



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2016) 2192 final

- *English language version of the French text which is authentic* -

Brussels, 21 December 2016

TEXTE EN

MINUTES

of the 2192nd meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 7 December 2016

(morning)

—

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Single sitting: Wednesday 7 December 2016 (morning)

The sitting opened at 10.12 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	
Ms GEORGIEVA	Vice-President	Items 1 to 11
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr OETTINGER	Member	Items 1 to 12 (in part)
Mr HAHN	Member	
Ms MALMSTRÖM	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSSEN	Member	Items 1 to 12 (in part)
Mr MOSCOVICI	Member	
Mr STYLIANIDES	Member	Items 1 to 11 (in part)
Ms BULC	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	Items 1 to 11
Ms CREȚU	Member	
Ms VESTAGER	Member	Items 1 to 10 (in part), 11 (in part) and 12
Mr MOEDAS	Member	
Sir Julian KING	Member	

Absent:

Mr KATAINEN

Vice-President

Mr MIMICA

Member

Mr HOGAN

Member

Ms BIENKOWSKA

Member

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

Mr ROMAKKANIEMI	Chef de cabinet to Mr KATAINEN	Items 1 to 11
Mr BANNERMAN	Expert in Mr KATAINEN's Office	Item 12
Mr BEHRNDT	Chef de cabinet to Mr MIMICA	
Mr POWER	Chef de cabinet to Mr HOGAN	Items 1 to 10
Ms SIRACUSA	Deputy Chef de cabinet to Mr HOGAN	Items 11 and 12
Mr HUSAK	Chef de cabinet to Ms BIENKOWSKA	

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	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MICHOU	Deputy Secretary-General	Items 1 to 11 (in part)
Mr PAQUET	Deputy Secretary-General	Items 1 to 12 (in part)
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Ms KRAMER	Director of Coordination and Administration in the PRESIDENT's Office	Items 1 to 9
Mr BALTAZAR	Chief adviser in the PRESIDENT's Office	Items 10 and 11
Ms ROUCH	Adviser in the PRESIDENT's Office	Item 10 (in part)
Ms SILLAVEE	PRESIDENT's Office	
Ms NELEN	A member of Mr TIMMERMANS's staff	Item 11

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Ms KLOC	Deputy Chef de cabinet to Mr ANSIP	Items 1 to 10 (in part)
Mr SCHULTE	A member of Mr OETTINGER's staff	Items 1 to 10 (in part)
Mr MÜLLER	Chef de cabinet to Mr VELLA	Item 11
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER	Items 10 (in part) and 11 (in part)
Ms ANDREEVA	Commission Spokesperson's Service	

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

1. AGENDAS

(OJ(2016) 2192/FINAL; SEC(2016) 501/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(2016) 2192)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 5 December.

3. APPROVAL OF THE MINUTES OF THE 2190TH AND 2191ST MEETINGS OF THE COMMISSION (22 AND 30 NOVEMBER)

(PV(2016) 2190)

The Commission approved the minutes of its 2190th meeting and decided to hold over approval of the minutes of its 2191st meeting for the following week.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED

(SEC(2016) 502 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 28 November and 2 December.

4.2. EMPOWERMENT

(SEC(2016) 503 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 28 November and 2 December.

4.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2016) 504 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 28 November and 2 December, as archived in Decide.

4.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2016) 505 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 5 and 9 December and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 5 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 2017 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(2016) 8285)

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 2017 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(2016) 8285.

4.6. DELEGATION OF POWERS IN THE FIELD OF COAL AND STEEL RESEARCH – DECISIONS ON THE SELECTION OF PROJECTS AND AWARDING GRANTS
(C(2016) 8234)

The Commission decided to delegate to the Director-General for Research and Innovation powers to adopt, on behalf of the Commission and under its responsibility, decisions on the selection of projects and awarding grants as set out in C(2016) 8234.

5. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2016) 506/2)

ADMINISTRATIVE MATTERS
(PERS(2016) 124/2)

5.1. DG AGRICULTURE AND RURAL DEVELOPMENT – AMENDMENT OF ORGANISATION CHART
(SEC(2016) 510)

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT,

and after consulting Mr HOGAN and also Mr ŠEFČOVIČ and Mr KATAINEN, the Commission decided:

- to abolish the post of Deputy Director-General in charge of Directorates C, D and E (AGRI.DDG2);
- to abolish, in net terms, one directorate and six units in DG Agriculture and Rural Development;
- to create a temporary post of Principal Adviser, which would be abolished upon departure of the jobholder;
- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Mr Aldo LONGO, currently Director of Directorate AGRI.DDG3.H ‘General aspects of rural development and research’, to the newly created post of Principal Adviser;
- to adopt the new organisation chart set out in SEC(2016) 510.

These decisions would take effect on 1 January 2017, without prejudice to any additional amendments yet to be decided as part of implementing the Communication on ‘Synergies and Efficiencies in the Commission – New Ways of Working’ (SEC(2016) 170).

Following the reorganisation, the total number of Deputy Directors-Generals would decrease from 4 to 3, the total number of Directorates would decrease from 11 to 10 and the total number of units would decrease from 52 to 46.

5.2. DG EDUCATION AND CULTURE – AMENDMENT OF THE ORGANISATION CHART

(SEC(2016) 508)

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr NAVRACSICS and also Mr ANSIP,

Mr DOMBROVSKIS and Mr KATAINEN, the Commission decided:

- to change the name of DG Education and Culture, which would become DG Education, Youth, Sport and Culture;
- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Ms Antoaneta ANGELOVA-KRASTEVA, currently Director of Directorate EAC.B ‘Youth, Education and Erasmus+’ to the post of Director of Directorate EAC.C ‘Innovation, International Cooperation and Sport’;
- to make available a temporary quota of Adviser until 31 December 2019 at the latest;
- to adopt the new organisation chart set out in SEC(2016) 508.

These decisions would take effect on 1 January 2017, without prejudice to any additional amendments yet to be decided as part of implementing the Communication on ‘Synergies and Efficiencies in the Commission – New Ways of Working’ (SEC(2016) 170).

5.3. DG MARITIME AFFAIRS AND FISHERIES – AMENDMENT OF THE ORGANISATION CHART
(PERS(2016) 125; SEC(2016) 509)

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and after consulting Mr VELLA and also Mr ŠEFČOVIČ and Mr KATAINEN, the Commission decided:

- to terminate with immediate effect selection procedure COM/2016/835 for the post of Director of Directorate MARE.A ‘Policy Development and Co-ordination’ and to abolish this Directorate;
- to create a temporary post of Principal Adviser, which would be abolished

upon departure of the jobholder;

- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Mr Ernesto PENAS LADO, currently Director of the Directorate MARE.E ‘Baltic Sea, North Sea and Landlocked Member States’, to the newly created post of Principal Adviser;
- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Mr Bernhard FRIESS, currently Director of Directorate MARE.C ‘Atlantic, Outermost Regions and Arctic’ to the post of Director of Directorate MARE.A ‘Maritime Policy and Blue Economy’;
- to authorise with immediate effect the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, the vacancy notice set out in PERS(2016) 125 for a post of Principal Adviser in DG Maritime Affairs and Fisheries, in charge of providing strategic advice to the Director-General on the common fisheries policy (CFP), the European Maritime and Fisheries Fund (EMFF), drafting and implementing the *acquis* and pursuing its development;
- to adopt the new organisation chart set out in SEC(2016) 509.

Unless otherwise stated, these decisions would take effect on 1 January 2017, without prejudice to any additional amendments yet to be decided as part of implementing the Communication on ‘Synergies and Efficiencies in the Commission – New Ways of Working’ (SEC(2016) 170).

After the reorganisation, the number of directorates would decrease from six to five.

5.4. DG TRADE – AMENDMENT OF THE ORGANISATION CHART

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT,

the Commission decided to create a temporary post of Hors Classe Adviser, a post which would be abolished upon departure of the jobholder, and to appoint Ms Sabine WEYAND to the post, who would remain seconded to the Task Force for the preparation and conduct of negotiations with the UK under Article 50 of the Treaty on the European Union.

These decisions would take effect immediately.

5.5. DG HUMAN RESOURCES AND SECURITY – EXTENSION OF CONTRACTS OF TEMPORARY STAFF WITHIN THE MEANING OF ARTICLE 2(B) OF THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS OF THE EUROPEAN UNION – SUSPENSION OF THE OBLIGATION UNDER ARTICLE 3(2)(A), THIRD PARAGRAPH, OF COMMISSION DECISION C(2013) 9049 OF 16 DECEMBER 2013 ON POLICIES FOR THE ENGAGEMENT AND USE OF TEMPORARY AGENTS

The Commission took note of the information in point 5 of PERS(2016) 124/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, it decided to suspend, until 31 December 2017 the obligation to organise the selection procedure set out in Article 3(2)(a), third paragraph, of Commission Decision C(2013) 9049 of 16 December 2013 on policies for the engagement and use of temporary agents in cases where it was proposed to extend beyond the duration of three years the contracts of temporary staff within the meaning of Article 2(b) of the Conditions of Employment of Other Servants of the European Union.

This decision would take effect immediately.

5.6. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF LIST OF CANDIDATES FOR THE HEAD OF THE EUROPEAN UNION

DELEGATION POST IN EGYPT**(PERS(2016) 127 AND /2)**

The Commission took note of the information in point 6 of PERS(2016) 124/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, it decided to approve the list of candidates for the AD14-15/AD14 post of Head of the EU Delegation in Egypt in PERS(2016) 127 and /2, which would serve as a basis for the competent authority of the European External Action Service to make a final appointment.

This decision would take effect immediately.

5.7. DG HUMAN RESOURCES AND SECURITY – APPOINTMENT OF THE HEAD OF THE EUROPEAN UNION DELEGATION IN THE REPUBLIC OF KOREA**(PERS(2016) 128 AND /2)**

The Commission took note of the information in point 7 of PERS(2016) 124/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, it decided to approve the proposal for the transfer in the interest of the service, under Article 7 of the Staff Regulations, of Mr Michael REITERER, currently Principal Adviser with the Managing Director in charge of Asia and the Pacific in the European External Action Service (EEAS), to the post of Head of the EU Delegation in the Republic of Korea (at grade AD14). This decision would serve as a basis for the competent authority of the European External Action Service to make the final transfer.

This decision would take effect immediately.

6. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 101 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 53 OF THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA (CASE AT.39914 – EURO INTEREST RATE DERIVATIVES (EIRD)) (C(2016) 8530 TO /7; RCC(2016) 156)

The Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 28 November and 5 December in C(2016) 8530/3 and C(2016) 8530/6;
- took note of the final report of the Hearing Officer of 5 December in C(2016) 8530/5;
- adopted in the authentic languages (English and French) the decision in C(2016) 8530/7 finding that the companies to which the decision was addressed had infringed Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the Agreement on the European Economic Area, requiring the parties to put an end to the infringements immediately and imposing on them fines totalling €485 456 000;
- decided that the decision in C(2016) 8530/7 would be notified to the companies concerned, together with the Hearing Officer’s final report;
- decided that the key parts of the decision, together with the Advisory Committee’s opinion and the Hearing Officer’s final report, would be published in the official languages of the Union in the Official Journal of the European Union (with business secrets and other confidential information removed);
- decided to make the decision (with business secrets and other confidential information removed) accessible on the internet.

- 7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – INVESTING IN EUROPE’S YOUTH
(COM(2016) 940 AND /2; RCC(2016) 151)**
- 8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – A EUROPEAN SOLIDARITY CORPS
(COM(2016) 942 AND /2; RCC(2016) 151)**
- 9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – IMPROVING AND MODERNISING EDUCATION
(COM(2016) 941 AND /2; RCC(2016) 151)**

Ms GEORGIEVA presented the Communication on the creation of a European Solidarity Corps which was being tabled for approval by the Commission. She thanked the PRESIDENT for having entrusted her with the task of coordinating the work of the Commission Members involved in this initiative, which translated into action one of the priorities announced in September’s State of the Union address and set out in the Bratislava Roadmap. She explained that the new European Solidarity Corps would enable young people aged 18 to 30 to contribute to European society, gain valuable experience and acquire useful skills at the start of their career.

The European Solidarity Corps was both an outstanding way of reaffirming the European Union's values, foremost among which was solidarity, and a project would enable ordinary people, not the elite, to contribute to European integration, drawing on the enthusiasm generally shared by young people to do something useful. For that reason, the Corps would work hand in hand with existing voluntary organisations and complement structures already in place on the ground.

She also noted that the European Solidarity Corps provided real added value by creating a single web portal for all young people interested in volunteering. The Corps offered two different strands, the first in the voluntary field, and the second in the world of work. In order to encourage young people and voluntary organisations to take part in the project, there would be (i) a selection tool to be used by organisations, (ii) training tools and allowances for volunteers, and (iii) a certification system for people who had taken part in the voluntary activities.

Ms GEORGIEVA ended her presentation by explaining that after the launching of the European Solidarity Corps, the Commission, in a second phase, must explore the benefits of establishing a legal basis and estimating the budget required in the medium term. At this stage, the available budget was around EUR 102 million; to ensure maximum impact, these resources would need to be used efficiently.

Mr AVRAMOPOULOS stressed the relevance and symbolic value of the European Solidarity Corps. He also highlighted the importance of investing in young people and providing the necessary means to share the Union's fundamental values with future generations. From an operational standpoint, he pointed out that all the relevant EU programmes had been mobilised to provide the European Solidarity Corps with resources so that it could give useful support to voluntary organisations' activities on the ground.

Mr NAVRACSICS explained that the aim of the other two communications tabled that day – 'Investing in Europe's Youth' and 'Improving and Modernising Education' – was to propose a series of measures designed to boost youth

employment, improve and modernise education, invest in young people's skills and offer them improved opportunities to undertake an apprenticeship and study abroad. He particularly stressed the need to help Member States provide high-quality education for all young people, thereby equipping them with the necessary knowledge and skills to enable them to participate fully in society and tackle the challenges of the day. He referred to the latest survey from the Programme for International Student Assessment (PISA), carried out by the Organisation for Economic Cooperation and Development. The results of the tests, taken by 15-year olds, showed that education systems in most Member States were not performing as well as in previous years, further justifying the EU-level initiatives to adapt education to the realities of the modern world.

Ms THYSSEN highlighted the work-related strand of the European Solidarity Corps, as combating youth unemployment was a key priority for the Union. The new European Solidarity Corps would give participants the opportunity to join a project as a volunteer, receive a grant, undertake an apprenticeship or work for two to 12 months.

She pointed to the wide range of initiatives put in place by the Commission to boost youth employment and noted that the Youth Guarantee, with support from the Youth Employment Initiative, had made a real difference on the ground, with some 9 million young people having accepted an offer, in most cases a job offer.

She particularly stressed the need to improve youth employability by encouraging mobility, not only for young students in Europe looking to develop their skills, improve their career prospects and make use of their European citizenship, but also for young people from all walks of life, who must also benefit from these opportunities. That was why the Commission was planning to launch 'ErasmusPro', a new scheme that would offer long-term in-company traineeships abroad, as part of the Erasmus+ programme. The Commission would also propose a quality framework for apprenticeships.

The PRESIDENT thanked the Commission Members who had helped draw up these important initiatives in such a way as to ensure that the European Solidarity Corps would provide opportunities for young people looking to make a real contribution to society and show their solidarity, something which the world and the European Union greatly needed. In his view, it was not Treaties or industrial or economic interests that brought Europeans together, but rather European values, as embodied by all those who worked as volunteers and put these values into practice every day.

Following this exchange of views, the Commission:

- approved, subject to final linguistic revision, the Communications in COM(2016) 940/2 and COM(2016) 941/2;
- approved the communication set out in COM(2016) 942/2;
- decided to transmit the Communications to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

10. INTERINSTITUTIONAL RELATIONS

(RCC(2016) 150)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 2 December (RCC(2016) 150).

It paid particular attention to the following points.

10.1. LEGISLATIVE MATTERS

i) Trilogue meetings

(point 3.1 of the IRG record)

- Money market funds (Regulation) – GILL report – 2013/0306 (COD)

The Commission approved the line set out in SI(2016) 460.

- Ensuring the cross-border portability of online content services in the internal market (Regulation) – CAVADA report – 2015/0284 (COD)

The Commission approved the line set out in SI(2016) 486/2.

- Mercury and repeal of Regulation (EC) 1102/2008 (Regulation) – ECK report – 2016/0023 (COD)

The Commission approved the line set out in SI(2016) 483.

- Amendment of Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement (Directive) – COFFERATI report – 2014/0121 (COD)

The Commission approved the line set out in SI(2016) 484.

- An information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision 994/2012/EU (Decision) – KRASNODEBSKI report – 2016/0031 (COD)

The Commission approved the line set out in SI(2016) 487.

- Amendment of Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Regulation) – DÍAZ DE MERA GARCÍA-CONSUEGRA report – 2016/0142 (COD)

The Commission approved the line set out in SI(2016) 468.

- Organic production and labelling of organic products – Amendment of Regulation (EU) XXX/XXXX of the European Parliament and of the Council [Official Controls Regulation] and repeal of Council Regulation (EC) 834/2007 (Regulation) – HÄUSLING report – 2014/0100 (COD)

The Commission approved the line set out in SI(2016) 498/2.

- Fight against fraud to the Union's financial interests by means of criminal law (Directive) – GRÄSSLE & LÓPEZ AGUILAR report – 2012/0193 (COD)

The Commission approved the line set out in SI(2016) 500.

ii) European Parliament dossiers – December part-session

(point 3.2 of the IRG record)

Ordinary legislative procedure – Second reading

- Specific conditions for fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) 2347/2002 (Regulation) — THOMAS report — 2012/0179 (COD)

The Commission took note of the compromise text in SP(2016) 806, further to communication COM(2016) 667, which it had already approved on 21 October.

- Fourth ‘Railway’ Package (market pillar) – Amendment of Regulation (EC) 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (Regulation) – VAN DE CAMP report – 2013/0028 (COD) / Amendment of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012

establishing a single European Railway Area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (Directive) – SASSOLI report – 2013/0029 (COD) / Repeal of the common rules for the normalisation of the accounts of railway undertakings (Regulation) – KYLLÖNEN report – 2013/0013 (COD)

The Commission took note of the compromise texts in SP(2016) 808, SP(2016) 809 and SP(2016) 807, further to communications COM(2016) 689, COM(2016) 691 and COM(2016) 688, which it had already approved on 24 October.

Ordinary legislative procedure – First reading

- Framework on market access to port services and financial transparency of ports (Regulation) – FLECKENSTEIN report – 2013/0157 (COD)

The Commission took note of the compromise text in SP(2016) 810, further to note SI(2016) 382, which it had already approved on 12 October.

iii) Council dossiers

(point 3.3 of the IRG record)

- Amendment of Regulation (EU) 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (Regulation) – 2016/0207 (COD)

The Commission approved the line set out in SI(2016) 469.

- Amendment of Council Regulation (EC) 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) 597/2009 on protection against subsidised

imports from countries not members of the European Community
(Regulation) – FJELLNER report – 2013/0103 (COD)

The Commission approved the line set out in SI(2016) 503 and /2.

10.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iv) Non-legislative dossiers

(point 4.1 of the IRG record)

- Position to be adopted by the Union in the Sanitary and Phytosanitary Sub-Committee, the Trade and Sustainable Development Sub-Committee, the Customs Sub-Committee, and in the Geographical Indications Sub-Committee established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, in relation to the adoption of the Rules of Procedure of the above committees (Council Decision) – 2016/0324 (NLE)

The Commission approved the line set out in SI(2016) 467.

- Restrictive measures against the Democratic People's Republic of Korea and repeal of Council Regulation (EC) 329/2007 (Council Regulation) – JOIN(2016) 39

The Commission approved the line set out in SI(2016) 488.

v) Preparation of Council meeting (Justice and Home Affairs) (Brussels, 8 and 9 December)

(point 4.2.4 of the IRG record)

- Establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for

examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, for identifying an illegally staying third-country national or stateless person, and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (Regulation – recast) – MACOVEI report – 2016/0132 (COD)

The Commission approved the line set out in SI(2016) 492.

- Amendment of Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of ‘drug’ (Directive) – JIMÉNEZ-BECERRIL BARRIO report – 2013/0304 (COD) / New psychoactive substances (Regulation) – BONI report – 2013/0305 (COD)

The Commission approved the line set out in SI(2016) 497.

vi) Preparation of Council meeting (Employment, Social Policy, Health and Consumers) (Brussels, 8 December)

(point 4.2.5 of the IRG record)

- European Agency for Health and Safety at Work (EU-OSHA), and repeal of Council Regulation (EC) 2062/94 – HOC report – 2016/0254 (COD)
- European Foundation for the improvement of living and working conditions (Eurofound), and repeal of Council Regulation (EEC) 1365/75 – CALVET CHAMBON report – 2016/0256 (COD)
- European Centre for the Development of Vocational Training (Cedefop), and repeal of Regulation (EEC) 337/85 (Regulation) – SANDER report – 2016/0257 (COD)

The Commission approved the line set out in SI(2016) 495/2.

**vii) Preparation of Council meeting (Agriculture and Fisheries)
(Brussels, 12 and 13 December)**

(point 4.2.6 of the IRG record)

- Fishing opportunities for 2017 for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU fishing vessels, in certain non-EU waters (Council Regulation) – 2016/0344 (NLE)

The Commission approved the line set out in SI(2016) 482 (see also item 4.5 of these minutes).

10.3. RELATIONS WITH PARLIAMENT

viii) Non-legislative dossiers

(point 5.1 of the IRG record)

- Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – Report on the hearing of Mr CALLEJA CRESPO, Director-General of DG Environment on 14 November – Preparation of additional written replies

The Commission took note of SP(2016) 820 and the replies to additional written questions in the annex thereto, further to SP(2016) 720 and /2, which it had already approved on 9 November, and to SP(2016) 735/2, which it had noted on 16 November.

- Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – Report on the hearing of Mr Karl FALKENBERG, former Director-General of DG Environment on 14 November – Preparation of additional written replies

The Commission took note of SP(2016) 821 and the replies to additional written questions in the annex thereto, further to SP(2016) 722/2, which it had already approved on 9 November, and to SP(2016) 736/2, which it had noted on 16 November.

- Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA) – Preparation of the hearing of Mr MOSCOVICI, Member of the Commission, on 7 December – Preparation of additional written replies

The Commission took note of SP(2016) 822 and the replies to written questions in the annex thereto, further to SP(2016) 799, which it had already approved on 30 November.

ix) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its October I and II part-sessions

(point 5.6.2 of the IRG record)

The Commission approved, for transmission to Parliament, document SP(2016) 805 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its October I and II part-sessions.

x) Preparations for the 32nd session of the Joint Parliamentary Assembly of the African, Caribbean and Pacific States and the European Union (ACP-EU) (Nairobi, 19-21 December) – Replies to oral questions

(SP(2016) 801)

The Commission approved the replies to the oral questions from the Joint Parliamentary Assembly set out in SP(2016) 801, for transmission to the Assembly.

xi) Preparations for the 32nd session of the Joint Parliamentary Assembly of the African, Caribbean and Pacific States and the European Union (ACP-EU) (Nairobi, 19-21 December) – Action taken on the resolutions adopted during the 31st session (Windhoek, 15 June 2016)

(SP(2016) 814 and /2)

The Commission approved the action taken on the resolutions adopted by the Joint Parliamentary Assembly set out in SP(2016) 814 and /2, for transmission to the Assembly.

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

(SP(2016) 824)

The Commission took note of document SP(2016) 824, drawn up following Parliament's November II part-session.

xiii) Results of the November II part-session of Parliament

(SP(2016) 816)

The Commission took note of the information on Parliament's part-session held on 30 November and 1 December in Brussels, set out in SP(2016) 816.

10.4. OTHER BUSINESS

xiv) Draft Commission Implementing Regulation laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment

(SI(2016) 502 and /2)

Mr ANSIP referred to the work under way on the draft Commission Implementing Regulation laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment. He began by pointing out that since the decision to phase out roaming in the European Union, roaming charges had been reduced by 96%, so that consumers already enjoyed practically all the benefits of the decision taken in 2007.

Under the Regulation of 26 November 2015 establishing the principle of roaming at domestic tariffs ('roam like at home'), roaming charges were to be definitively abolished in June 2017. When the Regulation was adopted, Parliament and the Council had asked the Commission to propose implementing measures including rules on fair use measures enabling operators to prevent abusive or anomalous usage of the system unrelated to periodic travel of consumers, in order to avoid penalising these consumers, whether in their own Member State or the visited Member State. The Commission had also been asked to include, in these measures, a system of exceptional derogations granted by regulators in certain atypical cases where application of the 'roam like at home' principle would give rise to losses that could undermine the viability of national tariff models and lead, for example, to price increases for domestic consumers.

Mr ANSIP referred to the considerable tariff discrepancies in telecommunications in Europe and the need to take measures to effectively prevent any abuses these might cause. This was why the Commission's draft implementing measures provided that after 5% of losses due to abusive use of the 'roam like at home' principle, operators could use the derogations to this principle. The Member States had judged this percentage to be too high and considered that it could trigger a price increase. They had therefore

recommended setting the threshold of losses required in order to benefit from the derogation system at 3%.

Other points, in particular, had been discussed with the Council. These were the defining of the minimum observation period for identifying abusive use of ‘roam like at home’ and the concept of a consumer’s stable link with a specific domestic market.

Lastly, Mr ANSIP mentioned the abuses linked to the use of prepaid cards or subscriptions providing for the use of a considerable volume of data at a low price as one of the most sensitive problems to be resolved.

He therefore advocated accompanying the complete abolition of roaming charges with a series of safeguard measures in order to eliminate any motivation for operators to impose other restrictions, or simply price increases, on their customers. According to the text as it currently stood, operators offering considerable volumes of data at a price lower than the wholesale price of roaming services would be exposed to substantial losses caused by roaming. They might react by increasing their domestic prices, reducing the volumes of data available or offering a domestic plan without including roaming in the service offered. All these solutions would have an adverse effect on consumers.

On the basis of this analysis, he considered that the draft Implementing Regulation should be amended so as to include the necessary safeguard measures and enable it to be approved by the Council’s Communications Committee (COCOM).

Mr OETTINGER observed that the amended draft Implementing Regulation had been the subject of wide consultations involving the Member States, consumer organisations, regulators, telecommunications operators, MEPs and other stakeholders. He also pointed out that the draft Implementing

Regulation approved by the College on 21 September had given rise to no fewer than four meetings with the relevant Council Committee, which had led the Commission to amend and clarify the proposed text.

He stressed that the ‘roam as at home’ principle was clearly maintained, but that the amended draft Regulation took account of the result of the Commission’s consultations in order to strengthen the legal certainty of the draft and also consumer protection, in order to ensure that consumers could continue to benefit from the best offers on the domestic market.

The main adjustments to the draft Implementing Regulation related to the introduction of an automatic safeguard mechanism linked to volume for the most competitive data flows and the introduction of an observation period allowing operators to detect abuses.

On the basis of this amended draft regulation, Mr OETTINGER considered that an agreement was now possible in the Council at the meeting of the relevant committee on 14 December.

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

- the abolition of roaming charges was a success for the Union, provided it took into account the possible negative effects of the measure and that the right solutions were found for these;
- the need to complete the impact assessment to make it more sound;
- it was important for the implementing measures to guarantee legal certainty for both consumers and operators;
- the need to develop communication actions tailored to each target group in order to explain the balanced nature of the measures taken, which would

allow consumers to benefit effectively from the abolition of roaming charges and protect operators from the possible abuses that might lead to a loss of profits;

- the fact that the abolition of roaming charges was a key element of the digital single market.

Winding up, Mr ANSIP said that the amended draft Implementing Regulation made it possible to significantly increase the legal certainty of the measures linked to the abolition of roaming charges and to apply it without limits, with the exception of certain specific situations in which the highly competitive services proposed in certain Member States might give rise to abuses. On this point, he emphasised the importance of protecting operators who had become very competitive because they had invested earlier in modern infrastructure, thereby bringing maximum benefit to consumers.

Finally, he felt that the amendments made to the draft Implementing Regulation made an agreement now possible in the Council, while maintaining the high level of ambition desired by Parliament and the Commission.

The Commission took note of this information and approved the line set out in SI(2016) 502 and /2.

**xv) Control of the acquisition and possession of weapons (Directive) –
FORD report – 2015/0269 (COD)**

The PRESIDENT asked Sir Julian KING to report on the outcome of the fourth trilogue held the previous day on the proposal to amend Council Directive 91/477/EEC on control of the acquisition and possession of weapons, which had been presented by the Commission in November 2015. He pointed out that the Commission had already discussed the file in detail at its meeting of 25 October.

Sir Julian KING explained that progress had been made in the trilogue on elements that the Commission had included in its initial proposal, namely (i) the prohibition of all semi-automatic firearms converted to automatic firearms, i.e. the most dangerous weapons, (ii) the prohibition of semi-automatic long firearms whose magazine could hold more than 10 rounds, (iii) the inclusion in the scope of the Directive of alarm weapons and salute and acoustic weapons, (iv) the taking into account of the situation of collectors to improve the traceability of their firearms, and (v) a limited derogation for reservists, who had a special status in some Member States. There was also a strict exemption for sport shooters, which had not originally been provided for by the Commission but was included in the proposal as it stood.

In general terms, he welcomed the fact that the proposed compromise set out more stringent rules governing firearms for civilian use and covered a broader range of firearms with a view to tightening controls.

Sir Julian KING then turned his attention to the points still outstanding after the previous day's trilogue, and which required further work. First, he noted that the European Parliament had not yet given clear consent to including deactivated weapons - considered necessary by both the Commission and the Council - in the scope of the amended Directive, and to their classification in category C to ensure their traceability.

He went on to explain that the Commission had not yet been able to assert its position on two fundamental issues. First, the capacity of the loading devices of semi-automatic short firearms, where the Commission favoured a ban on all semi-automatic short firearms which could hold more than 10 rounds, while the Council and Parliament wanted the limit to be set at over 20 rounds. Second, on the crucial and sensitive issue of the ban on semi-automatic Kalashnikov (AK-47) assault rifles and their variants, along with the

AR-15 series of firearms, no agreement had yet been reached, mainly due to strong opposition from the European Parliament to the reference to semi-automatic variants of automatic weapons designed for military use, on the grounds that the definition of the variants was imprecise and therefore impossible to implement.

Sir Julian KING concluded by stating that the compromise text was still being consolidated, an information point on the file would be dealt with in the Permanent Representatives Committee (COREPER) in the course of the day. He referred to the Member States' position on the draft agreement which was now on the table and pointed out that this agreement would not obtain a unanimous vote.

For his part, Mr TIMMERMANS stressed the sense of responsibility shown by the Commission in presenting the proposal to amend the current Directive on control of the acquisition and possession of weapons only days after the deadly terrorist attacks of 13 November 2015. He was absolutely emphatic that there was no justification whatsoever for the acquisition and possession of Kalashnikov-type firearms in European society, hence the need for the ban. He also deeply regretted the influence that the arms lobby had had and the lack of transparency with which this influence had been exerted.

He concluded, however, that the Commission could also take a pragmatic approach in order to reach an interinstitutional agreement. For that reason, he felt that Sir Julian KING should be granted some room for manoeuvre to enable him to obtain, at the very least, a favourable vote by qualified majority.

Mr AVRAMOPOULOS noted with concern that, one year into the negotiations, the proposed amendment to the Directive still did not cover all the most dangerous assault weapons, i.e. Kalashnikovs, because of the European Parliament's refusal. He considered this a very dangerous loophole

in the legislation and hoped that every effort would be made to secure unanimous agreement in Council.

Mr TIMMERMANS took the floor again to explain that the College needed to decide whether to grant a certain amount of leeway to its negotiator, Sir Julian KING, to tighten the control of weapons in the proposal as it currently stood. The alternative was that the Council would not obtain the necessary unanimity and the proposal would therefore not be adopted.

The PRESIDENT concurred and noted that the College supported the approach of granting Sir Julian KING the necessary leeway to improve aspects of the proposal where required. He strongly deplored the influence of lobbies in the arms industry. He concluded the discussion by affirming that if the two institutions were to reach agreement on the basis of the compromise referred to by Sir Julian KING, the Commission would not oppose this and would facilitate its adoption by qualified majority in the Council. However, the Commission would regret that the co-legislator had not been able to accept its initial proposal, which guaranteed a higher level of security than the final compromise.

The Commission took note of this information.

11. POLICY DEBATE ON THE FOLLOW-UP TO THE FITNESS CHECK OF EU NATURE LEGISLATION (BIRDS AND HABITATS DIRECTIVES) (SEC(2016) 516; RCC(2016) 152)

On the basis of the background note distributed under the PRESIDENT's authority and the two information documents distributed in the Annex, Mr VELLA opened the policy debate on the follow-up to the fitness check of the legislation on nature protection, i.e. the Directives on the protection of birds and habitats, dating back to

1979 and 1992 respectively. The legislation protected animal and plant species and some rare habitats inside and outside nature conservation areas, and thereby established a conservation network called Natura 2000, covering 18% of the land area and 6% of the sea area of the European Union.

The question of improving and modernising the two Directives had been raised, which is why they had been subject to a full and transparent evaluation, and an extensive consultation exercise, which had attracted 552 000 responses.

Mr VELLA presented the outcome of the evaluation, which clearly indicated that the two Directives remained relevant and valid, while the failure to achieve all their objectives had more to do with the difficulties of practical implementation than with the Directives themselves. The evaluation also highlighted that the Directives could easily reconcile different interests by providing a flexible framework which gave Member States and regional and local authorities scope, but also responsibility, for tackling problems at their level, taking account of local conditions. Finally, the problems identified could be solved by modernising and improving the implementation of the Directives, as proposed in option 4 of the background note. Another dimension of the Directives was their direct social and economic impact – whether in terms of storage of carbon dioxide, tourism revenue or ecosystem services – which was positive.

Concluding his presentation, Mr VELLA gave five reasons in favour of option 4 in the background note, which consisted in improving the implementation of the two Directives. These were: (i) the absence of valid reasons, according to the evaluation, for amending the legislation; (ii) the need to maintain legal and regulatory certainty for all stakeholders; (iii) the economic justification for the existing Directives; (iv) the explicit wish of the European Parliament and of the Council that the Commission focus on improving implementation rather than amending the legislation; and, lastly, (v) widespread public support for Natura 2000 initiatives.

Mr TIMMERMANS commented on the file from two perspectives: sustainable

development and the Better Regulation initiative.

He also stressed that the conclusions of the evaluation were clear; the EU's legislation on nature protection was largely in keeping with the objective pursued, even though implementation was sometimes a major problem. That view was widely held in European civil society and in the other EU institutions – the European Parliament and the Council. In particular, 16 Member States had called on the Commission not to reopen the existing legislation. However, he acknowledged that implementation of both Directives had to be improved and, in response to the third question in the background note, suggested drafting an action plan.

In the course of the discussion which followed, the Commission raised the following key points:

- the Commissioners unanimously supported option 4 to address the problems relating to implementation of the two Directives, without amending the legislation, which remained largely fit for purpose;
- various political stakeholders strongly supported such an approach;
- the objectives of the existing Directives were supported, as they protected nature effectively and contributed to sustainable development, while also bringing benefits in terms of economic and social well-being; public support for the Directives was also strong;
- the fitness check carried out by the Commission was of high quality and ambitious; the data it was based on were robust;
- the focus needed to be on communication with national, regional and local authorities, and on explaining the provisions in the two Directives;

- the barriers to implementing the Natura Directives needed to be acknowledged; interpretation of those Directives at European, national, regional and local level could be a factor in the difficulties;
- any action plan agreed on should be ambitious;
- the work within the Commission could be handled by a project team.

For his part, the PRESIDENT said he was aware of the concerns of a number of regional and local politicians who, although not opposed to EU legislation on nature protection, sometimes came up against the excessive rigidity of some of the implementing rules. He hoped the Committee of the Regions could assess the work that the Commission was planning.

Mr VELLA pointed out that the Committee of the Regions had already been consulted on, and had agreed with, the Commission's proposal to improve implementation of the Natura Directives.

Mr TIMMERMANS suggested setting up a task force and contacting the Committee of the Regions, which could make a contribution.

The PRESIDENT concluded the policy debate by noting the Commission's unanimous support for option 4, which consisted in improving implementation of the Directives rather than amending the Natura legislation. He also noted the suggestions to continue work on the issue in a project team and also to create an inter-service task force. As part of that work, the Commission would draw on the views and experience of the Committee of the Regions and, more widely, of regional and local authorities in the Member States.

The Commission took note of the results and conclusions of the policy debate and of the background note in SEC(2016) 516.

12. INTERINSTITUTIONAL RELATIONS (CONTINUED)**(RCC(2016) 150)*****RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL*****Outcome of the Eurogroup meeting (Brussels, 5 December 2016)**

The PRESIDENT called on Mr DOMBROVSKIS and Mr MOSCOVICI to report to the College on the outcome of the Eurogroup meeting held the previous Monday.

Mr DOMBROVSKIS referred to the discussions that had focused this time on budgetary surveillance, with the Commission's opinions on the draft budgetary plans of the Member States and the fiscal stance for the euro area.

He dwelled on the second point in particular, highlighting the broad agreement that had been reached on the advisability of examining the idea of a fiscal stance for the euro area in the current situation. However, he noted the difference of views on the need for a positive or expansionist fiscal stance in 2017, as recommended by the Commission. He explained that this positive stance was supported only by a small number of Member States, while the European Central Bank instead preferred a broadly neutral fiscal stance, and stressed that the proposed figure of 0.5% of EU gross domestic product would be incompatible with the provisions of the Stability and Growth Pact. Many Member States had again stressed the obligation to respect the budgetary rules, so the Commission had had to reiterate that its recommendation for a positive fiscal stance did comply with the provisions in question.

Mr DOMBROVSKIS then summarised the three main points set out in the statement published at the end of the Eurogroup meeting. First, the Eurogroup took note of the Commission Communication calling for a positive fiscal stance, but recalled the conclusion from its July meeting that a broadly neutral fiscal stance in 2017 would be appropriate. Second, the Eurogroup adopted the idea of distinguishing the recommendations addressed to the Member States that were

required to continue to correct their fiscal path from those addressed to Member States with some leeway, which were encouraged to make productive investments. Third and last, he noted the emphasis on the importance of the quality of public finances and of accompanying structural reforms.

With regard to the country-specific assessments, Mr DOMBROVSKIS reported that there had been a number of discussions on certain specific cases, but that the Eurogroup had given its overall support to the Commission's analysis for most Member States.

Mr MOSCOVICI added a few words on this item of the Eurogroup meeting, above all welcoming the momentum achieved with the fiscal stance for the euro area. He noted that a large number of stakeholders had expressed their support for the Commission's work and that the legitimacy of a discussion on an aggregate fiscal policy had not been called into question. In order to make progress, he suggested taking action on three areas in 2017, namely (i) on the substance, continuing to explain that the intention was not to call into question the existing set of rules, nor to encourage a 'one-size-fits-all' Keynesian policy at Union level, (ii) on the procedures, establishing the instruments referred to in the conclusions of the discussion and contributing to a return to convergence of the euro-area economies, and (iii) moving forward in this discussion by taking account of the consequences of the summary just given in the proposals on the future of the Economic and Monetary Union that the Commission was to present in the spring.

Mr MOSCOVICI then raised the specific case of Greece, in particular the discussions on examining its third assistance and debt relief programme. The Eurogroup had discussed how to conclude the second review and measures to ensure the sustainability of Greek debt. He stressed that the Commission had made substantial efforts to ensure that Greece completed its economic adjustment programme and fulfilled its commitments. The International Monetary Fund had continued to argue that Greece should strengthen its fiscal effort and its structural

reforms, sometimes to the point of calling into question, in his view, the country's economic recovery and growth. The International Monetary Fund's recommendations on Greek debt went further than the proposals made by the European Stability Mechanism.

He went into more detail on the conclusion of this second review covering no fewer than 80 prior actions. Against this background, there were only three outstanding issues, namely (i) the modest fiscal gap forecast for 2018, (ii) the restructuring of the energy sector, and (iii) the collective negotiations on the reform of the labour market. He felt that solutions to these three issues were possible.

He explained that the negotiations to reach a technical agreement with Greece should be concluded by the end of the year, but did not under-estimate the difficulty of reconciling the divergent positions of the EU institutions and the International Monetary Fund. He considered it difficult to maintain harsh positions in relation to Greece, given that it had undertaken major reforms and imposed many sacrifices on its population, without yet seeing any reward for its efforts.

Mr MOSCOVICI concluded his comments by emphasising that the Union was at a key juncture in the implementation of the assistance programme for Greece, which was at last giving the country the prospect of turning the page and recovering with a positive momentum that should be maintained over the course of the next few months. He hoped that all the stakeholders would endeavour to contribute to this positive outcome.

The Commission took note of this information.

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The meeting closed at 12.42.