



**COUNCIL OF
THE EUROPEAN UNION**

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REV 1**

CRS/CRP 13

SUMMARY RECORD

Subject: 2491st meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 26 and 27 March 2014

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

doc. 8090/14 OJ/CRP1 12

8109/1/14 REV 1 OJ/CRP2 12 + REV 1 COR 1

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

The following items are **added** :

(Coreper Part 2, under I)

60. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 966/2012 as regards the financing of European political parties (First reading)

- **Approval of the final compromise text**
8167/14 FIN 244 CODEC 900

61. Draft amending budget No 1 to the general budget for 2014 - Statement of expenditure by Section - Section III - Commission

- **Adoption of the Council position**
- **Decision to use the written procedure**
8188/14 FIN 248 PE-L 16

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

NL and UK indicated their intention to vote against the final compromise text of the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 966/2012 as regards the financing of European political parties (item 60).

AT made a statement on the following item :

18. Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment (First reading) (Legislative deliberation + Statement)

- **Adoption of the legislative act**
PE-CONS 15/14 ENV 43 CODEC 121
+ REV 1 (de, lt, ro)
7927/14 CODEC 831 ENV 298
+ ADD 1

"Transboundary environmental impact assessments pursuant to the Espoo Convention for nuclear installations are of utmost importance for Austria.

Annex IV point 8 and recitals 15 and 32 of the revised EIA Directive make reference to an assessment according to Directive 2009/71/Euratom. While the Euratom Directive requires in general the establishment of national framework conditions it does not provide for a description and assessment of accidents or disaster risks equivalent to the EIA Directive. Austria therefore reiterates its understanding that risk assessments according to Directive 2009/71/EURATOM will most likely not meet the requirements of the EIA Directive and cannot be used to demonstrate fulfilment of the requirements of Annex IV point 8."

* * * * *

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

47. - **Council Decision on the conclusion on behalf of the European Union of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, with the exception of Article 49(3) thereof**
- **Council Decision on the conclusion on behalf of the European Union of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, as regards Article 49(3) thereof**
- = **Adoption**
- 7955/14 COLAC 11 PESC 288 PVD 3
- 12399/1/13 REV 1 PESC 889 COLAC 3
- 12400/1/13 REV 1 PESC 890 COLAC 4

Statement by Austria

"Austria holds the view that Council decisions in accordance with Article 218 TFEU always concern an agreement in its entirety. A splitting into several decisions which refer to individual articles of an agreement is legally not viable."

* * * * *

Statement by the Czech Republic

"The Czech Republic holds the view that Council decisions adopted in accordance with Article 218 TFEU throughout the process of concluding the so-called mixed agreements should relate to individual agreements in their entirety. A splitting into two decisions, each of them referring to different articles of an agreement, does not seem to be necessary and could lead to cumbersome procedures.

The Czech Republic notes that the established practice has been to conclude only one Council decision relating to an agreement as a whole. With respect to the Case C-377/12 *European Commission against Council of the European Union*, pending before the Court of Justice of the European Union, we consider the modification of this practice as premature."

* * * * *

Statement by the Commission

"The Commission disagrees with the addition of Article 79(3) of the TFEU as legal basis for the conclusion of the PDCA with the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama and the signature of a Protocol to that agreement, as well as the consequent splitting of the Council Decisions. The Commission considers that there are no concrete obligations in the agreement going beyond development cooperation. The Commission therefore considers that Article 209(2) TFEU constitutes a sufficient substantive legal basis for the Union to conclude the agreement and sign the Protocol.

A similar issue is already pending before the Court of Justice with relation to the PCA with the Philippines (Case 377/12 Commission v. Council)."

Coreper Part 1

II

21. **Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure (First reading) (Legislative deliberation)**

– **Analysis of the final compromise text with a view to agreement**

7762/14 TRANS 154 AVIATION 77 MAR 52 ENER 124 ENV 278 IND 107
RECH 126 CAB 11 CODEC 793

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.

The Commission as well as the Council presented statements to the minutes of the Committee.

Statements by the Commission

Statement by the Commission regarding the deadlines for the deployment of LNG

"The Commission very much regrets that the legislator could not agree on the date of 31 December 2020 for deploying LNG infrastructure in maritime ports. This date is critical to help industry to meet the requirements set by Directive 2012/33/EU as regards the sulphur content of marine fuels in SOx Emission Control Areas as of 1 January 2015 and outside SOx Emission Control Areas as of 1 January 2020. Regarding inland waterway ports, the Commission believes that technology is already available now to equip inland waterway vessels with engines fuelled by LNG at reasonable cost. This technology plays an important role in rendering the inland waterway sector more environmental friendly and less dependent on oil. The Commission has therefore called for the deployment of LNG infrastructure in inland ports by 31 December 2025 the very latest."

Statement by the Commission regarding the information of the European Parliament on the preparation and the implementation of delegated acts

"With regard to the possibility of the European Parliament to be invited to meetings, the Commission will implement this recital (27 c) in accordance with its practice in the implementation of point 15 of the Framework agreement on relations between the European Parliament and the European Commission."

Statement by the Commission on the non-opinion clause

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 (4) recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.

While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision it regrets that such justification is not reflected in a recital."

Statement by the Council

"The language adopted in this act on expert consultation during the preparation of delegated act is without prejudice to the Council's position in the interinstitutional negotiations on a proper horizontal solution for this matter. Indeed, the Council continues to attach the greatest importance to finding a horizontal solution to establish systematic, timely, appropriate and transparent consultations, given the difficulties which are experienced with the application of Article 290 TFEU across different policy areas.

The Council has invited the European Parliament and the Commission to find such a horizontal solution on the basis of its initiative to complement the Common Understanding on delegated acts as regards the consultation of experts, which was endorsed unanimously by the Committee on 19 February 2014 and transmitted to the European Parliament and the Commission on the following day (doc. 6774/14).

The Council takes note of the reply it received from Mr Maroš Šefčovič, Vice-President of the European Commission, by which the Commission communicated that it stands ready to contribute to reflections among the three institutions on how to improve the consultation process and make it more transparent."

**22. Setting of the provisional agenda for the Council meeting (Agriculture and Fisheries) on 14 April 2014
(For the items in the remit of the Permanent Representative Committee)**

The Committee agreed on the provisional agenda for the forthcoming Council meeting (Agriculture and Fisheries) on 14 April 2014 as set out in 8562/14.

**23. Management Board of the European Food Safety Authority (EFSA)
Appointment of seven members**

- **Agreement to the voting procedure**
5719/14 AGRILEG 15 MI 73 DENLEG 20 SAN 41 CONSOM 22 RECH 31

The Committee took note of FR and HU concerns on the current procedure for the selection of candidates. The Committee endorsed the voting procedure described in the Annex of document 5719/14.

24. Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law) (First reading) (Legislative deliberation)

- **Guidance for future work**
7937/14 AGRI 233 AGRILEG 70 CODEC 837 PHYTOSAN 22 SEMENCES 12

The Committee had a general orientation debate on the different options outlined in document 7937/14 and decided to pursue option C. The Commission acknowledged the need to amend the proposal and showed willingness to incorporate the Council views in the future text. On the exclusion of forest reproductive material from the scope of the proposal, an issue highlighted by several Member States, the Commission agreed to look into it.

25. Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (First reading) (Legislative deliberation)

- **Analysis of the final compromise text with a view to agreement**
8088/14 RC 6 JUSTCIV 76 CODEC 885

The Committee

- endorsed the final compromise text as set out in Annex to document 8088/14,
- mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex to document 8088/14 (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act should be adopted in the wording which corresponds to the European Parliament's position.

Coreper Part 2

II

41. **Three-year Action Programme for the African Peace Facility, 2014-2016**

7757/14 ACP 51 FIN 214 RELEX 235 COAFR 91 PESC 272 ONU 26

7756/14 ACP 50 FIN 213 RELEX 234 COAFR 90 PESC 271 ONU 25

At the request of delegations this item was discussed by the Committee.

Following an exchange of views on the proposal, the Committee approved the Three-year Action Programme for the African Peace Facility 2014-2016 (doc. 7757/14) by qualified majority as defined in Article 8(3) of the Internal Agreement establishing the 10th EDF (OJ L 247, 09.09.2006, p. 32) and agreed that, in accordance with Article 12(b) of Council Regulation (EC) No 617/2007 on the implementation of the 10th EDF (OJ L 152, 13.06.2007, p. 1) it may be adopted by the Commission once the ACP Committee of Ambassadors has endorsed the request from the African Union.

The Committee also agreed that the following be entered into the minutes of the meeting:

"The Committee:

- received a presentation from EEAS/COM on the state of play on the APF Draft Action Programme for 2014-2016 and had an exchange of views;
- endorsed the broad policy lines of the APF Action Programme as presented, and noted that paragraph 3.3 will require further consideration with regard to the EU contribution to uniformed personnel allowances;
- endorsed the global envelope of EUR 750 million for 2014-2016, while agreeing that additional funding will be allocated from the EDF reserves, in order to respond to the AUC funding request 2014-2016 (EUR 900 million) and complementary to important funds to be mobilised by African partners. Additional allocations will take into account current and future needs and crises. These additional needs should be confirmed on the basis of a joint assessment; and
- emphasised the importance of allocating adequate funding for building African capacity, up to EUR 100 million in line with the African Peace and Security Architecture."

50. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (First reading)

- **Analysis of the final compromise text with a view to agreement**
8058/14 FIN 235 CODEC 876

The Committee endorsed the final compromise text resulting from the trilogue held on 20 March 2014. At the request of several Member States, a Commission's non-paper on the wording of the new paragraph 3 of article 178 of the Financial Regulation is attached to the minutes.

"Commission non-paper on the wording for new paragraph 3 of Article 178 of the Financial Regulation agreed in trilogue on 20.03.2014"

The wording agreed in the trilogue for new paragraph 3 of Article 178 of the Financial Regulation (FR) was part (after lawyer linguist revision agreed between Council and European Parliament) of the draft Joint Statement circulated to COREPER on 5 November 2013 (see doc. 15525/13 ADD 1, page 23) and endorsed by COREPER on 6 November 2013 that included two different parts:

- A political statement on the mechanism of the reconstitution of appropriations in relation to the performance reserve. This statement was made in the context of the Common Provision Regulation (CPR) negotiations;
- A suggested wording for an amendment to the FR (Article 178). It is indeed necessary to foresee a corresponding exception from Article 15 of the Financial Regulation and the underlying principle of annuality. This wording differs from the above statement since its sole purpose is to make available decommitted appropriations available again. In order to preserve the Commission's right of initiative, only the text of the Joint Statement has finally been published in the Official Journal (OJ, L 347/467 on 20.12.2013).

The different purpose of the statement and of the draft wording amending Article 178 FR explains their slightly different wording.

However, what is important is that the conditions under which the decommitted appropriations may be made available again are exhaustively regulated in Articles 20, 22 and 76 of the CPR {Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320)}: Only appropriations decommitted from programmes in which priorities have not achieved their milestones may be made available again for programmes in which priorities have achieved their milestones following a Decision of the Member State."

51. High Level Group on Own Resources (restricted session)

The Committee took note of the information provided by the President on his meeting with the designated Chairman of the High Level Group on Own Resources, Mr Monti, and on the ideas presented by Mr Monti, notably on the composition of the Group and its secretariat. It agreed to the proposal of Mr Monti to start the work of the Group in the format of three nominees per Institution and to come back to this issue after the EP's elections. It noted that the first meeting of the Group is scheduled on 3 April 2014. The Committee expressed its wish to be regularly informed about the work of the Group.

52. Single Resolution Mechanism

- **Proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council (First reading)**
 - = **Approval of the final compromise text**
8078/1/14 REV 1 EF 99 ECOFIN 298 CODEC 88
8078/14 ADD 1 REV 1

The Committee has approved the final compromise text set out in 8078/14 ADD1 LIMITE and confirmed that the Presidency can indicate to the European Parliament that, should the European Parliament adopt its position at first reading in the exact form as set out in that document, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position, subject, if necessary, to revision by the legal linguists of both institutions.

At the request of DE to modify Recital (11), the Council Legal Service has explained that Article 6(4) is clearly drafted and Recital (11) cannot alter it. Any addition in Recital (11) of a sentence that would read "Member States cannot be obliged to providing new public financial support, including guarantees, loans or loan facilities" is not legally necessary to clarify, that "Decisions or actions of the Board, the Commission or the Council shall neither require Member States to provide extraordinary public financial support nor impinge on the budgetary sovereignty and fiscal responsibilities of the Member States.", because Article 6(4) has to be read in conjunction with Article 3 point 15a which clearly defines the "extraordinary public financial support" by reference to State aid.

The UK have made the following statement:

"The UK supports the establishment of Banking Union for the Eurozone. Accordingly, the UK welcomes the agreement reached today on the Regulation establishing the Single Resolution Mechanism and the Intergovernmental Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund, which is to be ratified by the Contracting Parties. The UK notes the arrangements for resolution decision-making under Article 16, including the Commission's power to adopt implementing acts endorsing or objecting to resolution schemes adopted by the Single Resolution Board. In view of the exceptional nature of resolution decisions, in particular the need for resolutions to take effect urgently in the public interest and with a high degree of certainty, it is noted that none of the Member State control procedures referred to in Regulation (EU) No 182/2011 shall apply to the Commission's powers to adopt implementing acts under the Regulation. This reflects the special nature of the Commission's tasks under the SRM and should not be treated as a precedent in other cases. The UK notes the need for further technical work at the jurist linguist stage to ensure full technical alignment between the SRM Regulation and the final text of the BRRD."

SE has joined the statement made by the UK, with regard to Article 32(2) and (3).

DE notes the need for further technical work at the jurist linguist stage to ensure full consistency between all articles in the SRM Regulation. In particular, Germany wishes to align the following provisions:

Article 6(3): "When carrying out the tasks referred to in this paragraph, the national resolution authorities shall apply the relevant provisions of this Regulation. Any references to the Board in Article 5(4), Article 6(3), Article 7(4), (4b), (9), and (9a), Article 8(1) to (8), Article 9, Article 10, Article 11, Article 12, Article 13(1) to (3), Article 14, Article 16(1) first subparagraph, (1a), (5), Article 17, Article 18 (1) to (5), (6) second subparagraph, (7), and (8), Article 19(1), (3) and (4b), Article 20, Article 21, Article 22(3), Article 24(1) to (15), (16) second subparagraph second sentence, third subparagraph, fourth subparagraph first, third and fourth sentences shall be read as references to the national resolution authorities with regard to groups and entities referred to in this paragraph. For this purpose they shall make use of their powers under national law transposing Directive [BRRD] in accordance with the conditions set out in national law."

DE justifies the insertion of the words underlined above by arguing that it is necessary for a consistent application of the division of labour between Board and national resolution authorities. It would ensure that the Board will apply the respective tasks only with regard to groups and entities referred to in paragraphs (2), 4(ii) and (5) of Article 6a whereas the national resolution authorities apply these tasks provided for in the articles concerned with regard to groups and entities referred to in paragraph 3 of Article 6a. According to Germany, this should be clarified by the proposed insertion since it would otherwise create ambiguities with regard to the specific tasks referred to in the articles.

Article 15(1): "When applying the bail-in tool to an entity referred to in Article 2, and without prejudice to liabilities excluded from the bail-in tool under Article 24(3), the Board, [the Commission], or, where applicable, the national resolution authorities, shall decide on the exercise of the write-down and conversion powers including on any possible application of Article 24 (5), and the national resolution authorities shall exercise those powers following the requirements laid down in Article 43 of Directive[...] and in accordance with the reverse order of priority of claims set out by their national law, including the provisions transposing Article 98a of the Directive [.]"

DE justifies the deletion of the words in square brackets by arguing that the exercise of the write-down and conversion powers is the power of the Board. According to Germany, the Commission has the powers under Article 16 and it is thus not necessary to mention the Commission in Article 15(1).

Recital (71b): "The transfer of contributions raised at national level under Articles (64(3a), 65 to 67 should allow the Single Resolution Fund to operate and, by consequence, the resolution tools to be applied in an effective manner. Therefore, the applicability of the provisions of this Regulation relating to the resolution tools and the contributions should take place from 1 January 2016. This date could be postponed by periods of once month if the conditions allowing the transfer of the contributions raised at national level have not been met."

DE justifies the insertion of the words underlined above by arguing that the raising of contributions at the national level and the transfer to the SRF happens in accordance with Article 64(3a) which therefore needs to be referred to in this context.

53. Preparation of the Fourth EU-Africa Summit (Brussels, 2/3 April 2014)

- **State of play of preparations**
8034/14 PESC 305 COAFR 100 COMAG 37 ACP 57

On the basis of information provided by the EEAS and the Commission, the Committee exchanged views on the state of play of preparations for the Fourth EU-Africa Summit that will take place in Brussels on 2-3 April 2014.

54. EU-US Summit (Brussels, 26 March 2014)

- **Debriefing**

The Committee was debriefed, by the EEAS and the Commission, on the outcome of the EU-US Summit held in Brussels, on 26 March 2014, whose joint statement reaffirmed the "strong partnership" between the European Union and the United States.

Ukraine dominated the discussions, but other issues had also been discussed such as energy (including LNG exports, energy dependency and energy security, in keeping with the G7 conclusions on Ukraine); the MEPP, brief references to data protection and climate change. In addition, the Summit represented a political support to the TTIP ambitious negotiations.

55. Follow-up to the Council meeting (Foreign Affairs) on 17 March 2014

The Committee took note of the information provided by the EEAS. One delegation informed on a non-paper on the European Endowment for Democracy which it had circulated.

56. Presentation of the agenda of the Council meeting (Foreign Affairs) on 14/15 April 2014

The Executive Secretary General of the EEAS updated the Committee on the topics for the agenda (Ukraine, Bosnia and Herzegovina, Syria) and on the way in which the High Representative intends to conduct the exchange of views at the Foreign Affairs Council on 14 April 2014. Information was also given on the timing and likely items (presentation on Maritime Security, EUFOR RCA, Ukraine and Eastern Partnership) for discussion by Defence Ministers on 15 April 2014.

57. Follow-up to the Council meeting (General Affairs) on 18 March 2014

The Committee was informed of the follow-up the Presidency intends to give to the main issues discussed at the March General Affairs Council, namely, the Commission's communication on the Rules of Law Mechanism, the European Semester and subsidiarity.

58. Follow-up to the European Council on 20/21 March 2014

The Committee took note of the main issues discussed at the March European Council, namely, industrial competitiveness, climate and energy policies, the European Semester, taxation, and the Single Resolution Mechanism. The Committee also discussed the EC tasks regarding the Ukraine crisis and the envisaged follow-up.

59. Presentation of the agenda of the Council meeting (General Affairs) on 14 April 2014

The April General Affairs Council has been cancelled.

– **Any other business**

- **State aid**
= **Information from the Commission**

The Commission informed the Committee on the state of progress of the reform of State aid modernisation which is at its final stages. The new framework will enter into force 1 July 2014, also to facilitate programming of structural funds 2014-20. Delegations expressed their general support for the reform and their views on the individual instruments, in particular the General Block Exemption Regulation and the Energy and Environment guidelines, which the Commission committed itself to take into account in further work.

- **Proposal for a Decision of the European Parliament and of the Council on enhanced co-operation between Public Employment Services (PES)**

The Presidency concluded from the deliberations of the Committee that it would inform the European Parliament that the Council maintains its intention to issue a statement upon the final adoption of this file.

- **European Statistics**
= **State of play**

The Committee was briefed about the state of play on the negotiation with the European Parliament with a view to reaching an early second reading agreement.

- **Reform of the General Court of the European Union**
= **Method for the appointment of additional judges**

The President explained that after five rounds of discussion in the Committee during the past three months on the method for the appointment of additional judges and while there was broad consensus on the necessity of finding a solution for the General Court, it has not been possible to reach an agreement on the merit-based method suggested by the Court. Work will continue on a possible method for the appointment of additional judges under the future Presidency of the Council.
