



**COUNCIL OF
THE EUROPEAN UNION**

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5478/10

CRS/CRP 4

SUMMARY RECORD

**Subject : 2304th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 20, 21 and 25 January 2010**

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22. Proposition de décision du Conseil visant à compléter le code frontières Schengen en ce qui concerne la surveillance des frontières extérieures maritimes dans le cadre de la coopération opérationnelle entre États membres coordonnée par l'Agence européenne pour la gestion de la coopération opérationnelle aux frontières extérieures des États membres de l'Union européenne
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1. Adoption of the provisional agenda and items "I"

doc. 5447/10 OJ/CRP1 3

5482/10 OJ/CRP2 3 + CM 1314/10 + CM 1251/10

The above mentioned agendas are approved with the following changes :

The following item is **added** :

(Coreper Part 2, under I)

30. Approbation du projet de conclusions sur la Bosnie-Herzégovine: Opération ALTHEA

5555/1/10 REV 1 COSDP 44 PESC 60 COWEB 15 BIH 3

5507/2/10 REV 2 COSDP 41 PESC 52 COWEB 14 BIH 2

The following item is **withdrawn** :

(Coreper Part 2, under II)

26. Préparation de la session du Conseil (Affaires étrangères) des 25/26 janvier 2010

g) Divers

- Ukraine

The following CRP2 agenda item has been transferred from Part I to Part II :

29. Introduction d'un recours en annulation relatif aux modalités d'adoption du budget 2010

5344/10 JUR 19

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

Statements are made by MT and IT on the following item :

22. Proposition de décision du Conseil visant à compléter le code frontières Schengen en ce qui concerne la surveillance des frontières extérieures maritimes dans le cadre de la coopération opérationnelle entre États membres coordonnée par l'Agence européenne pour la gestion de la coopération opérationnelle aux frontières extérieures des États membres de l'Union européenne
5323/10 FRONT 6 COMIX 46

The Committee took note that Malta and Italy intended to abstain at the adoption of this point as an A point (see 5323/1/10 REV 1 FRONT 6 COMIX 46).

Malta made the following statement:

"Malta refers to the proposed Council Decision supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of the operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders, and reaffirms that nothing in this proposed Council Decision should be considered as modifying the Convention of Safety of Life at Sea (SOLAS) and the Search and Rescue Convention (SAR) as they apply to Malta.

Malta's obligation at international law is to disembark rescued persons at the geographically closest place of safety and Malta rejects all attempts to erode this position. Malta's Rescue Coordination Centre will therefore continue to fulfil its functions in accordance with the provisions of SOLAS and SAR. In this context, Malta will monitor the correct implementation of Article 4.1 of Annex I, Part II of the Council Decision, and where necessary will ask for the intervention of FRONTEX and the European Commission, in particular in cases where any territory of a Member State is arbitrarily declared as not constituting a place of safety for the disembarkation of rescued persons in an attempt at circumventing international obligations and responsibilities.

Moreover, Annex II of the Council Decision must not lead to the eventual imposition of additional obligations on Malta. No additional obligations will be accepted that may affect the relevant legal regime for the disembarkation of rescued persons.

Malta stresses that the Council Decision cannot be interpreted as constituting a precedent for future legislative instruments introducing rules which may extend international law currently in force."

Italy made the following statement:

"With reference to the Non-Binding Guidelines contained in Annex, part II, Article 4.1, second paragraph, of the Council Decision supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of the operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders:

- Italy considers that the solutions that may be necessary to preserve the safety of the persons others than those described in the first part of Article 4.1, second paragraph, must be consistent with international law;

- Italy will monitor the implementation of the provisions contained in Article 4.1., and will ask for Frontex and Commission's intervention, where necessary and, in particular, in case of application of that rule by other MS based on an excessively wide interpretation of the concept of safety aimed at circumventing their obligations and responsibilities;
- Italy considers important that, in application of the Council Declaration attached to the Council Decision, both EU Commission and Frontex monitor the fair application of the provision of Article 4.1.;

Italy stresses that Article 4.1, second paragraph, will not constitute a precedent for future legislative instruments introducing rules which may extend international law in force or fill actual existing gaps in international legal instruments."

Coreper Part 1

II

9. Proposal for a Regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market

- **Political agreement on the remaining open issues (delegated acts / comitology)**
5302/10 AGRI 10 ENV 12 FORETS 4 CODEC 12 DEVGEN 10 RELEX 29 JUR 18
UD 10 WTO 8 PROBA 4 + ADD 1

The Council Legal Service suggested a number of horizontal changes on some of the Articles affected by the entry into force of the Lisbon Treaty (DS 1031/10).

The Committee reached an agreement on the draft Regulation, subject to some minor changes.

The Italian delegation requested that the statement made in December 2009 by a large number of Member States as well as the Commission statement (doc. 5571/10 ADD 2) should be repeated in the Minutes of the Council when the political agreement on the whole Regulation is reached.

The Commission indicated that it reserved its position, in particular regarding the provisions relating to the comitology system.

The Chair concluded that the item would be put on the agenda of the next Council meeting for adoption as an "A" item.

10. Climate change

- **Follow-up to Copenhagen Accord**
 - (a) **Association with the Accord**
 - (b) **Submission of emission target 2020**

The result of the Committee's work is set out in 5794/10, subject to a number of pending scrutiny reservations.

Coreper Part 2

II

24. Suivi de la session du Conseil (Affaires économiques et financières) du 19 janvier 2010

The Committee took note of the proceedings of this Council meeting.

25. Suivi de la session extraordinaire du Conseil (Affaires étrangères) du 18 janvier 2010

Le Comité a été informé du suivi de la session extraordinaire du Conseil (Affaires étrangères) du 18 janvier 2010.

26. Préparation de la session du Conseil (Affaires étrangères) des 25/26 janvier 2010

a) Iran

The Presidency informed that Iran would be discussed over lunch at the upcoming FAC.

b) Bosnie et Herzégovine

The Committee Chair informed delegations that Bosnia and Herzegovina would be discussed by the FAC and invited the Council to adopt conclusions on the Operation Althea as set out in 5507/10.

c) Somalie

The aim at the Council will be to reach a political agreement on the launch of a CSDP training mission on Somalia, for Somali security forces.

d) Afghanistan/Pakistan

The Committee discussed preparations of the agenda item on Afghanistan/Pakistan for the upcoming Foreign Affairs Council (FAC).

e) Yémen
5545/10 COMEM 11 PESC 57

The Committee agreed the draft Council conclusions set out in 5609/10 on Yemen for the FAC on the understanding that additional elements, coming up in the Ministers' discussion, may be added.

f) Haïti

The Committee agreed on the need for the Council (Foreign Affairs) on 25 January to decide on coordination of Member States' military and security assets, while avoiding any complication of the chain of command on the ground.

The Committee also suggested that the Council should be invited to:

- discuss urgent non-humanitarian aid to restore basic government capacities;
- be de-briefed about High Representative C. Ashton's visits to Washington and New York and Commissioner K. De Gucht's visit to Haiti ;
- discuss EU participation at the Montreal "Friends of Haiti" meeting on preparations for an international donors conference in the Spring;
- note the calls for a reflection on a future rapid EU rapid response mechanism.

h) Autres points en rapport avec la session du Conseil

Le Comité met au point l'ordre du jour provisoire de la session du Conseil Affaires étrangères.

27. Elargissement ASEM

The Committee held a first discussion regarding the principles and modalities for the ASEM enlargement with Russia and Australia. The Presidency noted a possible lack of agreement on a common EU line as regards all aspects of the enlargement issue and the temporary third category proposed by the Asian side. It highlighted the need to reach a common EU position in the future and recalled that the next ASEM Senior Officials' meeting in Madrid (24-25 January 2010) would be a good opportunity in this sense.

28. Traité de Lisbonne - SEAE (session restreinte)

In the framework of the implementation of the Treaty of Lisbon, the Committee had a discussion on some aspects linked to the future European External Action Service. In the presence of a representative of the High Representative of the Union for Foreign Affairs and Security Policy, the Committee focused in particular on the issue of programming of financial instruments as well as on the potential modifications to the Financial Regulation.

29. Introduction d'un recours en annulation relatif aux modalités d'adoption du budget 2010

5344/10 JUR 19

La présidence a saisi le Comité d'un projet de lettre à envoyer au Président du Parlement européen. Le Comité a décidé de considérer cette lettre lors de sa prochaine réunion.

- Any other business

(a) Second stage air services negotiations with the United States of America

- Information from the Commission

The Commission informed the Committee about the results of the 6th round of the above negotiations with the US conducted in Washington on 11-16 January.

(b) Informal Council meeting (Energy) (Seville, 15 January 2010)

- Information from the Presidency

The Committee took note of the information provided by the Presidency.

(c) Informal Council meeting (Environment) (Seville, 15-16 January 2010)

- Information from the Presidency

The Chair summarized discussions at the informal meeting and announced that the Committee would deal with the EU's communication concerning the support and first follow-up to the Copenhagen Accord.
