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European Union

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SUMMARY RECORD

Subject: 2523rd meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 17 and 19 December 2014

SUMMARY

Page

1. Adoption of the provisional agenda 7

Coreper Part 1

I

2. Replies to written questions put to the Council by Members of the European Parliament
- a) E-006171/2014 - Maite Pagazaurtundúa Ruiz (ALDE) and Beatriz Becerra Basterrechea (ALDE)
Human rights and female circumcision in Iraq
 - b) E-006517/2014 - Nicola Caputo (S&D)
Cybercrime and the Internet of Things
 - c) E-006567/2014 - James Carver (EFDD)
Operation Atalanta
 - d) E-007259/2014 - Julia Reda (Verts/ALE)
Council Working Party on Intellectual Property - Discussion on the Commission's action plan on the enforcement of intellectual property rights
 - e) E-007348/2014 - Dennis de Jong (GUE/NGL)
Action to combat tachograph fraud website
 - f) E-007675/2014 - Victor Negrescu (S&D)
Romania and Bulgaria's accession to Schengen
 - g) E-007801/2014 - Marina Albiol Guzmán (GUE/NGL)
Large-scale racist raid: criteria for mass detentions, appearance before the European Parliament, possible mass expulsions and violation of international law
 - h) E-007806/2014 - Silvia Costa (S&D), Kashetu Kyenge (S&D), Elly Schlein (S&D) and Patrizia Toia (S&D)
'Mos Maiorum' joint operation and role played by Frontex
 - i) P-007821/2014 - Ska Keller (Verts/ALE)
Joint police operation 'Mos Maiorum'
 - j) P-007825/2014 - Patrick Le Hyaric (GUE/NGL)
Operation Mos Maiorum
 - k) P-007837/2014 - Pablo Iglesias (GUE/NGL)
Covert operation in contravention of migrants' rights
 - l) P-007838/2014 - Tania González Peñas (GUE/NGL)
Operation Mos Maiorum
 - m) P-008089/2014 - Indrek Tarand (Verts/ALE) and Rebecca Harms (Verts/ALE)
Upcoming review of EU sanctions against the Russian Federation
 - n) E-008270/2014 - Miriam Dalli (S&D)
Operation Mos Maiorum
 - o) E-008370/2014 - Victor Negrescu (S&D)
Climate and energy targets in the period 2020-2030

3. Draft minutes of Council meetings
 - 3342nd meeting of the Council of the European Union (Environment), held in Luxembourg on 28 October 2014
4. Follow-up to judgment in joint cases C-103/12 and C-165/12
5. Commission Regulation (EU) No .../.. of XXX implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for solid fuel local space heaters
6. Commission Regulation (EU) No .../.. of XXX implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for solid fuel boilers
7. Commission Regulation (EU) No .../.. of XXX amending Directive 2002/46/EC of the European Parliament and of the Council as regards (6S)-5-methyltetrahydrofolic acid, glucosamine salt used in the manufacture of food supplements
8. Commission Regulation (EU) No .../.. of XXX amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Ephedra species and Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille)
9. Proposal for a Council Directive implementing the European Agreement concluded by the European Barge Union (EBU), the European Skippers Organisation (ESO) and the European Transport Workers' Federation (ETF) concerning certain aspects of the organisation of working time in inland waterway transport
10. Draft Council Implementing Decision implementing Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 as regards the appointment of the Chair, of the Vice-Chair and of four additional full-time members of the Single Resolution Board
11. Case T-521/14 Sweden v. Commission
Obligation to adopt a delegated act specifying scientific criteria for the determination of endocrine-disrupting properties pursuant to Parliament and Council Regulation 528/2012 on biocidal products - action for failure to act - decision to intervene in support of the applicant

II

15. 4th Railway Package (First reading) (Legislative deliberation)
 - a) Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004
 - b) Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast)
 - c) Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast)..... 11
16. Proposal for a Directive of the European Parliament and of the Council facilitating cross-border exchange of information on road safety related traffic offences (First reading) (Legislative deliberation) 11
17. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (First reading) (Legislative deliberation) 11
18. Proposal for a Regulation of the European Parliament and of the Council on novel foods (First reading) (Legislative deliberation) 12
19. Proposal for a Regulation of the European Parliament and of the Council on Animal Health (First reading) (Legislative deliberation) 12
20. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (First reading) (Legislative deliberation) 12

I

21. Case before the General Court of the European Union
 - Case T-765/14 (G. Legakis and Others v. Council of the European Union)
22. Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States
23. Council Decision launching the European Union CSDP mission in Mali (EUCAP Sahel Mali) and amending Decision 2014/219/CFSP
24. Political and Security Committee Decision EUFOR RCA/6/2014 on the appointment of the EU Force Commander for the European Union military operation in the Central African Republic (EUFOR RCA) and repealing Decision EUFOR RCA/1/2014
25. Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and Turkmenistan, of the other part
 - Updated draft Council and Commission Decision on the conclusion by the European Union and the European Atomic Energy Community as the basis for the request for the consent of the European Parliament
26. Guidelines on methodological steps to be taken to check fundamental rights compatibility at the Council's preparatory bodies

II

27.	Follow-up to the Council meeting (Foreign Affairs/Development) on 12 December 2014	13
28.	Follow-up to the Council meeting (Foreign Affairs) on 15 December 2014	13
29.	Presentation of the agenda of the Council meeting (Foreign Affairs) on 19 January 2015	13
30.	Follow-up to the Council meeting (General Affairs) on 16 December 2014	13
31.	Follow-up to the European Council on 18/19 December 2014	14
32.	Presentation of the agenda of the Council meeting (Economic and Financial Affairs) on 27 January 2015	14
33.	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics (European Parliament second reading) ..	14
34.	Recommendation for a Council Regulation amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank	15
–	Any other business	
-	Information from the Presidency on	
a)	Regulation on interchange fees for card-based payment transactions	
b)	Anti-money laundering Directive	16

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

doc. 16872/14 OJ/CRP1 44 + COR 1
16971/14 OJ/CRP2 44 + ADD 1

The above-mentioned agendas are approved with the following changes :

The following item is **added**:

(Coreper Part 2, under I)

35. (poss.) Political and Security Committee Decision on the appointment of the Head of European Union Monitoring Mission in Georgia (EUMM Georgia)

- Authorisation for publication in the Official Journal

16513/14 COPS 332 PESC 1282 CIVCOM 255 RELEX 1083 CSDP/PSDC 747
COEST 371 JAI 1028 COHAOM 176 EUMM GEORGIA 13 PSC DEC 58
15892/14 COPS 312 PESC 1212 CIVCOM 237 RELEX 958 CSDP/PSDC 682
COEST 433 JAI 921 COHOM 166 EUMM GEORGIA 11 PSC DEC 50

The following items are **withdrawn**:

(Coreper Part 2, under I)

- Proposal for a Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions (First reading)

16921/14 EF 358 ECOFIN 1201 CONSOM 281 CODEC 2511
16920/14 EF 357 ECOFIN 1200 CONSOM 280 CODEC 2510

- (poss.) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 604/2013 as regards determining the Member State responsible for examining the application for international protection of unaccompanied minors with no family member, sibling or relative legally present in a Member State (First reading)

- Approval of negotiation mandate
16843/14 ASILE 41 CODEC 2495

(Coreper Part 1, under II)

18. (poss.) Proposal for a Regulation of the European Parliament and of the Council on novel foods (First reading) (Legislative deliberation)

- Analysis of the final compromise text with a view to agreement

The following CRP1 agenda items have been **transferred** from Part I to Part II:

- 12. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (First reading) (Legislative deliberation)**
 - **Approval of the final compromise text in preparation for political agreement**
16793/14 STATIS 139 TRANS 587 CODEC 2484
- 13. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents (First reading) (Legislative deliberation)**
 - **Approval of the final compromise text in preparation for political agreement**
16794/14 STATIS 140 TRANS 588 CODEC 2485
- 14. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (First reading) (Legislative deliberation)**
 - **Approval of the final compromise text in preparation for political agreement**
16787/14 STATIS 138 COMPET 673 UD 282 CODEC 2482

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

Commission made a statement on the following item:

4. Follow-up to judgment in joint cases C-103/12 and C-165/12

- Approval of a letter

16755/1/14 PECHE 588 REV 1

"Proposal for a Council letter to the authorities of the Bolivarian Republic of Venezuela on the continuation of fishing activities in the exclusive economic zone off the coast of French Guiana, following the judgement of the Court in cases C-103 and 165/12

Following the judgement of 26 November 2014 of the Court of Justice in cases C-103/12 and C-165/12 (European Parliament and the Commission vs. Council), whereby the Court annulled the Council Decision 2012/19/EU of 16 December 2011 on the approval, on behalf of the European Union, of the Declaration on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana, with the effects of the Council Decision maintained, until the entry into force, within a reasonable period of time after the date of the judgement, of a new Decision to be adopted on an appropriate legal basis (Article 43(2) and 218(6)(a)(v) TFEU), it is proposed that the Council would send a letter (or a Note Verbale) to the authorities of Venezuela to inform them of the situation.

The Commission has strong legal objections against the Council's intention to contact the Venezuelan authorities, by means of a letter or a Note Verbale, as, under Article 17(1) TEU it is for the Commission to ensure the Union's external representation in areas outside the common foreign and security policy.

As the proposed letter constitutes an act of external representation of the Union in the area of the external common fisheries policy, the Commission reserves its right to contact directly the Venezuelan authorities."

Coreper Part 1

II

12. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (First reading) (Legislative deliberation)**
- **Approval of the final compromise text in preparation for political agreement**
16793/14 STATIS 139 TRANS 587 CODEC 2484

The Committee discussed but did not approve the final compromise text set out in 16793/14, asking the Presidency to continue negotiations with the European Parliament notably on the issues of compulsory pilot studies.

13. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents (First reading) (Legislative deliberation)**
- **Approval of the final compromise text in preparation for political agreement**
16794/14 STATIS 140 TRANS 588 CODEC 2485

The Committee discussed but did not endorse the final compromise text set out in 16794/14, mandating the Presidency to continue negotiations with the European Parliament, notably on the open issue of compulsory pilot studies.

14. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (First reading) (Legislative deliberation)**
- **Approval of the final compromise text in preparation for political agreement**
16787/14 STATIS 138 COMPET 673 UD 282 CODEC 2482

The Committee discussed but did not endorse the final compromise text set out in 16787/14, mandating the Presidency to continue negotiations with the European Parliament notably on the open issue of the consultation of experts of the Member States by the Commission to be included in Article 1 (6) Article 10a para. 2.

- 15. 4th Railway Package (First reading) (Legislative deliberation)**
- a) Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004**
 - b) Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast)**
 - c) Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast)**
 - **Presidency debriefing on the outcome of the informal trilogue**

The Committee took note of the information provided by the Presidency on the outcome of the informal trilogue of 16 December 2014.

- 16. Proposal for a Directive of the European Parliament and of the Council facilitating cross-border exchange of information on road safety related traffic offences (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the informal trilogue**
 - **Analysis of the final compromise text with a view to agreement**
16848/14 TRANS 592 DAPIX 187 ENFOPOL 435 CODEC 2497

The Committee took note of the information provided by the Presidency on the outcome of the informal trilogue of 11 December 2014.

The Committee examined and approved the final compromise text and gave the Presidency the mandate to send a letter to the European Parliament confirming the agreement at first reading.

- 17. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the informal trilogue**
 - **Analysis of the final compromise text with a view to agreement**
16842/14 TRANS 590 CODEC 2494

The Committee took note of the information provided by the Presidency on the outcome of the informal trilogue held in Brussels on 10 December 2014.

The Committee examined and approved the final compromise text negotiated with the European Parliament and gave the Presidency the mandate to send a letter to the European Parliament confirming the agreement at second reading.

18. Proposal for a Regulation of the European Parliament and of the Council on novel foods (First reading) (Legislative deliberation)

- **Presidency debriefing on the outcome of the informal trilogue**

The Committee was informed of the results of the trilogue which took place on 16 December 2014.

At the trilogue, the three institutions had the opportunity to identify points of agreement as well as key outstanding issues and to define the next steps of the negotiations.

19. Proposal for a Regulation of the European Parliament and of the Council on Animal Health (First reading) (Legislative deliberation)

- **Preparation for the informal trilogue**
16404/14 AGRI 763 VETER 116 AGRILEG 250 ANIMAUX 61 SAN 465
CODEC 2423
+ ADD 1-6

The Presidency compromise texts set out in documents 16404/14 ADD1 - 6, including a small amendment agreed during the meeting, received the support of a qualified majority of delegations. This will allow the Presidency to start negotiations with the European Parliament with a view to examining possibilities for a pre-negotiated second reading agreement.

20. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (First reading) (Legislative deliberation)

- **Presidency debriefing on the outcome of the informal trilogue**
- **(poss.) Analysis of the final compromise text with a view to agreement**

The Committee endorsed the preliminary agreement reached with the European Parliament on a compromise text as set out in 16399/14.

Coreper Part 2

II

27. Follow-up to the Council meeting (Foreign Affairs/Development) on 12 December 2014

The Committee took note of the EEAS summary note on the main outcomes of the Council meeting (Foreign Affairs/Development) on 12 December 2014.

28. Follow-up to the Council meeting (Foreign Affairs) on 15 December 2014

The Committee was informed by the EEAS Secretary-General of the informal meeting with Ministers of Foreign Affairs and the HR, on 14 December 2014, during which they discussed working methods in the context of the Council (Foreign Affairs). The Committee was also informed of Ministers' discussions during the Council (Foreign Affairs) meeting on 15 December 2014, on Syria/Iraq/ISIL, Western Balkans and Bosnia-Herzegovina, Ukraine, and Ebola, as well as the discussion during lunch on Libya, in the presence of UNSG Special Representative Bernardino León.

29. Presentation of the agenda of the Council meeting (Foreign Affairs) on 19 January 2015

The Committee was informed by the EEAS Secretary-General of the draft agenda of the Council (Foreign Affairs) on 19 January 2015, which would include discussions on Russia, climate change and (possibly) Libya. He took note of the Committee's wish to prepare the discussion on Russia prior to the Council (Foreign Affairs) meeting on 19 January 2015.

30. Follow-up to the Council meeting (General Affairs) on 16 December 2014

The Committee took note of the main outcomes of the December GAC, notably:

- the adoption of the conclusions on the Enlargement and Stabilisation and Association process;
- the adoption of the conclusions on the Rule of Law;
- the Commission's presentation on the Annual Growth Survey;
- the Presidency' report on the Friends of Presidency group improving the functioning of the EU.

Over lunch Ministers examined the draft EC conclusions, discussed the Mid-term Review of the Europe 2020 Strategy, the Commission's 2015 Work Programme as well as the strengthening of the annual and the multiannual interinstitutional programming.

Under AOB, Ministers discussed progress on the Digital Agenda.

31. Follow-up to the European Council on 18/19 December 2014

The Committee took note of the follow-up the Council intends to give to the orientations of the December EC, notably as regards the imminent Commission proposal on European Fund for Strategic Investment (EFSI) and on Ukraine.

32. Presentation of the agenda of the Council meeting (Economic and Financial Affairs) on 27 January 2015

The Committee agreed the provisional agenda for this Council meeting.

It was requested that MIF (interchange fees for card-based payment transactions) be added to the ECOFIN agenda.

33. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics (European Parliament second reading)

- **Analysis of the final compromise with a view to agreement**
16509/1/14 REV 1 STATIS 132 ECOFIN 1161 CODEC 2434

With a view to reaching an early second reading agreement with the European Parliament, the Committee approved with a qualified majority the result of the negotiation with the co-legislator as set out in the annex to document 16509/1/14 REV1. The NL and PT delegations indicated their intention to abstain at the adoption of the legal act, while the AT delegation intended to vote against.

The UK delegation, supported by the DK, FI, HU and LT delegations, added the following statement to the minutes:

"With reference to the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European Statistics, the United Kingdom considers that, while Article 338(1) TFEU is the legal basis for Regulation 223/2009, it does not constitute an appropriate legal basis for Article 12.3(b) of the proposed Regulation. The latter Article provides for a competence of the European Commission to initiate and conduct an investigation where sectoral legislation provides for fines in cases where Member States misrepresent statistical data. The United Kingdom underlines that Article 338 TFEU does not provide for the imposition of fines or other sanctions in the field of statistics in sectoral legislation, therefore Article 12.3(b) is not considered as a legally permissible basis for future sectoral legislation."

34. Recommendation for a Council Regulation amending Regulation (EC) No 2533/98 concerning the collection of statistical information by the European Central Bank
- Political agreement
16514/2/14 REV 2 STATIS 133 UEM 396 ECOFIN 1162

The Committee exchanged views on the compromise text set out in 16514/2/14 REV 2. A number of delegations expressed concern on the wording of Article 12 paragraph 3(b). The Committee decided to postpone a final decision to a forthcoming meeting.

The SI delegation entered the following statement:

"Slovenia generally supports the proposal aiming at minimising the reporting burden on reporting agents and to enable proper performance of supervision of financial institutions, markets and infrastructures conferred on all competent authorities as well as a proper performance of the tasks conferred on authorities responsible for the protection of the stability of the financial system.

However, it has to be noted, that the proposal is not clear regarding the transmission of confidential statistical information as defined in proposed paragraph 4a in Article 8. Paragraph 4a stands as a legal basis for the transmission of confidential statistical information from the ESCB to authorities or bodies of the Member States and the Union responsible for the supervision of financial institutions, markets and infrastructure or the stability of the financial system, and to the European Stability Mechanism (ESM). Moreover, paragraph 4a stands also a legal basis for further transmission of confidential statistical information from the ESM to national parliaments to the extent required under national law.

To be explicit, according to national rules governing the statistical confidentiality, confidential statistical information are to be used solely for statistical purposes, meaning the exclusive use for the development and production of statistical results and analyses, and prohibition of its use for non-statistical purposes (i.e. administrative, tax, judicial, inspection,...). National rules are in line with the Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European Statistics. National central bank forms, besides their particular sphere of competences, a part of the national statistical system, and is therefore obliged to confirm with the rules on statistical confidentiality. In our opinion, proposed paragraph 4a represents a "grey field" for the transmission of confidential statistical information. Although the proposed Regulation should not apply to confidential statistical information collected according to Regulation 223/2009 on European statistics, there should be a clear division between using confidential statistical information according to the Regulation 2533/98 and in the sphere of the competences of the ESCB and authorities responsible for financial supervision, and using confidential statistical information in accordance with the Regulation (EC) No 223/2009 and national statistical legislation.

To conclude, we are of the opinion that the proposal is not clear enough in the limitation of using confidential statistical information and it could contribute to lower standards of statistical confidentiality."

The AT, DE and FI delegations entered the following statement:

"Germany, Austria, Finland are subject to national constitutional provisions requiring swift and comprehensive submission of information regarding ESM activities to their national parliaments. In this context it is to be understood that the provisions regarding submission of information between ESM members and their respective parliaments as stated in Article 8, paragraph 4a, subparagraph 4 are without prejudice to constitutional obligations to transmit information without any delay."

– **Any other business**

- **Information from the Presidency on**

- a) **Regulation on interchange fees for card-based payment transactions**
- b) **Anti-money laundering Directive**

The Committee took note of the political agreements reached on the Regulation on interchange fees for card-based payment transactions and the Anti-Money Laundering package.

- **Eurocontrol reform**

Eurocontrol's 42nd Provisional Council (PC), 4 and 5 December 2014

- **European Union coordination of a common position**

In response to the unilateral statements of some Member States, as set out in 16338/14 ADD 3, the Commission presented the following statement:

"The Commission considers that the 2 December 2014 COREPER-level agreement on a common position, based on the information note submitted, constitutes a follow-up of an already developed common position approved at the level of COREPER on 29 November 2013, regarding the future of Eurocontrol. The 2013 information note represents the point of departure for concerted Union action in the matter.

The Commission would like to recall that the duty of sincere cooperation set out in Article 4(3) TEU compels Member States to refrain from taking any position in Eurocontrol on the substance of the issues raised that could undermine the attainment of the Union's objectives, including the further development of an EU position on the matter. Should any Member State act in a manner contrary to this understanding, the Commission reserves itself the right to have recourse to all means available under the Treaty."
