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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Outcome of the inter-institutional meeting at political level on the AMLA seat selection process on 18 December 2023

In view of the Coreper debriefing of 20th December 2023, delegations will find attached the following document on the outcome of the inter-institutional meeting at political-level on the AMLA Seat Selection process that took place on 18th December 2023:

- Annex 1: a draft Common Understanding on the process for selecting the seat of the Anti-Money Laundering Authority agreed with the European Parliament and its Annex on “AMLA – ITM of 16 November 2023, Summary of conclusions for public hearings jointly organised by Parliament and Council”;

**Draft Common Understanding on the process for selecting the seat of the Anti-Money
Laundering Authority**

I - Background

1. In its judgments of 14 July 2022 concerning the seat of EMA and ELA, the Court of Justice held that “the competence to determine the location of the seat of [those agencies] lies with the EU legislature, which must act to that end in accordance with the procedures laid down by the substantively relevant provisions of the Treaties, in this case Article 114 and Article 168(4) TFEU [and Articles 46 and 48 TFEU respectively], which provide for recourse to the ordinary legislative procedure”.
2. On 20 July 2021, the Commission made a proposal to establish the Anti-Money Laundering Authority (AMLA), based on Article 114 TFEU (ordinary legislative procedure). The Commission’s proposal contained no reference to a specific location of the seat of AMLA.

II - Objective

3. The European Parliament, the Council and the Commission (“the three institutions”) agree that the location of the seat of the Anti-Money Laundering Authority (AMLA) should be selected swiftly, in order for this agency to be set up directly in the location of its seat.
- ~~4. In order to ensure the most efficient and speedy process without affecting the legislative discussions on the substance of the file, the three institutions agree that the process to select the location of the seat should remain strictly separated from those negotiations.~~
4. The three institutions confirm their wish to ensure a selection process that is transparent, fair and equitable to all candidates and which respects the decision-making autonomy of each institution.
5. The three institutions agree on the process as set out below.

III – State of play of the AMLA file as regards seat selection

6. AMLA will be the first agency to be set up after the judgments of 14 July 2022.
7. Several rounds of discussion on the procedure to agree on the selection of the AMLA seat have already taken place between the co-legislators.
8. In June 2023, co-legislators agreed on joint criteria for the selection of the seat of the Anti-Money Laundering Authority (AMLA).

- 9.** On 20 September, the co-legislators finalised the draft letter of call for applications and the respective application form and agreed to ask the Commission for an assessment of the applications. On 27 September, the co-legislators respectively agreed that the call for applications could be sent by the Commission. Following this, on 28 September, the Commission launched the call for applications, with a deadline for Member States to send applications by 10 November. The co-legislators have agreed that the applications would not be further processed until an agreement is reached on the entire selection process for the seat of AMLA.
- 10.** The Commission should assess the Member States' applications within 6 weeks from 10 November (deadline for applications). Such assessment should confirm the eligibility of the candidates. The Commission has indicated that its assessment will be ready by 12 December 2023.

IV - Proposal for practical arrangements for the seat selection within the ordinary legislative procedure:

Phase I: arrangements to ensure a transparent, fair and equitable decision

- 11.** The co-legislators have agreed on the principle to organise joint public hearings to allow representatives to present their applications. Annexed to this document is the agreement on the practical modalities relating to the organisation of these hearings ("AMLA - ITM of 16 November 2023, Summary of conclusions for public hearings jointly organised by Parliament and Council").
- 12.** The co-legislators have agreed that the joint public hearings will be organised in the European Parliament's premises.
- 13.** The co-legislators will assess each application according to the selection criteria included in the call for applications, the information provided by candidates in the application form, the Commission's assessment as well as to the outcome of the joint public hearings.
- 14.** The final decision on the location to host AMLA's seat should be made by the co-legislators in an **informal** inter-institutional meeting at political-level.

Phase II: a joint vote

- 15.** In order to reach an agreement on the location of the seat, the Parliament's and the Council's representatives will vote together at the same time in an **informal** inter-institutional meeting at political-level. Representatives of the co-legislators taking part in the vote may only cast their vote for those applications whose eligibility has been confirmed by the Commission's assessment referred to above. Each co-legislator's internal discussions in preparation for this joint vote should be conducted in accordance with their respective internal arrangements and in full respect of each institutions' decision-making autonomy. In order to ensure a level playing field between the Parliament and the Council, each co-legislator will be attributed 27 votes. Each co-legislator will be free to allocate the 27 votes within its own delegation, in accordance with their internal arrangements and in full respect of each institution's decision-making autonomy.

- 16.** The co-legislators have agreed that the joint vote will take place in the Council's premises.
- 17.** Each co-legislator will designate a single co-Chair whose role will be to supervise the organisation and conduct of the joint vote .
- 18.** In order to ensure maximum transparency, the joint vote will be organised in ~~an open-secret~~ ballot procedure. Each co-legislator will be attributed 27 ~~nominative~~ voting ballots which they should cast for their preferred candidate. Each voting representative may decide to abstain and not to cast its vote for any of the applications. Once votes have been cast, the Co-Chairs will reveal the results by announcing the votes one by one, ~~and attributing each vote to its corresponding identified representative (e.g. EP representative 1 voted for A; Council representative 1 voted for D, etc.)~~.
- 19.** An application will be deemed 'selected' to host AMLA's seat when receiving the majority of the votes cast (i.e. at least 28 votes if 54 are validly cast). As the case may be, several rounds of voting may be organised ~~until to reach~~ such a majority **is reached**.
- 20.** The location of the seat resulting from the political choice made pursuant to the above process will be reflected in the legislative text and be formally adopted as part of the said text in accordance with the ordinary legislative procedure.

AMLA - ITM of 16 November 2023**Summary of conclusions for public hearings jointly organised by Parliament and Council**

The proposals below were agreed at technical level. These proposals are only applicable to the selection for the seat of AMLA and are without prejudice to the procedures (including hearings) that may be used in the future in relation to the seat of other agencies or any other matters.

1. Objective of the event

The objective is to organise joint public hearings of all applicants that submitted by the deadline (10 November 2023) an application for hosting the seat of the Anti-Money Laundering Authority (AMLA).

The hearings shall be organised jointly by Parliament and Council.

The hearings shall take place in a public meeting with web-streaming.

2. Venue

The venue of the AMLA seat hearings will be decided depending on availability of premises and related additional requirements, such as interpretation. The AMLA seat hearings can take place either in the EP premises, in turn in Council/EP premises or in a neutral venue (i.e. EC premises).

3. Duration and planning

The hearing of each applicant will be scheduled to last around 60 minutes (including break time), with the objective of holding hearings of all applicants in one day and in the same day, as far as possible. If not possible for logistical reasons, it is possible to organise the hearings over 2 consecutive half-days.

Without prejudice to the fact that the hearings will not take place before an agreement on the entire selection procedure is reached by the co-legislators, as jointly agreed by Parliament and Council, it is noted that for logistical and planning purposes, it is critical to set a date as soon as possible given the limited availabilities of premises and the agenda constraints of the Chairs. The Council noted its strong preference to organise the hearings once the assessment of the Commission is completed (EC assessment possibly completed on 12 December).

In order to be able to organise any hearings in January 2024, it is imperative to reach an agreement on the date of the hearings at the latest by 13 December (i.e. latest possible slot for any political meeting on the Parliament's side; participants concluded that no political meeting can be organised in the period 14 December 2023 – 8 January 2024). In case no date can be agreed by 13 December, it will not be possible anymore to organise any joint public hearings in January 2024. The Parliament noted that, for the case in which no date is agreed for joint public hearings by 13 December, each institution will have to take its responsibility. The Council disagreed and noted that the political agreement clearly states that the process cannot move forward absent an agreement on the entire selection process. This matter will be reported back to political level for further guidance.

4. Invitation letters

Invitation letters to applicants will be co-signed by the EP and Council side, following their respective internal administrative arrangements.

5. Chairing of the meeting

Both Parliament and Council will chair the hearings with the same number of Chairs on each side and with a preference for a single chair for each institution, even if this means that some chairs may have to rotate (specific number to be confirmed once availabilities are known, after a date has been agreed).

6. Participants to the joint public hearings

Presenters shall attend physically the hearings; no remote intervention is allowed. Applicants commit to transmit in due anticipation the name of the presenters in order to prepare accreditations and practical arrangements.

At least a representative of each Member State will have the possibility to attend the entire meeting (i.e. at least 27 seats reserved for Member States) - in addition to the seat reserved for presenters.

All ECON-LIBE committee members (accompanied by their assistant/group advisers) will have the possibility to attend the meeting.

The exact number of participants - and size of MS delegations - doing the presentation of the candidate will be decided depending on available premises. The number of participants of each institution will be decided at a later stage depending on available premises and considerations of balance, as appropriate.

7. Format of the hearing

Assuming that modalities of the hearings are shared in advance with all applicants, the Chairs will hold a joint opening for all candidate Member States at the beginning of the day.

Each applicant will then be invited for its individual hearing, consisting of a general presentation (10 minutes) followed by a Question-and-Answer (Q&A) session, and concluding/closing remarks (details to be decided at a later stage). Each applicant shall have the same time for its intervention in order to ensure fair treatment and equal opportunity.

The order of presentation by the candidates will be determined by drawing lots, immediately after there is an agreement on the selection process/organisation of the joint public hearings (i.e. to take place during or at the margin of the concerned political meeting). The order resulting from the drawing will be communicated to the candidates with due anticipation.

8. Linguistic regime

The hearings should take place with full language regime. Applicants shall be able to use their own language(s) to make their interventions to ensure equal treatment.

9. Applicants' presentation (use of visual support and recording)

In view of their presentations, applicants may use PowerPoint presentations (to be provided in advance).

Short video messages will be allowed. In case the meeting is organised in EP premises, applicants will be advised not to use video messages (often technical failures; issue of equal treatment if video messages work or not). The EP can only commit to an obligation of means in showing video recording, but it cannot take any commitment on obligation of results. In case of a failure, the EP

cannot take any responsibility for such failure; no complaint shall be made by affected applicants. Videos need to be sent enough time in advance in order to allow the responsible services (DG LINC) to check them and prepare interpretation.

10. Question and Answer session

The question time is shared equally between Parliament and Council.

Only ECON-LIBE Members and representatives from the Council are allowed to ask questions.

Council and Parliament will pre-agree a list of possible topics to be addressed during the Q&A. The topics of the questions will be related to the selection criteria, the content of the applications or the presentation of the candidates. This list of topics will be communicated in advance to applicants.

During the Q&A, the Chairs shall only allow questions from the floor that relate to the selection criteria, the information submitted in the applications or to the presentation of the candidates. In case questions are raised outside this scope, the Chairs will dismiss the questions.

11. Financial arrangements

There shall be no basis for reimbursement of any travel or other expenses of applicants.
