



**COUNCIL OF
THE EUROPEAN UNION**

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15417/11

CRS CRP 40

SUMMARY RECORD

**Subject : 2380th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 12, 13 and 14 October 2011**

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1. Adoption of the provisional agenda and items "I"

doc. 15330/11 OJ CRP1 34

15339/1/11 REV 1 OJ/CRP2 34

The above mentioned agendas are approved with the following changes:

The following item is **added** :

(Coreper Part 2, under II)

32. Négociations pour un Accord d'Association avec l'Ukraine

- **Questions ouvertes**

doc. 15436/11 NIS 126 COEST 352 RESTREINT UE

The Committee approves the "I" items as set out in the summary. Details are contained in the document quoted under item 1.

Several statements were made on the following item :

25. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards repayable assistance and financial engineering

15215/11 FSTR 47 FC 37 REGIO 81 SOC 857 CADREFIN 84 FIN 721 CODEC 1627

15147/11 FSTR 46 FC 36 REGIO 80 SOC 848 CADREFIN 83 FIN 709 CODEC 1616

Statement by the Council

Council confirms that considering the aim of greater legal security and clarity concerning the application of an existing practice, the amendments regarding repayable assistance shall be without prejudice for the application of such forms of assistance in the next programming period 2014-2020.

Statement by the Commission

(on the scope of definition of a credit line)

The Commission proposal on the amendment of Council Regulation (EC) 1083/2006 introduces a new Section 3a on repayable assistance, including provisions on forms of repayable assistance (Article 43a) and its reuse (Article 43b).

As to the scope of the repayable assistance, the proposal provides for two distinct forms of repayable assistance: a) reimbursable grant and b) credit line, defined under Article 2 as new points 8 and 9. It is also made clear in the proposal that declarations of expenditure concerning repayable assistance are submitted in line with Article 78(1) to (5).

The Commission would like to underline that given its specific placement under a separate section, the term credit line, as defined in Article 2(9), can only be used in relation to repayable assistance.

Statement by the Commission

(on results of the mapping exercise relating to cases of repayable assistance)

The amendment reflects the results of a mapping exercise and takes account of information provided by Member States. In this mapping exercise, the Commission identified schemes or operations which are based on repayable assistance defined as reimbursable grants or credit lines, but which do not have the characteristics of financial engineering instruments as defined in Article 44 of Council Regulation (EC) No 1083/2006. This amendment aims at providing legal security to Member States which are implementing such types or schemes of operations.

For these types of schemes or operations, the statement of expenditure is submitted in accordance with the rules applicable for grants as set out in Article 78(1) to (5) of the same regulation.

To the Commission's best knowledge, the new provisions cover all operations identified in the mapping exercise which have not given rise to any doubts that they fall within the definitions now laid down in the amendment.

Statement by the Commission

(on timely spending from financial engineering instruments)

New forms of finance for assistance have been developed in the 2007-2013 programming period, moving away from traditional grant-based financing to revolving forms of finance. The European Commission recognises the importance of the financial engineering instruments as vehicles for the more effective use of Structural Funds and as catalysts of public and private resources to achieve the investment levels needed to implement the Europe 2020 Strategy.

At the same time, the Commission takes note of the view of the Court of Auditors on the need to ensure a timely utilisation of the resources made available through the funds created through the financial engineering instruments.

The Commission proposal aimed to introduce a legal obligation in order to ensure that the financial contribution paid by managing authorities for establishing or contributing to financial engineering instruments is spent for eligible expenditure within a timeframe of two years from the date of the certified statement of expenditure which includes the payment into the fund.

The Commission recognises the position of the Member States not to have the above provision in the current legislation and is looking forward to the debate on timely spending in the framework of the negotiations on the cohesion policy legislative package for the 2014-2020 period.

Statement by Slovenia, the Czech Republic, Lithuania, Hungary, Slovakia, United Kingdom and Latvia
(on application of financial engineering to the Cohesion Fund)

Slovenia, the Czech Republic, Lithuania, Hungary, Slovakia, the United Kingdom and Latvia fully share the view that financial engineering instruments are important vehicles for the more effective use of Structural Funds and as catalysts of public and private resources to achieve the investment levels needed to implement the Europe 2020 Strategy. With the use of financial engineering we can clearly achieve more results with the same amount of public cohesion policy funding.

Given that the scope of Cohesion Fund in 2007-2013 period has been expanded also to non-major projects, including those in the area of sustainable development, we have proposed to extend the application of financial engineering also to the Cohesion Fund. Although the proposal received wide support from the Member States it has not been included in the text of the Proposal for Regulation amending Council Regulation (EC) No 1083/2006 as regards repayable assistance, financial engineering and certain provisions related to statement of expenditure.

We see this as a missed opportunity as regards how to leverage the already disposable cohesion policy funds in the present financial framework, which will as a consequence, due to the restrictive provision of the general regulation under discussion, need to be provided as simple grants only.

We welcome the Commission's intention to make Cohesion Fund eligible for financial engineering in the 2014-2020 period. It is therefore unfortunate that we were not able to use the current period at least to introduce pilot schemes, if necessary in a limited number of fields (e.g. energy efficiency and renewable energy), thereby speeding up the start of implementation post 2014.

Statement by Portugal, Hungary and Latvia
(on reimbursements under repayable assistance operations)

Portugal, Hungary and Latvia consider that in order to ensure greater legal security and clarity concerning the application of an existing practice, the amounts reimbursed under repayable assistance operations, in accordance with art. 43a-b shall not be considered as deductions or withdrawals within the meaning of article 80 of the General Regulation.

Statement of The Netherlands
(on the use of financial instruments)

The Netherlands stresses the importance of quality of legislation and legal certainty. Whereas discussions are ongoing about the desired form and criteria for the use of financial instruments, most notably in the framework of the Financial Regulation, this particular proposal should not give precedence to any future decisions on the use of financial instruments. Only when the preconditions for the use of such financial instruments have been properly laid down in legislation following the appropriate legal procedures, should financial instruments be allowed to be set up. This urges for clearer provisions regarding the conditions under which financial instruments may be set-up and used, or not. The Netherlands reluctantly approves of this proposal on financial engineering and will negatively assess any future attempts to legalize financial instruments retroactively.

Coreper Part 1

II

13. Preparation for the Council meeting "Agriculture and Fisheries" on 20 and 21 October 2011

1. Proposal for a Council regulation fixing for 2012 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea (*Non legislative activity*)

- Political agreement

14278/11 PECHE 235

15144/11 PECHE 273

+ COR 1

+ ADD 1

The Committee examined the outstanding issues and decided to send the file to Council on 20-21 October in order to reach a political agreement.

2. EU/Norway: annual consultations for 2012 (*Non legislative activity*)

- Exchange of views

15143/11 PECHE 272 N 26

The Committee prepared the exchange of views on the EU's annual consultations with Norway for 2012.

3. ICCAT Annual meeting (Istanbul, Turkey, 9-19 November 2011) (*Non legislative activity*)

- Exchange of views

15149/11 PECHE 274

The Committee decided to withdraw this item from the agenda of the Council.

14. Proposal for a Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) - (recast) (Second reading) (Legislative deliberation)

- Preparation for the first informal trialogue

15128/11 ENV 745 MI 474 CODEC 1606

The Committee agreed to a Presidency mandate with a view to a first trialogue to be held on 18 October 2011 in the framework of negotiations with the European Parliament to reach an agreement in second reading on the proposed recast Directive.

- 15. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (First reading) (Legislative deliberation)**
- **Presidency briefing on the outcome of the informal trialogue**

The Chair recalled that all the relevant information concerning the trialogue that took place on 5 October had already been given to the Mertens group.

The trialogue was unsuccessful as the European Parliament was inflexible on amendment 26. However, the Commission undertook to present proposals regarding 4 open issues: the name of the juice, imported products, sweeteners in nectars and Brix values for four fruits.

The possibility of a new meeting with the European Parliament was not excluded if there would be new elements to be discussed.

- 16. Proposal for a Decision of the European Parliament and of the Council establishing the first radio spectrum policy programme (First reading) (Legislative deliberation)**
- **Presidency briefing on the outcome of the informal trialogue**

The Presidency reported on the outcome of the fourth informal trialogue of 11 October and explained the time-table for upcoming meetings.

- 17. Proposal for a Regulation of the Council and the European Parliament implementing enhanced cooperation in the area of the creation of unitary patent protection (First reading) (Legislative deliberation)**
- **Presidency briefing on the outcome of the informal trialogue**

The Committee was debriefed by the Presidency about the outcome of the first informal trialogue on the proposed Regulation mentioned above and about the first exchange of views on the proposed Council Regulation for the translation arrangements and on the draft agreement for a unified patent court.

- 18. Proposal for a Directive of the European Parliament and of the Council amending Directives 89/666/EEC, 2005/56/EC and 2009/101/EC as regards the interconnection of central, commercial and companies registers (First reading) (Legislative deliberation)**
- **Guidance for the future work**
15105/11 DRS 106 EJUSTICE 76 CODEC 1603

The Committee discussed the Presidency note as reflected in document 15105/11, took note of delegations' positions and comments, and decided to revert to this matter at a forthcoming meeting.

- 19. Proposal for a Regulation of the European Parliament and of the Council concerning the placing on the market and use of biocidal products (Second reading) (Legislative deliberation)**
- **Preparation for the first informal trialogue**
15137/11 ENV 747 MI 475 AGRI 663 CHIMIE 64 CODEC 1614

The Committee agreed to a Presidency mandate with a view to a first trialogue to be held on 18 October 2011 in the framework of negotiations with the European Parliament to reach an agreement in second reading on the proposed Regulation.

- 20. Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents (First reading) (Legislative deliberation)**
- **Presidency briefing on the outcome of the informal trialogue**

The Committee took note of the Presidency briefing on the informal trialogue that was held in the morning of 12 October 2011.

Coreper Part 2

II

27. **Paquet élargissement 2011**

- **Présentation par la Commission**

Le Comité a pris note de la présentation par la Commission de sa communication 2011 sur l'élargissement (doc. 15608/11), des rapports de progrès, les avis de la Commission sur la demande d'adhésion de la Serbie à l'Union européenne et sur l'adhésion à l'Union européenne de la République de Croatie, ainsi que des interventions des délégations.

Ces documents seront traités en détail dans les Groupes compétents et les résultats de cet examen seront intégrés dans les projets de conclusions du Conseil qui seront examinés par le Comité en vue du Conseil Affaires générales du 5 décembre 2011.

28. **Proposition de règlement du Parlement européen et du Conseil modifiant le règlement (CE) n° 1083/2006 du Conseil en ce qui concerne certaines dispositions ayant trait à la gestion financière pour certains États membres qui connaissent des difficultés ou une menace de graves difficultés quant à leur stabilité financière**

doc. 15385/11 FSTR 55 FC 42 REGIO 91 SOC 864 CADREFIN 94 CODEC 1652
13400/11 FSTR 29 FC 29 REGIO 61 SOC 678 CADREFIN 66 CODEC 1557

Ce point a été reporté à la prochaine réunion du Comité les 18 et 19 octobre 2011.

29. **Suivi de la session du Conseil (Affaires générales) du 11 octobre 2011**

Le Comité a été informé du suivi que la présidence entend donner à la session du Conseil Affaires générales.

Vu la situation extraordinaire et la décision de convenir d'un Conseil européen le 23 octobre 2011, le Comité s'est mis d'accord, sous proposition de la Présidence, de tenir les 2 sessions extraordinaires du Conseil (Affaires générales) et éventuellement (ECOFIN) à Bruxelles au mois d'octobre 2011.

30. Suivi de la session du Conseil (Affaires étrangères) du 10 octobre 2011

EEAS Executive Secretary General Vimont debriefed delegations on the discussions in the last FAC. In relation to Belarus, the conclusion was that pressure on the regime should be maintained. In HR's opinion, relations with Russia will play an important role. HR is considering organising an informal dinner to address the issue of Belarus before one of the upcoming FACs. The last FAC also dealt with preparation of upcoming summits with China and of the G20. The Chair mentioned that the Committee will discuss preparation of the Summit with China on 18 October 2011. As regards the Arab spring, the common understanding seems to be that it is entering a crucial phase in which several fundamental issues will have to be addressed (Vimont mentioned economic, religious issues, continued cooperation with existing partners, as well as a need to make further efforts in engaging with countries that do not share EU's position - Russia and China were mentioned in relation to Syria).

As regards Syria, further restrictive measures are under consideration. Pressure on Bahrain should be maintained. There will be something on the Southern Neighbourhood in the upcoming European Council meeting. EEAS will liaise with the European Council structures to prepare that. The situation in Iran is also getting more and more complicated. In the human rights strand certain MSs are calling for additional names to be put on the list of persons subject to restrictive measures. In the nuclear file, the HR is about to send out a letter to Jalili announcing that the EU is ready to meet with Iranians in the 3+3 format. France queried when the EEAS would brief the Committee on the recent Summit with Brazil. EEAS confirmed that this can be done at the meeting of the Committee on 18/19 October 2011.

31. Représentation extérieure

The EEAS gave a brief presentation of the paper on the proposed General Arrangements as regards EU statement in multilateral organisations.

32. Négociations pour un Accord d'Association avec l'Ukraine

- Questions ouvertes

doc. 15436/11 NIS 126 COEST 352 RESTREINT UE

The Committee discussed the outstanding issues of the EU-Ukraine Association Agreement on the basis of document 15436/11 RESTREINT UE. The Committee agreed to return to this issue at its meeting on 18 October 2011, with a view to reaching final agreement.

- Any other business

• Sectoral proposals on employment and social affairs

- Information from the Commission

The Commission informed the Committee on the key elements of its proposals on structural funds for the period 2014-2020 - joint programming, link between fund use and EU2020 objectives and country-specific recommendations under the Stability and Growth Pact, focus on a limited number of priorities, result-orientation and conditionality - and how these are reflected in the proposals for European Social Fund, European Globalisation Adjustment Fund and EU Programme for Social Change and Innovation.

• Sectoral proposals on agriculture and rural development

- Information from the Commission

The Committee took note of the information provided by the Commission on the sectoral proposals on agriculture and rural development.

• OLAF Supervisory Committee (SC) procedure

The Chair informed the Committee of the effective work carried out by the Antici group resulting in a shortlist of six selected candidates, ranked in two groups. Delegations unanimously confirmed this result.
