehensive, coordinated and coherent strategy in order to implement the 2030 Agenda at EU level, and looked forward to the multi-stakeholder platform announced by the Commission. The Council took note of the information provided by the Commission and of the comments made by delegations.

- e) **European Sustainable Development Week (ESDW) (30 May - 5 June 2017)**
- = Information from the German, French, Austrian and Finnish delegations, supported by the Czech and Italian delegations
15345/1/16 ENV 783 REV 1

The Austrian delegation presented the ESDW initiative and called on Member States to participate and appoint national focal points. Other delegations expressed support for the ESDW initiative. The Commission indicated that in 2017 the ESDW would be held in the same week as the Green Week. The Council took note of the information provided by the Austrian and other delegations and of the remarks by the Commission.

f) **Budapest Water Summit 2016 (Budapest, 28 - 30 November 2016)**

= Information from the Hungarian delegation
15356/16 ENV 784

The Council took note of the information provided by the Hungarian delegation on the successful outcome of the Budapest Water Summit 2016, which identified a number of water challenges and announced an action plan.

g) **Fitness Check of the EU Nature legislation (Birds and Habitats Directives)**

= Information from the Commission

The Commission presented the results of the fitness check on the Birds and Habitats Directives, i.e. that the Directives are fit for purpose, therefore no review of legislation was needed, but focus should be on strengthening implementation. Ministers supported these conclusions. The Council took note of the information provided by the Commission and looked forward to the presentation of the future action plan announced by the Commission.

h) **Reports on recent international meetings:**

i) **Convention on Biological Diversity (CBD) (Cancun, 4 - 17 December 2016)**

- **13th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP 13)**
- **Eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP 8)**
- **Second meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing (COP-MOP 2)**

ii) **66th Meeting of the International Whaling Commission (Portorož, Slovenia, 24 - 28 October 2016)**

15529/16 ENV 799 PECHE 482

iii) **Ninth meeting of the Conference of the Parties (COP 9) to the UNECE Convention on Transboundary Effects of Industrial Accidents (Ljubljana, 28 - 30 November 2016)**

15405/16 ENV 789 IND 264 PROCIV 84 ONU 139

= Information from the Presidency and the Commission

The Presidency and the Commission informed delegations about the key outcomes of the abovementioned international meetings. The main political objectives of the EU were achieved in most cases; with regard to the unfinished business at TEIA COP 9, the Presidency concluded that the EU would aim to complete that at the next COP.

i) **Current legislative proposals**

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

Waste package

i) **Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment [First reading]**

Interinstitutional file: 2015/0272 (COD)

ii) **Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/31/EC on the landfill of waste (First reading)**

Interinstitutional file: 2015/0274 (COD)

iii) **Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (First reading)**

Interinstitutional file: 2015/0275 (COD)

iv) **Proposal for a Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste (First reading)**

Interinstitutional file: 2015/0276 (COD)

= Information from the Presidency on the state of play

15477/16 ENV 795 COMPET 655 MI 793 AGRI 673 IND 266 CONSOM 315
ENT 231 CODEC 1876

The Council took note of the state of play of the discussions on the waste legislative package. Delegations reiterated their commitment to move towards a circular economy and welcomed the progress made by the SK Presidency. The discussion confirmed that key elements of the package are the definitions, targets and calculation rules and that further discussions on these elements, in particular with respect to targets and calculation rules, are necessary to reach a common understanding.

j) **REFIT evaluation of the EU Ecolabel**

= Information from the Czech delegation, supported by the Belgian, Bulgarian, French, Croatian, Italian, Austrian and Slovenian delegations
15270/16 ENV 773

The Czech delegation praised the EU Ecolabel experience and called on the Commission to publish the outcome of the REFIT and announce its intentions. Ministers recalled that 2017 will mark the 25th anniversary of the EU Ecolabel, and underlined that the Ecolabel was one of the EU's most successful initiatives both in commercial and environmental terms, and should therefore be maintained. The Commission took note of the wide support expressed by delegations, announced that the REFIT report would be published in the first months of 2017 and that Member States would be involved in the discussions on the future of the EU Ecolabel. The Council took note of the information provided by the Czech delegation and of the comments made by other delegations and the Commission.

k) **Odour nuisance**

= Information from the Polish delegation
15267/16 ENV 772

The Polish delegation informed about the odour nuisance situation, which had become a nation-wide problem in Poland, and asked for measures to be taken at EU level. The Commission indicated that odour nuisance was a local issue and that although there were no specific EU measures, some EU instruments which regulated the pollution at the source partly addressed this problem.

The Council took note of the information provided by the Polish delegation and of the intervention by the Commission.

l) **Work programme of the incoming Presidency**

= Information from the Maltese delegation

The Maltese delegation, as incoming Presidency of the Council, presented its main priorities and the programme of work in the area of environment during the next six months.

STATEMENTS FOR THE COUNCIL MINUTES

Ad "A" item 9: Draft Council Regulation fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea
= Adoption

STATEMENT BY THE COUNCIL AND THE COMMISSION

"The Council and the Commission consider that in order to address the misreporting and IUU fishery of turbot in the Black Sea, the implementation of control and monitoring measures established since 2012 should be further improved as stipulated in the declaration by Bulgaria and Romania. The relevant Member States should dedicate the necessary efforts and resources to address systemic deficiencies in their control system and to ensure effectiveness of the measures that have been decided.

An evaluation of the degree of implementation of these measures together with a review of their efficiency should be carried out by the Commission before 15 September 2017, in view of any action that may be required to address the situation.

Furthermore, the EU will seek to ensure that GFCM pay particular attention to the full compliance of its members and Cooperating non-Members of GFCM to implement the actions established in the roadmap for fighting against IUU in the Black Sea as adopted in 2013 and to implement the mid-term strategy 2017-2020 adopted by GFCM in 2016."

STATEMENT BY BULGARIA AND ROMANIA

"Bulgaria and Romania, in the context of the adoption of the Regulation fixing for 2017 the fishing opportunities for certain fish stocks in the Black Sea, after taking note on the development of the stocks as highlighted in the GFCM sub-regional group on stock assessment in the Black Sea, and having recognized the importance of continuing implementing a robust monitoring, control and surveillance system in achieving sustainable use of fisheries marine resources in the Black Sea, commit to the following:

General

To implement fully within 2017 any pending actions of the provisions of the Action Plan of 16 December 2014, to work with the Commission in the implementation of the objectives of the recently adopted Bucharest Declaration of the High-Level conference towards enhanced cooperation in fisheries¹ and the actions foreseen for the Black Sea in the GFCM mid-term strategy (2017-2020) toward the sustainability of Mediterranean and Black Sea fisheries.

Turbot

To follow up and further implement

- to keep at 2016 levels the fishing authorisations for Turbot and the minimum allocation per boat,
- to keep at 2016 level their respective number of designated ports for landings (7 for Bulgaria and 10 for Romania) in order to streamline the control of landings,
- to continue the strict policy adopted in 2016 for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels,
- to increase by 20%, as compared to 2016, the number of market inspections and inspections at sea, including during the closed season, based on a risk assessment methodology and time schedule agreed with the European Commission and the European Fisheries Control Agency (EFCA),
- to increase by 20% joint inspection actions under the coordination of EFCA, including controls at sea, at landings, on the markets as well as the monitoring of the transport of fish by road,
- to establish during 2017 a pilot project on evaluation of discards in the Rapana whelk fishery, in order to evaluate the impact on juveniles of turbot and dogfish,
- to ensure that all static gears are properly marked and identified in accordance with European Union rules and to take all necessary follow-up actions,
- to put in place new public awareness actions to inform the public about the technical conditions and closed season applying to Turbot fishing activities,
- to work with the Commission and the European Fisheries Control Agency (EFCA) in implementing Recommendation GFCM/40/2016/6, the possible preparation of a proposal for a GFCM multi-annual plan for turbot as well as any other measures that are deemed necessary to address the misreporting, the IUU fishery of Turbot in the Black Sea and the marketing of the catches illegally caught in the region.

Piked dogfish

To follow up and further implement

- to limit their respective catches of Piked Dogfish in 2017 to the 2015 level of their catches and to inform the Commission on a quarterly basis of the actions taken to meet this objective,
- to reduce by 10% the 2016 level of fishing authorisations for Piked dogfish,
- to continue implementing the strict policy adopted in 2016 for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels as well as vessels having by-catches of dogfish."

¹ See <http://www.fao.org/gfcm/meetings/blackseaconference2016/en/>.

Ad "A" item 16: **Draft Council Regulation amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products**
= **Adoption**

STATEMENT BY SPAIN

"Regarding the proposal for a COUNCIL REGULATION amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products (ST 14596/16 + ADD 1), Spain votes against the mentioned proposal on the following grounds:

Communication from the Commission concerning autonomous tariff suspensions and quotas (2011/C 363/02) does not support the approval of a tariff quota in the context of a surplus production. Notwithstanding, the proposal includes a tariff quota with order number 09.2716 for staple fibers of viscose rayon (ex 5504100020) in relation to which there is sufficient production in the EU.

Spain believes that granting such a tariff quota introduces legal uncertainty, sets a bad precedent for future requests and jeopardizes recent Spanish investments."

Ad "A" item 17: **Draft Council conclusions on enhanced exchange of customs related information with third countries**
= **Adoption**

STATEMENT BY THE NETHERLANDS, JOINED BY SPAIN AND DENMARK

"The Council Conclusions on enhanced exchange of Customs related information touch upon the need for continuing to develop a country specific approach, the need for a transparent and sound legal base and the need to work on interoperability of IT systems.

The conclusions call upon the Commission to consider proposals for a policy framework and where necessary Union legislation for the exchange of information between Member States and third countries.

Taken this into account,

The Netherlands stresses that the following elements need to be taken into account when considering the follow-up of these conclusions:

1. IT-costs, planning and prioritization also in relation to other customs IT-projects;
2. Different modes of exchange of information in Member States' specific circumstances, in order to explore and facilitate further steps in achieving more pro-active and innovative concepts for systematic information exchange with third countries."