



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Strasbourg, 15 December 2015

TEXTE EN

MINUTES

of the 2149th meeting of the Commission

held in Brussels

(Berlaymont)

on 9 December 2015

(morning)

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Single sitting: Wednesday 9 December 2015 (morning)

The sitting opened at 9.39 with Mr TIMMERMANS in the chair. Items 1 to 11 (in part) were chaired by Mr TIMMERMANS, and items 11 (in part), 12 and 13 were chaired by Mr JUNCKER, President.

Present:

Mr JUNCKER	President	Items 11 (in part), 12 and 13
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	Items 11 (in part), 12 and 13
Ms GEORGIEVA	Vice-President	Items 1 to 13 (in part)
Mr ANSIP	Vice-President	Items 1 to 13 (in part)
Mr ŠEFČOVIČ	Vice-President	Items 1 to 13 (in part)
Mr KATAINEN	Vice-President	Items 1 to 13 (in part)
Mr OETTINGER	Member	Items 1 to 11 (in part)
Mr HAHN	Member	Items 11 (in part), 12 and 13
Ms MALMSTRÖM	Member	
Mr MIMICA	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr STYLIANIDES	Member	
Mr HOGAN	Member	Items 1 to 12
Ms BULC	Member	
Ms BIENKOWSKA	Member	Items 1 to 13 (in part)
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Mr MOEDAS	Member	

Absent:

Mr DOMBROVSKIS	Vice-President
Mr ARIAS CAÑETE	Member
Lord HILL	Member
Ms VESTAGER	Member

The following sat in to represent absent Members of the Commission:

Mr SUARDI	Deputy Chef de cabinet to Mr DOMBROVSKIS
Ms LOBILLO BORRERO	Chef de cabinet to Mr ARIAS CAÑETE
Mr BALDWIN	Chef de cabinet to Lord HILL
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Director-General, DG Communication	
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	Items 1 to 13 (in part)
Ms ANDREEVA	Commission Spokesperson's Service	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr ZADRA	Adviser in the PRESIDENT's Office	Item 11 (in part)
Ms DEJMEK-HACK	Adviser in the PRESIDENT's Office	Item 11 (in part)
Mr KASEL	Adviser in the PRESIDENT's Office	Item 13 (in part)
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	Items 1 to 12
Mr MANSERVISI	Chef de cabinet to Ms MOGHERINI	Items 1 to 11 (in part)
Mr LEPASSAAR	Chef de cabinet to Mr ANSIP	Items 1 to 12
Ms MADSEN	A member of Mr KATAINEN's staff	Item 11 (in part)
Mr KARNITSCHNIG	Chef de cabinet to Mr HAHN	Items 1 to 11 (in part)
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 11 (in part)
Mr HEDBERG	Deputy Chef de cabinet to Ms BIEŃKOWSKA	Item 13 (in part)

Secretary: Mr ITALIANER, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

1. AGENDAS

(OJ(2015) 2149/FINAL; SEC(2015) 478/FINAL)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2015) 2149)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 7 December.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 2148TH MEETING

(2 DECEMBER)

(PV(2015) 2148; PV(2015) 2148, PART II)

The Commission approved the minutes of its 2148th meeting.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED

(SEC(2015) 479 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 30 November and 4 December.

4.2. EMPOWERMENT

(SEC(2015) 480 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 30 November and 4 December.

**4.3. DELEGATION AND SUBDELEGATION OF POWERS
(SEC(2015) 481 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 30 November and 4 December, as archived in *Décide*.

**4.4. SENSITIVE WRITTEN PROCEDURES
(SEC(2015) 482 AND /2)**

The Commission took note of the sensitive written procedures for which the time limit expired between 7 and 11 December and of the 'finalisation' written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 30 November and Monday 7 December.

**4.5. AD HOC EMPOWERMENT TO ADOPT THE NECESSARY
PROTECTIVE MEASURES IN THE EVENT OF THE COUNCIL'S
FAILURE TO ACT WHEN FIXING FOR 2016 THE FISHING
OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF
FISH STOCKS, APPLICABLE IN UNION WATERS AND, FOR UNION
VESSELS, IN CERTAIN NON-UNION WATERS
(C(2015) 8949 AND /2)**

The Commission decided to empower Mr VELLA, the Member of the Commission responsible for Maritime Affairs and Fisheries, in agreement with the PRESIDENT, on behalf of the Commission and under its responsibility, to adopt the necessary protective measures, in the event of the Council's failure to act when fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and,

for Union vessels, in certain non-Union waters, in accordance with the terms set out in C(2015) 8949/2 (see also point 12.2.iv) of these minutes).

5. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2015) 483/3)

ADMINISTRATIVE MATTERS

(PERS(2015) 127/3)

5.1. DG INTERNATIONAL COOPERATION AND DEVELOPMENT – APPOINTMENT OF AN AD15/16 DEPUTY DIRECTOR-GENERAL (PERS(2015) 58 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General with responsibility for Directorates C, G and H, and the 'Knowledge, Performance and Results' task force, in DG International Cooperation and Development (PERS(2015) 58 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 19 October and 13 November (PERS(2015) 58/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr MIMICA and Ms MOGHERINI, the Commission decided to appoint Ms Marjeta JAGER to the post.

This decision would take effect on a date to be determined.

5.2. DG FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION – APPOINTMENT OF AN AD15/16 DEPUTY

DIRECTOR***(PERS(2015) 83 TO /3)***

The Commission had before it the list of applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General with responsibility for Directorates B, C, D and E in DG Financial Stability, Financial Services and Capital Markets Union (PERS(2015) 83).

It took note of the opinions of the Consultative Committee on Appointments of 29 October and 7 November (PERS(2015) 83/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Lord HILL, and Mr DOMBROVSKIS and Mr KATAINEN, the Commission decided to appoint Mr John BERRIGAN to the post.

This decision would take effect on 16 December 2015.

***5.3. DG TRANSLATION – APPOINTMENT OF AN AD14/15 DIRECTOR
(PERS(2015) 65 TO /3)***

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the 'DGT.A – Translation' Directorate in DG Translation (PERS(2015) 65).

It took note of the opinions of the Consultative Committee on Appointments of 25 September and 12 November (PERS(2015) 65/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, it then decided to appoint Mr Klaus MEYER-KOEKEN to the post.

This decision would take effect on 1 January 2016.

5.4. DG ECONOMIC AND FINANCIAL AFFAIRS – APPOINTMENT OF THE REPRESENTATIVE OF THE COMMISSION ON THE STEERING BOARD OF THE EUROPEAN FUND FOR STRATEGIC INVESTMENTS AND HIS DEPUTY

The Commission took note of the information in point 4 of PERS(2015) 127/3 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and Mr KATAINEN, decided to appoint for a three-year term, without prejudice to a later decision by the Commission:

- Mr Benjamin ANGEL as the representative of the Commission on the Steering Board of the European Fund for Strategic Investments (*EFSD*), replacing Mr Maarten VERWEY;
- Mr Giorgio CHIARION CASONI as his deputy.

These decisions would take effect immediately.

5.5. COMMUNICATION TO THE COMMISSION ON ALLOCATION OF HUMAN RESOURCES AND DECENTRALISED ADMINISTRATIVE APPROPRIATIONS FOR 2016
(*SEC(2015) 501 AND /2*)

The Commission adopted the decision in SEC(2015) 501/2.

6. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE – DIGITAL CONTRACTS FOR EUROPE – UNLEASHING THE POTENTIAL OF E-COMMERCE
(*COM(2015) 633 TO /3; RCC(2015) 112*)

The Commission approved the Communication in COM(2015) 633/3, for transmission to Parliament, the Council and the Economic and Social Committee, and, for information, to the national parliaments.

7. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CERTAIN ASPECTS CONCERNING CONTRACTS FOR THE ONLINE AND OTHER DISTANCE SALES OF GOODS (COM(2015) 635 AND /2; SWD(2015) 274 AND /2; SWD(2015) 275 AND /2; SEC(2015) 485; RCC(2015) 112)

The Commission adopted the proposal for a Directive in COM(2015) 635/2, for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2015) 274/2 and SWD(2015) 275/2, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2015) 485.

8. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CERTAIN ASPECTS CONCERNING CONTRACTS FOR THE SUPPLY OF DIGITAL CONTENT (COM(2015) 634 AND /2; SWD(2015) 274 AND /2; SWD(2015) 275 AND /2; SEC(2015) 485; RCC(2015) 112)

The Commission adopted the proposal for a Directive in COM(2015) 634/2, for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2015) 274/2 and SWD(2015) 275/2, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2015) 485.

9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – TOWARDS A MODERN, MORE EUROPEAN COPYRIGHT FRAMEWORK (COM(2015) 626 AND /2; RCC(2015) 112)

The Commission approved the Communication in COM(2015) 626/2, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the European Data Protection Supervisor and the national parliaments.

10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ENSURING THE CROSS-BORDER PORTABILITY OF ONLINE CONTENT SERVICES IN THE INTERNAL MARKET

(COM(2015) 627 TO /3; SWD(2015) 270 AND /2; SWD(2015) 271; SEC(2015) 484; RCC(2015) 112)

The Commission adopted the proposal for a Regulation in COM(2015) 627/3 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments, and, for information, to the European Data Protection Supervisor, together with the impact assessment and the summary thereof in staff working documents SWD(2015) 270/2 and SWD(2015) 271, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2015) 484.

11. OTHER BUSINESS

11.1. PRESENTATION OF THE PACKAGE OF INITIATIVES ON SURVEILLANCE AND PROTECTION OF THE EXTERNAL FRONTIERS AND MANAGEMENT OF THE SCHENGEN AREA

Mr TIMMERMANS explained that at its next meeting the College would have to decide on an ambitious package of measures aimed at improving the surveillance and protection of the Union's external frontiers and on a number of provisions concerning the management of the Schengen area and the consequences of the refugee crisis and the influx of illegal migrants. These initiatives would be presented to the European Council on 17 and 18 December, but in view of their political importance, he asked Mr AVRAMOPOULOS to set out the main points of the package already.

Mr AVRAMOPOULOS noted that the package to be presented to the College for consideration the following week was already one of the Commission's priorities before the refugee crisis, but recent events had only reinforced its timeliness.

In terms of content, he singled out (i) a proposal for a Regulation creating a European Border and Coast Guard, (ii) a proposal for a Regulation to reinforce checks in the relevant databases at the external frontiers ('Schengen Borders Code'), (iii) the eighth bi-annual report on the functioning of the Schengen area, (iv) a practical guide to the implementation and management of the European Border Surveillance System (EUROSUR Manual), and (v) a proposal for a Regulation on a European travel document for returning third-country nationals without the right to stay.

He turned first to the proposal for a Regulation creating a European Border and Coast Guard, which the PRESIDENT had already announced. This would

significantly strengthen the mandate of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), which would be duly re-named. The new body would consist of the European Border and Coast Guard Agency and the national authorities responsible for border management. It would contain coast guards who would be responsible for border control functions.

The new body would be given a number of tasks, starting with a monitoring role, largely through the creation of a centre for monitoring and risk analysis. Its other tasks would include (i) surveillance, which would entail evaluating each Member State's ability to manage its external borders effectively, (ii) identifying national measures to be taken in the event of shortcomings, (iii) direct intervention if the required corrective measures were not taken within the prescribed time limits, in which case the Commission would be able to authorise the agency to take additional measures, including the deployment of teams of border or coast guards, (iv) the creation of a pool of human resources and technical skills, (v) an increased contribution to measures to return illegal migrants, setting up an office responsible for that specific issue within the agency, and finally (vi) participating in the fight against terrorism and access to the databases created for that purpose.

Mr AVRAMOPOULOS then turned to the proposal to amend the Schengen Borders Code in response to requests from a number of Member States following several terrorist attacks on European territory. The Commission would be suggesting targeted amendments to the Code in order to make it compulsory to carry out systematic identity checks on all travellers entering and leaving the Schengen area, using the existing databases. These measures were particularly aimed at foreign combatants and Union citizens returning from combat zones who might be involved in terrorist offences.

The eighth bi-annual report on the functioning of the Schengen area would not be a routine exercise this year. Covering the period from 1 May to 30 November 2015, it would examine the consequences for the functioning of the Schengen area of the arrival of an unprecedented number of migrants in the area, their movements within the Schengen area and the measures following the terrorist attacks in Paris; if necessary, it would consider ways of addressing these issues.

In addition to these various elements, he was proposing a practical manual for the implementation and management of the European Border Surveillance System (EUROSUR Manual), which was a common framework for information exchange and cooperation between the Member States and the Frontex agency.

Finally, the proposal for a Regulation on a European travel document for returning migrants sought to increase the number of returns of third-country nationals who were not allowed to remain in the Union.

In this connection Mr AVRAMOPOULOS also mentioned a number of solidarity measures, such as the voluntary mechanism for first admission of Syrian refugees in need of international protection and currently in Turkey, under the joint EU-Turkey action plan on migration. This voluntary mechanism, which should be conditional on the results achieved by the Turkish authorities in checking the flow of illegal migrants to Europe, would operate in close cooperation between the Commission, the Member States and Turkey, and in liaison with the Office of the UN High Commissioner for Refugees (UNHCR).

He also mentioned the particularly difficult position of Sweden, which had seen the number of people seeking international protection increase by over 60 % in 2015. The Swedish authorities had asked the Commission whether some of the 54 000 people who still needed to be relocated from Member

States other than Greece and Italy and who had been allocated to Sweden could instead be redistributed to other Member States. Mr AVRAMOPOULOS indicated that he wanted to grant this request, although he acknowledged the risk that this might increase the number of similar requests.

However, he stressed that Sweden's situation was exceptional and that it had accepted the highest number of refugees per inhabitant of all the EU Member States. To ensure that the Member States were treated equally, he proposed applying the same methodology as to the two previous relocation decisions. He therefore suggested that 23 000 migrants be relocated to Sweden over a period of one year, during which relocations from Italy and Greece to Sweden would be suspended. This would avoid the need to re-open discussions on the distribution of migrants approved in September.

During the exchange of views that followed, the following points were discussed:

- general support for this ambitious set of initiatives;
- nevertheless, the political difficulties that some of the proposals in the package could run into at the European Council, which could be seized on by Eurosceptic movements;
- as regards the future Border and Coastguard Agency, a question about the legal instrument that would create an obligation for the Member States to cooperate under this arrangement, and the action the Agency could take if Member States did not adequately protect the Union's external borders; hence the suggestion to introduce wide-ranging implementing rules;
- a request for clarification on the Agency's resources; the need for a discussion about the creation in the medium term of a strictly European

agency, without Member States being involved in human resources and financing;

- various ways in which the Member States could help to fund the coastguard service were flagged up;
- as regards the European document for returns, highlighting of the complex situation of unaccompanied migrant children from Morocco and Afghanistan, two third countries which refused to discuss the issue;
- the need to maintain the integrity of the Schengen area;
- with regard to the eighth biannual report on the functioning of the Schengen area, the need to provide the authorities responsible for border protection with guidelines on the temporary reintroduction of controls at certain internal borders in the Schengen area;
- as regards the proposal concerning Sweden, the measures and the step-by-step approach proposed were felt to be justified, but there was also a risk they would cause argument and have a domino effect on other Member States;
- with regard to the financing of certain actions, reference was made to a constructive meeting of EU finance ministers the previous day on the Refugee Facility for Turkey;
- the importance of keeping a balance, in the humanitarian assistance granted to Turkey, between funds channelled through the Turkish authorities and those channelled through non-governmental organisations (NGOs).

Replying to some of the questions, Mr AVRAMOPOULOS stressed that if the Commission was submitting a set of European proposals, it was because

national solutions were not effective enough, and that the aim was also to anticipate problems. He went on to refer to the need to assemble resources from the Member States and strengthen the mandate of Frontex, which would be done partially in 2016. On the issue of respect for the sovereignty of the Member States, the proposal on the Border and Coastguard Agency remained strictly within the framework of the Treaty. Lastly, concerning the proposed reduction of the burden on Sweden, he did not deny the risk that other Member States might call for a similar measure, but felt that Sweden had shouldered an altogether exceptional share of this burden.

Winding up, Mr TIMMERMANS told the meeting that this package would be duly submitted to the Commission at next week's meeting. He asked Mr AVRAMOPOULOS to take on board today's exchange of views and provide all the elements needed for the set of measures envisaged to be adopted.

The Commission took note of this information.

11.2. LATEST DEVELOPMENTS CONCERNING THE NEGOTIATIONS WITH UKRAINE AND RUSSIA ON THE ENTRY INTO FORCE, ON 1 JANUARY 2016, OF THE DEEP AND COMPREHENSIVE FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND UKRAINE (DCFTA)

Ms MALMSTRÖM reported on the Commission's discussions with Ukraine and the Russian Federation on the entry into force of the Deep and Comprehensive Free Trade Agreement (DCFTA) between the European Union and Ukraine on 1 January 2016.

The Commission took note of this information.

11.3. DEADLINES FOR TRANSPOSAL AND ENTRY INTO FORCE OF THE MiFID II PACKAGE – UPDATED LEGISLATION ON MARKETS IN

FINANCIAL INSTRUMENTS**(INFO(2015) 105)**

Mr KATAINEN briefly presented the contents of the information note issued on his authority and that of Lord Hill on a potential extension of the deadline for the transposal and full entry into force of the MiFID II package.

The broad legislative framework consisting of Directive 2014/65/EU on markets in financial instruments and Regulation (EU) 600/2014 on markets in financial instruments (MiFID-II) had been adopted in 2011 in the wake of the financial crisis to update the framework for the provision of investment services in the EU. The Member States were required to transpose the Directive into national law by mid-2016, as the whole package was scheduled to enter into force right at the start of 2017.

Although good progress had been made with preparations for the entry into force of this legislation, the complexity and scale of the package meant that it represented an unprecedented challenge. It applied to all European financial market operators, i.e. financial corporations and banks, and covered all financial transactions, of which there were millions. For that reason, responsibility for establishing the Level 2 implementing rules had been vested in the European Securities and Markets Authority (ESMA), in consultation with the Commission.

In October ESMA had informed the Commission that the implementation process would require the development of a comprehensive data collection system linking the 28 national regulators, some 300 trading platforms and thousands of companies. Faced with the complexity and sensitivity of this task, ESMA had stated, on the unanimous recommendation of the 28 national regulators represented on its board, that entry into force at the start of 2017 was unrealistic, and it had therefore advocated considering an extension of 9 to 15 months.

The Commission had closely examined the technical factors raised by ESMA with a view to assessing all the possible scenarios, since a deadline extension could only be a measure of last resort. In this case, however, it took the view that ESMA's recommendation would seem to be the most appropriate approach in view of the exceptional context to which it applied. Of the legislative measures on financial services adopted in response to the crisis, the MiFID-II package was unprecedented in that its reach was worldwide. Therefore he took the view that a limited extension would be the most responsible and most measured solution in this specific case to ensure that appropriate infrastructure was put in place.

In the light of all the above-mentioned factors, the main groups in the European Parliament had already endorsed a potential extension of the deadline for entry into force of up to one year, an approach that the Council also appeared to support to judge from exploratory discussions held on the subject.

For all those reasons, Mr KATAINEN proposed that the Members of the Commission consider the advisability of tabling, in due time, a proposal to amend the legislation in question in order to extend the deadline for its entry into force. This proposal should indicate a new deadline and the implementing rules should be finalised as soon as possible to provide market operators with greater certainty.

In the course of the discussion that followed, the Commission raised the following main points:

- the Members endorsed the analysis and explanations provided by Mr KATAINEN, Lord HILL and their departments in this complex and sensitive case;
- ESMA's analysis was sound and the unanimous opinion of the 28 national

regulators should be taken into account; accordingly, the Members endorsed the proposal to consider, as a last resort, an extension of the deadline for entry into force of the legislation referred to in this specific case, as set out in option 3 of the information note;

- the justification for this extension, if it took place, would have to be clearly explained; it ought to be made clear that it was the national regulators who regarded entry into force right at the start of 2017 as an unrealistic proposition; otherwise, there was a risk of problems and misunderstandings arising which could undermine the EU's credibility;
- a closer look should be taken at the causes of this situation; adequacy of resources and the obligation to ensure that EU bodies had the necessary funding to discharge their duties properly; the lessons to be learned from this case in terms of legislative approach;
- the need, within the framework of the MiFID-II package now being drawn up, for a proportionate approach to trading in raw materials; the importance of this approach in delivering the objective of a cross-border energy market in the EU; the merits of differentiated treatment by sector of financial instruments according to the respective risk levels; the need for very clear communication on that subject.

Mr KATAINEN reiterated that the planned proposal of postponing the date of application would not affect in any way the other provisions of the *MiFID-II* package already approved by the co-legislators. He listed a number of parameters that were to be integrated in the data collection infrastructure to be developed, all of which were presented in ESMA's contacts with the Commission. He confirmed that it was worth emphasising very clearly the fact that the justification for the planned postponement came from the national regulators themselves.

The PRESIDENT noted the preference of a majority of the Commissioners for Option 3 set out in the information note distributed under the authority of Mr KATAINEN and Lord HILL. He therefore confirmed that the Commission would receive a proposal in January.

The Commission took note of this information and of the note in INFO(2015) 105.

12. INTERINSTITUTIONAL RELATIONS

(RCC(2015) 113)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 4 December (RCC(2015) 113).

It paid particular attention to the following points.

12.1. HORIZONTAL ITEM

i) Conclusion of the negotiations on the Interinstitutional Agreement on Better Regulation

Mr TIMMERMANS informed the Commission that the negotiations on the Interinstitutional Agreement on Better Regulation had reached their conclusion on 8 December. He reminded the meeting that the negotiations had been opened by the three Presidents last June further to the adoption by the Commission in May of a proposal aiming to extend the application of the Commission's principles on better regulation in the Council and the European Parliament.

He explained that the Commission's proposal covered the entire legislative cycle, from the consultation phase through via impact assessments to the adoption and implementation of legislation. He pointed out that whilst the

negotiations had made it possible to make progress, they had also given rise to difficult compromises for each of the institutions. However, he noted that the European Parliament, owing to the fact that its composition was more diverse than in the past, avoided introducing new procedural obstacles that could prevent or slow down the adoption of legislative texts. Likewise, he noted the Council's wish to avoid making it more difficult to reach political compromises.

Mr TIMMERMANS highlighted the real progress made by the Interinstitutional Agreement on some key points: (i) with regard to implementing acts and delegated acts he indicated that the systematic consultation of the Member States' experts should reassure the Council and facilitate its discussions with the European Parliament on each legislative file; (ii) as for the gold plating, which often entailed administrative costs and constraints for which the Union was criticised, he stressed that the Member States would have to show increased transparency; (iii) he also mentioned the decision to identify the highest priority files that could be processed more quickly on the basis of a political agreement between the three institutions; (iv) in addition to these elements, there was the recognition of the central role played by the European Union's Regulatory Fitness Programme (REFIT) in the simplification of the Union's legislative *acquis* and the reduction of the unnecessary regulatory burden as well as in setting objectives for reducing this burden; (v) an evaluation method would be defined for each legislative act in order to verify that its impact was in accordance with the objectives set; and finally, (vi) he mentioned another advance, the development of common digital platforms for the three institutions for the management of delegated acts, and finally, in the longer term, the management of the codecision procedure, in order to improve efficiency.

Mr TIMMERMANS noted that the Commission had taken an ambitious stance and that he was disappointed in some respects not to have been able to

make more progress on other important points such as the explicit commitment of the Parliament and the Council to perform impact assessments on their amendments during the legislative procedure. However, he explained that these two institutions had committed themselves to taking full account of any additional impact assessments carried out by the Commission.

Lastly, he spoke about the difficult negotiations with the European Parliament, which wanted to impose numerous obligations on the Commission to report to it on certain matters such as the management of infringements, the European semester, and implementing acts concerning funding programmes, all of which attempts the Commission had resisted.

He concluded his presentation by pointing out the balanced nature of the new Interinstitutional Agreement, which would be of benefit to businesses and citizens and made it possible to harmonise the approach of the three institutions on the basis of the principles of better regulation defined by the Commission.

The PRESIDENT noted the unanimity of the Commission in favour of the Interinstitutional Agreement and paid tribute to the quality of the work by Mr TIMMERMANS, his Chef de cabinet Mr Ben SMULDERS, and all his team during the negotiations.

The PRESIDENT also took the opportunity to ask the Legal Service to draw up for the attention of the Commissioners an analytical note on the provisions in force by which they were bound during an electoral campaign.

The Commission took note of this information.

12.2. LEGISLATIVE MATTERS

ii) Trilogue meetings

(point 3.1 of the IRG record)

- Amendment of Council Regulation (EC) 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union’s Stabilisation and Association process and suspending its application with regard to Bosnia and Herzegovina (Regulation) – BETTINI report – 2014/0197 (COD)

The Commission approved the line set out in SI(2015) 494.

- ‘Data Protection’ Package – Protection of individuals with regard to the processing of personal data and the free movement of such data (Regulation) – ALBRECHT report – 2012/0011 (COD)

The Commission approved the line set out in SI(2015) 498/2.

- Amendment of Regulation (EU) 1308/2013 and Regulation (EU) 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments (Regulation) – TARABELLA report – 2014/0014 (COD)

The Commission approved the line set out in SI(2015) 505.

iii) European Parliament dossiers – December II part-session

(point 3.2 of the IRG record)

Ordinary legislative procedure – Second reading

- ‘Trade mark’ Package – Amendment of Council Regulation (EC) 207/2009 of 26 February 2009 on the Community trade mark (Regulation) / Approximation of the laws of the Member States relating

to trade marks (Directive – recast) – WIKSTRÖM reports – 2013/0088 (COD) / 2013/0089 (COD)

The Commission took note of the compromise texts in SP(2015) 749 and SP(2015) 751, further to communications COM(2015) 589 and COM(2015) 588, which it had already approved on 24 November.

Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Ms BIENKOWSKA, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr KATAINEN and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the lines set out in COM(2015) 589 and COM(2015) 588 as approved by the Commission on 24 November, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

iv) Council dossiers

(point 3.3 of the IRG record)

- Implementing enhanced cooperation in the area of financial transaction tax (Council Directive) – PODIMATA report – 2013/0045 (CNS)

The Commission took note of the information in SI(2015) 478/2 (see also item 13.3 of these minutes).

- Procedural safeguards for children suspected or accused in criminal proceedings (Directive) – CHINNICI report – 2013/0408 (COD)

The Commission approved the line set out in SI(2015) 479.

- Establishment of common rules on securitisation and creating a European framework for simple and transparent securitisation and amending

Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) 1060/2009 and (EU) 648/2012 (Regulation) / Amendment of Regulation (EU) 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms – 2015/0226 (COD) / 2015/0225 (COD)

The Commission approved the line set out in SI(2015) 495/2.

- Establishment, for 2016, of the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union vessels, in certain non-Union waters (Council Regulation) – 2015/0259 (NLE)

The Commission approved the line set out in SI(2015) 496 (see also item 4.5 of these minutes).

- Establishment, for 2016, of the fishing opportunities for certain fish stocks applicable in the Black Sea (Council Regulation) – 2015/0264 (NLE)

The Commission approved the line set out in SI(2015) 497 (see also item 4.5 of these minutes).

12.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

v) Programming of Council business

(SI(2015) 514)

The Commission took note of the information in SI(2015) 514 on the Council meetings between 10 and 23 December.

vi) Non-legislative dossiers

(point 4.1 of the IRG record)

- African Peace Facility – Funding Perspectives 2015/2016 and beyond – Follow-up to the strategic discussion of the Political and Security Committee (PSC) of 7 July 2015

The Commission approved the line set out in SI(2015) 485/2.

- Off-site nuclear emergency preparedness and response – Draft Council conclusions

The Commission approved the line set out in SI(2015) 509.

- Signing, on behalf of the Union, and provisional application of the Agreement between the European Union and the Government of the People's Republic of Bangladesh on certain aspects of air services (Council Decision) – 2015/0189 (NLE)

The Commission approved the line set out in SI(2015) 508.

- International Maritime Organisation – Joint European Union submission to be submitted to the 3rd session of the Sub-Committee on Navigation, Communication, Search and Rescue (NCSR 3) concerning recognition of Galileo as a component of the IMO World-Wide Radio Navigation System (WWRNS)

The Commission approved the line set out in SI(2015) 510.

- Position to be taken on behalf of the European Union, in respect of the decisions to be adopted by Eurocontrol's Permanent Commission, on the roles and tasks of Eurocontrol and on centralised services (Council Decision) – 2015/0271 (NLE)

The Commission approved the line set out in SI(2015) 511.

12.4. RELATIONS WITH PARLIAMENT

vii) Action to be taken on Parliament's legislative resolutions and other resolutions of a legal nature

(SP(2015) 756)

The Commission took note of document SP(2015) 756, drawn up following Parliament's December I part-session.

viii) Action taken on non-legislative resolutions adopted by Parliament at its September I part-session

(point 5.6.2 of the IRG record)

The Commission approved document SP(2015) 748 on the action taken on the non-legislative resolutions adopted by Parliament at its September I part-session, for transmission to Parliament.

ix) Results of Parliament's December I part-session

(SP(2015) 753)

The Commission took note of the information on Parliament's part-session held in Brussels on 2 December, set out in SP(2015) 753.

12.5. OTHER BUSINESS

x) Support for the Africa Renewable Initiative – Joint Declaration

(point 7.1 of the IRG record)

The Commission approved the line set out in SI(2015) 506 and /2.

13. OTHER BUSINESS (CONTD)***13.1. REGISTRATION OF THE ‘MUM, DAD & KIDS: EUROPEAN CITIZENS’ INITIATIVE TO PROTECT MARRIAGE AND FAMILY’******13.2. REGISTRATION OF THE ‘EUROPEAN ASYLUM INITIATIVE’***

Mr TIMMERMANS began by noting that decisions on the admissibility and registration of citizens’ initiatives submitted to the Commission would henceforth be put to the College to ensure that each of its Members was adequately informed.

The Commission had received two applications for registration of new citizens’ initiatives, the first being the *‘Mum, Dad & Kids: European Citizens’ Initiative to protect Marriage and Family’*, and the second being the *‘European Asylum Initiative’*.

Without going into the content of the initiatives, which was not the point at this stage of the procedure, he said that the first concerned the legal definition of the family and the second called for the adoption of specific measures in the asylum policy field. It was for the Commission to decide on the admissibility of these citizens’ initiatives and, if appropriate, register them, a procedural step which was without prejudice to any follow-up in terms of the substance.

The PRESIDENT also emphasised the purely legal nature of the decision to register a citizens’ initiative. The mere fact of determining whether the decision was justified by elements of substantive law was without prejudice to the subsequent stages of the procedure, if the initiative in question had to collect the necessary number of signatures.

At the invitation of the PRESIDENT, the Director-General of the Legal Service explained that in law, the conditions of admissibility of both citizens’

initiatives had been complied with and that the Commission was therefore bound to register them. If these initiatives collected the requisite number of signatures in compliance with the conditions laid down in law, then the Commission would have to take a policy decision on the substance at a later date.

During the ensuing discussion, the Members (i) regretted that experience to date had shown that citizens' initiatives did not always move European law or the European project forward, but tended instead to involve highly controversial and emotionally charged issues of greater interest to minorities than to the vast majority of EU citizens and, ultimately, generated Euroscepticism, (ii) called for a debate on how to rectify this situation and (iii) stressed that, in the current European context, the Commission should take account of the political consequences that this mechanism could have in the longer term.

The PRESIDENT was in favour of discussing these matters at the Commission seminar to be held early in 2016.

At the end of the discussion, the Commission:

- noted, pursuant to Article 4(2) of Regulation (EU) 211/2011 on the citizens' initiative, that the *'Mum, Dad & Kids: European Citizens' Initiative to protect Marriage and Family'* complied with the conditions of admissibility, and therefore decided to register it; this decision would take effect on 11 December 2015;
- authorised the Secretariat-General to provide the organisers with confirmation that their initiative had been registered;
- noted, pursuant to Article 4(2) of Regulation (EU) 211/2011 on the citizens' initiative, that the *'European Asylum Initiative'* complied with the conditions of admissibility, and therefore decided to register it; this

decision would take effect on 11 December 2015;

- authorised the Secretariat-General to provide the organisers with confirmation that their initiative had been registered.

13.3. FIRST POLITICAL AGREEMENT REACHED IN ENHANCED COOPERATION ON THE INTRODUCTION OF A FINANCIAL TRANSACTION TAX

Mr MOSCOVICI reported on the recent discussions on the proposal for a tax on EU financial transactions, based on a proposal tabled by the Commission in 2011. This aimed to collect revenue from the financial sector to help Member States to remedy the effects of the economic crisis, to correct disparities within the internal market and to open the discussion on the taxation of the financial sector, which he reminded the meeting was not subject to value added tax (VAT) (see also Section 12.2.iv) of these minutes).

Since the negotiations between the 28 Member States had been unsuccessful, the Commission had suggested enhanced cooperation as provided for in the Treaty, to allow the 11 Member States that so wished to move forward. As discussions had unfortunately failed to produce a result by the beginning of this year, the Commission had decided to play a more active role by proposing technical assistance to these 11 Member States; this had led to a compromise proposal which had been put to the relevant Ministers on Monday and presented to the Economic and Financial Affairs Council on the morning before the meeting.

Mr MOSCOVICI pointed out that the agreement concluded between the 11 Member States, then with the 28, was not a final agreement or a legal stepping stone, but a political agreement, the first after four years of negotiations, even though there were still sticking points to be discussed. The Member States concerned had agreed on the basic elements of the financial

transaction tax, i.e. on its future base. Finally, he noted that the Ministers had allowed themselves six months in which to conclude the other elements of the negotiation, in particular the rates, a discussion that would not be easy. He just regretted that despite the progress made, Estonia had decided to withdraw from the negotiations.

He drew four main lessons from the negotiations from the Commission's point of view. Firstly, he felt that the Commission was right to continue to support the proposal for a financial transaction tax, which the public was eagerly awaiting. Secondly, he considered that the Community method had prevailed since it was the Commission's involvement in the negotiations which had broken the deadlock. Thirdly, enhanced cooperation would remain a useful tool for the future. Fourthly and lastly, he hoped that the Commission would follow the discussions on a Capital Markets Union closely, as one of the keys to the final balance of the financial transaction tax lay precisely in the way it tied in with the internal market for capital.

Mr MOSCOVICI concluded his presentation by promising to keep the Members of the Commission informed about how the process was progressing.

The Commission took note of this information.

13.4. SITUATION IN LIBYA AND PROGRESS ON DEFINING THE EU'S GLOBAL STRATEGY ON FOREIGN AND SECURITY POLICY

Ms MOGHERINI referred to the situation in Libya, explaining that, contrary to some press reports, the parties had not yet reached agreement on establishing a political process to form a government of national unity and put an end to the conflict and chaos in the country. She regretted the fact that the extreme positions at both ends of the political spectrum in Libya were attempting to torpedo the process led by the United Nations (UN). She

confirmed that an international conference was to be held in Rome on Sunday 13 December, which she would attend together with representatives from the countries in the region and the main global actors. The aim was to try and give what would ideally be a decisive impetus to a political agreement which would also raise hopes of halting Daesh's territorial advances in the country.

She concluded by pointing out that during these negotiations the Commission was of course working on assistance projects that could be deployed in Libya at the appropriate time, once the security situation had been restored and the Libyan side had done what was still needed in order to achieve a settlement.

Ms MOGHERINI then referred to the EU's global strategy on foreign and security policy, including ongoing and future work.

The PRESIDENT expressed general support for Ms MOGHERINI and the work she had done with the Vice-Presidents and Members concerned.

On this point, Ms MOGHERINI planned to prepare a background note for a policy debate that the Commission might have early next year.

The Commission took note of this information.

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The Commission's other discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 11.52.