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European Union

**Brussels, 2 February 2015
(OR. en)**

5447/15

CRS/CRP 3

SUMMARY RECORD

Subject: 2526th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 21 January 2015

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

doc. 5371/15 OJ/CRP1 3 + COR 1
5380/1/15 REV 1 OJ/CRP2 3

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

The following items are **withdrawn** :

(Coreper Part 1, under I)

2. Replies to written questions put to the Council by Members of the European Parliament

- j) **E-008923/2014 - João Ferreira (GUE/NGL), Inês Cristina Zuber (GUE/NGL) and Miguel Viegas (GUE/NGL)**
Responsibility of the Commission President in tax evasion cases
16833/14 PE-QE 370

15. Draft Council Decision on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union

- **Adoption**
7953/14 PECHE 149
7911/14 PECHE 147
5263/15 PECHE 19
+ ADD 1

16. Proposal for a Council Decision on the conclusion of the Protocol setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe

- **Adoption**
8585/14 PECHE 186
5262/15 PECHE 18
+ ADD 1

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

DE made a statement on the following items:

7. Commission Directive ../.../EU of XXX implementing Directive 2004/23/EC as regards the procedures for verifying the equivalent standards of quality and safety of imported tissues and cells

- **Decision not to oppose adoption**
16626/14 SAN 476
+ ADD 1
5182/15 SAN 6

8. Commission Directive ../.../EU of XXX amending Directive 2006/86/EC as regards certain technical requirements for the coding of human tissues and cells

- **Decision not to oppose adoption**
16988/14 SAN 490
+ ADD 1
5183/15 SAN 7

"Germany regrets that the EU Commission has abandoned the compromise again that had been achieved during the negotiations, to refrain from concretely listing the term 'embryo' in the category of tissue. It is true that the term 'embryo' is not concretely mentioned in the updated proposal for the Commission Directive on import verification procedures, however, the embryo is not only listed as reproductive tissue, but even as product when referred to in Annex II, section 2: "list below using categories of tissues and cells listed in the EU Tissue and Cell Product Compendium."

With regard to this issue, Germany wishes to clarify that, according to the German legal interpretation the embryo does not constitute tissue, but it enjoys the right to special protection already from its genesis. Thus, the Act on the Protection of Embryos in Germany stipulated provisions providing the highest level of protection.

To this extent, Germany already refrained from categorizing embryos as tissues in the past, when implementing the relevant EU Directives. Following up the above-said, Germany will, given the agreement from the EU Commission, continue to adhere to this legal opinion and particularly refrain from using the term 'embryo' when implementing the proposal for the Commission Directive on import verification procedures and the proposal to amend Commission Directive 2006/86/EC as regards the coding requirements."

UK made a statement on the following item:

- 29. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European Statistics (First reading)**
– **Adoption of the political agreement with a view to an early second reading agreement with the European Parliament**
5109/15 STATIS 1 ECOFIN 10 CODEC 18

"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."

* * * * *

AT, CZ and UK made statements on the following item:

- 30. – Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (AML Directive) (First reading)**
– **Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds (AML Regulation) (First reading)**
= **Approval of the final compromise text**
5116/15 EF 6 ECOFIN 12 DROIPEN 1 CRIMORG 7 CODEC 20
+ ADD 1
+ ADD 2
+ ADD 3 REV 1

Statement by AT

"Austria is strongly concerned that the current text does not enhance transparency on beneficial ownership information necessary to avoid the abuse of trusts for the purpose of money laundering and terrorist financing. There is a clear need to establish central and public beneficial owner registries in the very country by whose laws a legal person or a trust is governed. As far as legal persons are concerned, the current text (Article 29) states that the location of the beneficial owner registry shall be the country by whose laws the legal person is governed. Unfortunately, the same does not hold true for trusts (Article 30). The current wording does not clearly state the location of trust registries. In our view, meaningful trust registries need to be located in the countries by whose laws the trust is governed. Any other location would not serve the purpose of creating greater transparency, particularly because trusts are not recognized in the majority of Member States.

Above all, the current wording leaves room for extensive interpretation when it comes to national implementation of Article 30. There is a clear danger that Member States will interpret the provision of Article 30 differently, which eventually will result in some Member States establishing beneficial owner registries for trusts while others will not. That being said, the current wording of Article 30 opens the floodgates to abuse, in particular with respect to the usage of trusts in cross-border circumstances. Furthermore, Article 30 paragraph 4 determines the registration of beneficial owners of trusts only when a trust "generates tax consequences". In our view, this wording is too broad and highly prone to circumvention and evasion. For example, a tax exemption for certain types of trusts introduced by a Member State would consequently result in the abolition of the obligation to register the beneficial owner of such trusts. Such intended or unintended consequences may undermine the purpose of the provision. Austria remains highly critical of the current wording of Article 30 and does not support it. However, in order not to jeopardize an otherwise reasonable compromise text, Austria can accept the political compromise. Nevertheless, given the current wording of Article 30, Austria sees no need for implementing a beneficial owner registry for trusts in Austria."

* * * * *

Statement by CZ

"While the Czech Republic welcomes compromise on the proposal for an AML Directive and Regulation, it nevertheless regrets that these acts set additional rules which do not duly correspond to the spirit of the relevant FATF recommendation (No 11). This recommendation stipulates only a minimum limit for keeping all necessary records for prosecution of criminal activity. Article 39 of the AMLD proposal (and similarly Article 16 of the AMLR proposal) however counteracts the meaning and purpose of the measures against money laundering and terrorist financing by setting the maximum time period for record keeping (10 years). This limitation on record keeping contradicts the needs of the criminal proceeding. The records on transactions may be important for criminal investigation of serious crimes for which the prescription period is stipulated up to 20 years in the Czech Republic or the prescription is fully excluded in case of terrorist criminal offences including terrorist financing. Investigation of these crimes would be thus in many cases hampered by disposing of evidence.

The Czech Republic assumes that only the minimum limit for record keeping should be stipulated to fulfil the meaning and purpose of these acts. The determination of the maximum time period for record keeping should be left on consideration and decision of Member States to ensure compliance with their national prescription period for criminal offences and the needs of the criminal proceeding."

* * * * *

Statement by UK

"We welcome the agreement reached in trilogues on these files and particularly thank the Italian Presidency for their hard work on delivering such an agreement before the end of 2014. The Directive and the Regulation intend to implement at EU level the latest guidance and recommendations of the Financial Action Task Force concerning money laundering and terrorist financing.

We look forward to transposition discussions with Member States and the Commission going forward, including ensuring consistency with the FATF standards, including Politically Exposed Persons and the registration of trusts. The UK notes the Directive exempts companies listed on regulated markets from beneficial ownership provisions where they are already subject to stringent ownership disclosure and transparency requirements under the EU Transparency Directive. The UK continues to believe that markets other than "regulated markets", such as AIM, should also be exempt when they are subject to similar transparency requirements, in order to prevent unnecessary burden and on the grounds of consistency. We hope that this can be reconsidered in the future following appropriate steps and discussions with the Commission.

Finally, the UK considers that one of the predominant purposes of the 4th Anti-Money Laundering Directive is Justice and Home Affairs-related in the form of co-operation against terrorist financing, as made clear by the references in the text to Articles 1-4 of the Framework Decisions on combating terrorism. The UK therefore considers that its JHA opt-in applies and that a JHA legal base should be cited in the measure."

* * * * *

DK made a statement on the following item:

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

– Approval of the final compromise text

5120/15 EF 8 ECOFIN 14 CONSOM 7 CODEC 22

5119/1/15 REV 1 EF 7 ECOFIN 13 CONSOM 6 CODEC 21

"Denmark welcomes the compromise found by the Council and the European Parliament in the trilogue on the Regulation on interchange fees for card-based payment transactions, and we thank the Greek, Italian and Latvian Presidencies for their efforts in achieving this. The compromise takes into account the need for flexibility for domestic payment cards markets where existing debit payment cards schemes work efficiently, providing consumers and merchants with widely used and cost-effective payment alternatives. The Regulation of interchange fees may also help the payments framework to better serve the needs of an effective European payments market, fully contributing to a payments environment which nurtures competition and innovation.

However, we continue to believe that the interchange fee Regulation as a whole should not apply to the cost-efficient domestic debit card schemes with an interchange fee generally lower than the caps in the compromise text. Some of the provisions of the Regulation could have unintended consequences and possibly lower the usage of these domestic debit cards, thus leading to higher costs to the detriment of consumers and merchants."

Coreper Part 1

II

20. Preparation for the Council meeting (Agriculture and Fisheries) on 26 January 2015

- **Proposal for a Regulation of the European Parliament and the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (First reading) (*Legislative deliberation*)**
 - **Presentation and exchange of views**
14028/14 PECHE 455 CODEC 1967
+ ADD 1-2
5253/15 PECHE 17 CODEC 41

The Committee took note of the Commission's presentation and of the initial reactions from delegations on the proposal for a multi-species Baltic Plan. The Presidency underlined that this issue will be one of the key priorities of the next months. FR, ES, IT and BE took the opportunity to highlight some of their key horizontal concerns, such as the need to ensure that the whole proposal has the correct legal basis, the scope of the delegated acts is correctly defined, the revision clause has a shorter deadline, the proposal is aligned with the provisions of the Baltic Discard Plan, and that all the stakeholders are consulted. The Presidency concluded that this item had been prepared and maintained on the Council's agenda.

21. 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)**
- **Preparation for the informal trilogue**
5179/15 TRANS 13 CODEC 33

The Committee confirmed the mandate for the fourth trilogue as set out in 5179/15.

Coreper Part 2

II

43. Follow-up to the Council meeting (Foreign Affairs) on 19 January 2015

The Committee received a debrief from the EEAS representative on the Foreign Affairs Council meeting on 19 January 2015.

The items treated included Russia, terrorism and climate change; the discussion focused mostly at FAC working methods.

44. Presentation of the agenda of the Council meeting (Foreign Affairs) on 9 February 2015

The Committee took note of a presentation by the EEAS of the provisional agenda of the Council (Foreign Affairs) to be held on 9 February 2015.

The main discussion items foreseen were Africa, migration, fight against terrorism and Middle East and North Africa.

The EEAS indicated that a number of issues would be taken as "A" items: Yemen (Council conclusions); Special Report of the Court of Auditors on the EU support to the rehabilitation after the earthquake in Haiti (Council conclusions); EU priorities at the UN Human Rights Fora (Council conclusions).

The EEAS also informed the Committee that the Council would be preceded by an EU-Lebanon Association Council.

45. Preparation of the Council meeting (Economic and Financial Affairs) on 27 January 2015

a) Economic governance

- **Commission Communication "Economic Governance Review"**
= **Exchange of views**
16236/14 ECOFIN 1121 UEM 374 SOC 838 EMPL 184
- **Communication clarifying the existing flexibility in the Stability and Growth Pact**
= **Commission presentation and exchange of views**
5375/15 ECOFIN 33 UEM 11

Following the EFC discussions the previous week on the review of the Six-pack and Two-pack, as well as on the Commission Communication clarifying the existing flexibility in the Stability and Growth Pact, the Presidency informed delegations of the handling of the issue at the Council.

b) Preparation of the G20 Meeting of Finance Ministers and Governors on 9-10 February 2015 in Istanbul

- **Terms of reference**

The Committee took note of the Terms of Reference as prepared by the EFC the previous week and agreed that they would be submitted to the Council for adoption.

c) Other items in connection with the Council meeting

Regarding the rest of the ECOFIN agenda, the following was announced:

- Two items would be discussed at the ECOFIN Breakfast: Eurogroup debrief and Macro-Financial Assistance to Ukraine;
- MIF (Interchange Fee Regulation) was moved to the A part of the agenda;
- The item on the European Council follow-up was removed;
- The Presidency took note that the CZ Minister might want to intervene at ECOFIN to say that there should be more in the Commission Work Programme on indirect taxation;
- The Presidency also noted that during the breakfast the French Minister may wish to present his views on the potential way forward on the prevention of terrorism financing. Should this happen, the Presidency would also give the floor to the Commission to comment.

46. Presentation of the agenda of the Council meeting (General Affairs) on 10 February 2015

The Committee took note of the main items of the February GAC, which are:

- Presidency's priorities and Working Programme;
- Fight against terrorism;
- Preparations of the March European Council (annotated draft agenda - ADA).

As appropriate the Council may discuss issues pertaining to the Informal meeting of Heads of State or Government on 12 February 2015.
