EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2012) 2028 final

Strasbourg, 15 January 2013

MINUTES

of the 2028th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 19 December 2012

(morning)

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Single sitting: Wednesday 19 December 2012 (morning)

The sitting opened at 9.05 with Mr BARROSO, President, in the chair. The discussion of item 9 was chaired by Ms REDING.

<u>Present</u>:

Mr BARROSO	President	Items 1 to 8
Baroness ASHTON	High Representative/ Vice-President	
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	
Mr ŠEFČOVIČ	Vice-President	Items 1 to 8
Mr REHN	Vice-President	Items 6 (in part) to 9
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	Items 1 to 8 (in part)
Mr BARNIER	Member	Items 6 to 9
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	Items 6 to 8 (in part)
Mr LEWANDOWSKI	Member	Items 6 to 8 (in part)
Ms DAMANAKI	Member	Items 1 to 8
Ms GEORGIEVA	Member	Items 6 (in part) to 9
Mr OETTINGER	Member	Items 1 to 8 (in part)
Mr HAHN	Member	Items 1 to 7
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr BORG	Member	Items 1 to 8 (in part)

Absent:

Ms GEOGHEGAN-QUINN	Member
Mr CIOLOŞ	Member

<u>The following sat in to represent absent Members of the Commission</u>:

Mr BELL	Chef de cabinet to Ms GEOGHEGAN-QUINN	Items 1 to 8
Mr HAEUSLER	Chef de cabinet to Mr CIOLOŞ	

<u>The following also sat in</u>:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	Items 1 to 9 (in part)
Mr PAULGER	Director-General, DG Communication	Items 1 to 7 (in part)
Mr DOENS	Head of the Commission Spokesperson Service	Items 1 to 8
Ms AHRENKILDE HANSEN	Commission Spokeswoman	Items 1 to 8 (in part)
Mr SCHINAS	Bureau of European Policy Advisers	
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	Items 1 to 7
Mr KLAUS	A member of the PRESIDENT's staff	Item 8
Mr MORRISON	Chef de cabinet to Baroness ASHTON	Item 9
Ms DARMANIN	Chef de cabinet to Mr BORG	Item 7

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

1. AGENDAS
(OJ(2012) 2028/FINAL; SEC(2012) 701)

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(2012) 2028)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 17 December.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2026TH MEETING OF THE COMMISSION (5 DECEMBER 2012) AND THE MINUTES OF THE 2027TH MEETING (12 DECEMBER 2012)
(PV(2012) 2026; PV(2012) 2026, PART II)

The Commission approved the minutes of its 2026th meeting and decided to hold over approval of the minutes of its 2027th meeting for a later date.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED
(SEC(2012) 702 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 10 and 14 December.

4.2. *EMPOWERMENT (SEC(2012) 703 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 10 and 14 December.

4.3. *DELEGATION AND SUBDELEGATION OF POWERS (SEC(2012) 704 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 10 and 14 December, as archived in e-Greffe.

4.4. *SENSITIVE WRITTEN PROCEDURES (SEC(2012) 705 AND /2)*

The Commission took note of the sensitive written procedures for which the time limit expired between 17 and 21 December and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on 17 December.

4.5. *AD HOC EMPOWERMENT CONCERNING MEASURES TO BE ADOPTED IN THE EVENT OF THE COUNCIL'S FAILURE TO ACT WHEN FIXING FOR 2013 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(2012) 9383 AND /2)*

The Commission decided to empower Ms DAMANAKI, the Commissioner for Maritime Affairs and Fisheries, in agreement with the PRESIDENT, on behalf of and under the responsibility of the Commission, to adopt the measures, in the event of the Council's failure to act, to fix for 2013 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters, in accordance with the terms laid down in C(2012) 9383/2.

5. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2012) 706/3)

ADMINISTRATIVE MATTERS
(PERS(2012) 125/3)

5.1. DG ENTERPRISE AND INDUSTRY – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2012) 68 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director (Aerospace, Maritime, Security and Defence Industries) in the Directorate-General for Enterprise and Industry (PERS(2012) 68 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 19 October and 8 November (PERS(2012) 68/3 and /4).

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 Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr TAJANI, it then decided to appoint Mr Philippe BRUNET to the post.

This decision would take effect on 16 January 2013.

5.2. DG COMMUNICATION – APPOINTMENT OF HEAD OF COMMISSION REPRESENTATION

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms REDING, the Commission decided:

- to fill the post of Head of the Commission Representation in London (DG Communication) by transferring in the interest of the service under Article 7 of the Staff Regulations Ms Jacqueline MINOR, an AD15 official and currently Director (Consumer Policy) in DG Health and Consumers;
- to raise the grade of this function to director level (AD14/15) until the departure of the holder of the post, by way of derogation from the Commission decision C(2008) 5028/2 which defines the functions of a Head of a Representation as middle management.

This decision would take effect on 16 February 2013.

5.3. DG BUDGET / DG HUMAN RESOURCES AND SECURITY – COMMISSION AGREEMENT ON THE OPENING OF A EUROPEAN UNION DELEGATION IN THE UNITED ARAB EMIRATES, A FULL DELEGATION IN MYANMAR AND THE CLOSURE OF THE DELEGATION IN SURINAME (PERS(2012) 126; PERS(2012) 127; PERS(2012) 128)

The Commission took note of the information in paragraph 3 of PERS(2012) 125/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Baroness ASHTON, Mr PIEBALGS, Mr DE GUCHT, Mr LEWANDOWSKI, Ms GEORGIEVA and Mr FÜLE, decided to:

- agree to the opening of a European Union delegation in the United Arab Emirates;
- agree to the opening of a full European Union delegation in Myanmar;
- agree to the closure, during the first quarter of 2013, of the European Union delegation in Suriname;
- take note of the financial statements annexed to PERS(2012) 126, PERS(2012) 127 and PERS(2012) 128;

– take note that any decision connected with the decisions referred to above and concerning the adoption of new organisation charts or amendments to existing ones, and any decision to (re)deploy Commission resources, would have to be taken in accordance with the cooperation procedures put in place by the Commission and the High Representative and in accordance with internal Commission procedures.

These decisions would take effect immediately.

5.4. DG BUDGET – ALLOCATION OF HUMAN RESOURCES AND DECENTRALISED ADMINISTRATIVE APPROPRIATIONS FOR 2013 (SEC(2012) 720 AND /2)

The Commission approved the communication distributed as SEC(2012) 720/2.

6. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

6.1. STATE AID – INDIVIDUAL CASES (SEC(2012) 728; RCC(2012) 132)

The Commission adopted the decisions in SEC(2012) 728.

6.2. STATE AID – HORIZONTAL DOSSIER

Communication from the Commission (notice) on EU guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks
(C(2012) 9609 and /2; SWD(2012) 448; SWD(2012) 449; (SEC(2012) 714; RCC(2012) 132)

The Commission:

– adopted in principle the communication (notice) set out in

C(2012) 9609/2;

- took note of the impact assessment and the summary thereof in SWD(2012) 448 and SWD(2012) 449;

- took note of the opinion of the Impact Assessment Board on the above Commission communication (notice), as set out in SEC(2012) 714;

- empowered, under Article 13 of its Rules of Procedure, Mr ALMUNIA, the Commission Member responsible for competition, to formally adopt the communication (notice) in all the official languages of the Union, in agreement with the PRESIDENT, with a view to its publication in the Official Journal of the European Union so as to bring it to the attention of the Member States and stakeholders.

6.3. COMMISSION DECISION ON WITHDRAWING ITS REQUEST FOR AN OPINION OF THE COURT OF JUSTICE PURSUANT TO ARTICLE 218(11) TFEU ON THE COMPATIBILITY OF THE ANTI-COUNTERFEITING TRADE AGREEMENT (ACTA) WITH THE TREATIES (C(2012) 9894)

The PRESIDENT gave a brief outline of the background to this decision. On 10 May 2012 the Commission had decided to submit a request for an opinion to the Court of Justice of the European Union on the compatibility of the Anti-Counterfeiting Trade Agreement (ACTA) with the existing treaties. After Parliament had voted this Agreement down in July 2012, the Court had asked the Commission whether it still required an opinion.

Having carefully weighed up all the arguments, the PRESIDENT and the Commission Member responsible for trade, Mr DE GUCHT, had concluded that it was politically difficult to maintain the request for an opinion; Parliament might interpret this as disregarding its negative vote.

The PRESIDENT explained that, in the light of those political considerations, it was proposed that the Commission withdraw the request for an opinion submitted to the Court of Justice. This decision did not undermine the Commission's position on the ACTA, which it regarded as fully compatible with the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights.

With regard to the options now open to the Commission, namely relaunching discussions on the ACTA with a view to securing its ratification, or simply withdrawing the request, Mr DE GUCHT confirmed that, having carefully evaluated the legal aspects in the light of the political considerations, he was in favour of withdrawing the request. Nevertheless, he took the view that the substance of the matter remained, namely that a wide-ranging debate was needed on copyright and the balance to be struck between freedom of access and intellectual property rights on the internet, these being issues on which the Court of Justice could have usefully shed light.

Following a brief discussion in which the Director-General of the Legal Service was asked to clarify a number of points, he stated that, in the light of the negative vote in Parliament and the stances taken in the Council, it was not certain that the Court of Justice would have deemed the Commission's request for an opinion admissible. If the Commission wished to pursue negotiations with a view to securing a new trade agreement on counterfeiting, it would be required to table a new proposal and could, if necessary, submit a new request for an opinion to the Court of Justice.

The PRESIDENT concluded by noting that the Commission endorsed the decision to withdraw the request for an opinion it had submitted to the Court of Justice of the European Union in the light of the interinstitutional political context. The Commission would return to the issues of substance raised in connection with this matter when it resumed the policy debate on intellectual property launched on 5 December 2012.

The Commission adopted the decision in C(2012) 9894.

7. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE APPROXIMATION OF THE LAWS, REGULATIONS AND ADMINISTRATIVE PROVISIONS OF THE MEMBER STATES CONCERNING THE MANUFACTURE, PRESENTATION AND SALE OF TOBACCO AND RELATED PRODUCTS (COM(2012) 788 TO /3; SWD(2012) 452 AND /2; SWD(2012) 453; SEC(2012) 718; RCC(2012) 134)

The PRESIDENT briefly introduced the discussion on the proposal for a Directive aimed at approximating the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products, presented for adoption that day. He underlined the sensitive nature of this proposal which had required very precise finetuning. He pointed out that the proposal, intended to regulate a product by providing a high level of protection for human health, had its legal basis in the internal market, in line with Article 114 of the Treaty on the Functioning of the European Union, the only possible legal basis which therefore limited the Commission's action in legal terms.

The proposal concerned a societal matter on which opinions might differ, however it was important for the Commission to ensure an appropriate level of harmonisation that had a legal basis. In so doing, the Legal Service had worked closely with the departments under Mr BORG's supervision throughout the drafting process and had issued a favourable opinion, which was essential given the possibility of appeals to the Court of Justice. The PRESIDENT felt that, for the purposes of the discussion that day, this would obviate the need for any questions about the legality of any of the provisions in the proposal.

The proposal would replace an existing Directive, the most controversial provisions of which had been in force for several years and had, in some cases, resulted in the establishment of case-law by the Court of Justice endorsing them, therefore there was no need for further discussion of them at this meeting.

The PRESIDENT said that Member States were applying different levels of human health protection on the basis of the 2001 Directive still in force, consequently it was necessary to improve the existing rules to reduce these differences and reinforce the internal market, the objective being, he emphasised, to achieve the highest common denominator in this domain.

Member States were unanimous in their determination not to open the market to new products and to strengthen the level of health protection, in particular for young people under the age of eighteen whose tobacco consumption was still too high in the European Union compared with the rest of the world.

The PRESIDENT concluded by saying that he trusted that the debate would focus on the policy aspects of the decision to be taken, which should be balanced and legally watertight, and that the Commission Members would then be able to unanimously support the proposal and its ambitious approach.

Mr BORG first thanked the Commission Members for their contributions to the debate concerning the proposal. He welcomed the fact that the Commission had been able to table this proposal, aimed at revising the 2001 Directive, within the deadline it had set itself, namely before the end of 2012. The purpose of this measure was to remedy any fragmentation of the internal market and bring European rules on the manufacture, presentation and sale of tobacco and related products into line with the international obligations set out in the World Health Organisation's Framework Convention on Tobacco Control, to which the Union was a party.

He was intent on avoiding any kind of dogmatism in relation to this matter in order to give priority to ensuring that this important policy proposal was balanced. Mr BORG stressed that the main objective was the introduction of efficient measures to dissuade Europeans, particularly young people, from starting to smoke by limiting the attraction of tobacco products. Highlighting the importance of the public health challenge facing the Union, he pointed out that this proposal followed measures taken in some Member States to reduce the consumption of tobacco products, for instance by banning smoking in public places, which had sometimes involved difficult political decisions. This proposal would make it possible to reduce the number of smokers in Europe by 2% within five years.

Having summarised the general framework, Mr BORG then turned to the main new features in the proposal, starting with the new rules on ingredients. The Commission's intention here was to propose a ban on "characterising flavours" which encouraged smoking and were aimed mainly at young people.

There were also provisions concerning packaging and labelling, the key one being an obligation to cover 75% of the external area of both the front and back surface of cigarette packets with messages and pictures warning about the health dangers of smoking. The use of pictures was currently optional. Above this percentage, Member States would be allowed to go even further if they wished.

Lastly, there was another new element: traceability and security features to prevent contraband and counterfeit products.

Summarising the key principles which had guided the Commission's policy decisions in relation to the proposal, Mr BORG said that a tobacco product must look and taste like tobacco so that consumers were not misled as to the exact nature of the product. Moreover they must be informed of its harmfulness, and the packaging and flavouring must not be used as incentives to buy. What the Commission wanted to do was propose a ban on anything that would make tobacco products more attractive in terms of size, shape or taste, in particular to young people, since 70% of smokers started smoking before the age of 18.

He also mentioned the commercial changes in the tobacco and related products sector and the scientific developments, which demonstrated the detrimental effects on health of the 'new products' placed on the market – such as smokeless electronic cigarettes – many of which had a high concentration of nicotine, thereby justifying the need for regulation. He added that these products could not be classed as tobacco substitution products and that they posed another problem in that they circumvented the restrictions on tobacco consumption.

For all these reasons he felt that it was impossible to establish a distinction between the different categories of products and that health warnings should be placed on the main surfaces of the packaging of all smokeless tobacco products, as was the case for cigarettes. He noted too that slim cigarettes, for example, would also be banned from sale as they were by their very nature misleading.

Lastly, he stressed that it was impossible to discriminate between flavours, hence the question that had arisen relating to menthol, which was covered by the scope of this proposal even though it has existed for some time and certain Member States were major producers.

He also raised the specific issue of *snus*, a type of tobacco for traditional oral use which was produced and consumed in Sweden and for which Sweden had been granted a derogation in its Treaty of Accession. In return for this derogation, however, Sweden was required under the same Treaty to ensure that *snus* was not marketed in other Member States. He stressed that without that requirement, the derogation could not apply.

Mr BORG confirmed that the derogation enshrined in Sweden's Accession Treaty would be respected and that the ban on marketing *snus* elsewhere in the Union – where there would be an enormous market for it, particularly among young people – would be maintained, as this product too posed a risk to health. Moreover, the ban on characterising flavours for all tobacco products would also apply to *snus*, which was already covered by the Tobacco Products Directive.

Following this presentation, a debate ensued, covering in particular the following aspects of the initiative:

– broad support for the general, health-related objectives of the proposal; the need to take account of scientific and international developments and trends in the tobacco products market; the importance for the Commission to help ensure that public health was well protected in the EU's internal market;

– the need to focus efforts on young people given the prevalence of tobacco consumption in that section of the population;

- questions about certain measures proposed in the Directive that could be seen as intrusive and excessive regulation of tobacco consumption, which, although harmful, was a matter of individual responsibility; the argument that increasing the number of awareness campaigns on the risks of tobacco would suffice, rather than over-regulation; in this context too, questions about the advisability of making pictorial warnings compulsory; more generally, questions about the compatibility of this proposal with the Commission's efforts to simplify legislation;

- other participants felt that any scope for making packaging more attractive would also make tobacco more appealing by encouraging young people to smoke, and argued that the addition of flavours such as menthol and vanilla, or making cigarettes thinner and longer ('slims') were a means of disguising the harmfulness of tobacco;

- notwithstanding the support for the ban on flavourings, questions about the ban on menthol, given the long tradition of menthol cigarettes in a number of Member States and the risk that a contraband market might emerge; in this regard the need to provide for transitional measures to allow the industry to adapt; a call for greater flexibility concerning slim cigarettes; a suggestion that the European Social Fund and the Globalisation Adjustment Fund might be used to offset the job losses which might be caused by these measures;

- the general observation that the beneficial effects on public health of reducing the number of smokers together with lower costs arising from tobacco-related diseases would be much greater than the negative economic impact for the industry and jobs in the short term;

- on the question of packaging, broad support from the Members of the Commission for the balance struck by the proposal: some wanted an even higher percentage to be taken up by a health warning combining a picture and a message, while others warned against the risk of expropriating brands;

- on the question of contraband, the need to stress in public statements about the proposal that an identification and traceability system was to be set up, together with security features in order to ensure that only products complying with the Directive were sold in the EU market; in this context, the importance of mentioning the action plan at the EU's eastern borders, which was already bearing fruit, and the future global strategy against smuggling;

- as regards tobacco for oral use, the need to respect the traditions and customs specific to certain Member States and to take into account the use of *snus*, which was cited as some as a less harmful alternative to cigarettes; in this context, questions about the compatibility of the proposal with the Accession Treaties of Finland, Sweden and Austria;

- doubts about the basis for the rules on the labelling and content of *snus*, particularly as regards characterising flavours, since the product was subject to a marketing ban across the European Union, except in Sweden; questions about the advisability of imposing a stricter level of regulation on *snus* than on niche products, i.e. pipe tobacco, cigars and cigarillos; a reminder that the consumption of *snus* had increased in Nordic countries despite the ban on marketing it outside Sweden; the danger of intensifying practices which had a distortive effect on competition in the Baltic and on maritime practices;

- doubts about the advisability of restrictions on the labelling and ingredients of *snuff*, given its cultural importance in particular regions of Europe and the fact that it is produced not by the tobacco industry but by small local companies; the case for regulating this type of tobacco in the same way as cigars and cigarillos.

At the PRESIDENT's request, the Director-General of the Legal Service took the floor to answer questions from Members of the Commission, in particular about the choice of legal basis and compliance with the provisions of Sweden's Act of Accession in the case of *snus*. He noted that since 1989 the legal basis used to regulate the labelling of tobacco products was that of the internal market, and that a 1992 amendment to the existing Directive prohibited the sale of tobacco for oral use. During the accession negotiations, Sweden obtained a derogation allowing it to continue to sell *snus* on its own territory only.

This system continued until the adoption of the 2001 Directive, and in several cases referred to it the Court of Justice had confirmed that the ban on sales of *snus* outside Swedish territory was justified and proportionate under the rules of the internal market. He also pointed out that the Court of Justice had already confirmed that it was legal to ban flavourings on the basis of scientific evidence. He also believed that the provisions of Article 5 of the present Directive already laid down conditions for the sale of *snus*.

Finally, in reply to the question of whether a transition period specific to *snuff* would be legally valid, if such an amendment were to be sought in later negotiations in the Council, he said that it could be regarded as legally acceptable.

Responding to these comments, and in particular to some participants' complaints of excessive regulation, Mr BORG stressed the difference between prohibition and regulation. In his view, it was up to the Commission to take policy initiatives based on the long-term view, while adhering strictly to the bounds of proportionality, relying on scientific data and ensuring the overall consistency of its approach.

In this instance he argued that the Commission was proposing reasonable regulation not for the sake of prohibiting tobacco but in order to avoid deception, reduce the number of smokers in the Union and harmonise the rules in force in the internal market. He stressed the need to take a cautious approach, drawing a distinction between substances which were dangerous when abused and tobacco which was dangerous simply when consumed. For this reason he stressed that it was important not to give a false sense of security to consumers of new products by giving the impression that they were less harmful, contrary to all the scientific evidence.

He also explained that some tobacco products, such as pipe tobacco, were less regulated than cigarettes because of the marked decline in the consumption of this type of product.

Mr BORG concluded by reiterating his commitment to presenting a proposal that balanced health considerations with political and economic aspects, even if some of its provisions might provoke reactions in certain quarters, and expressed the hope that it would be adopted by the co-legislator before the end of the present Commission's term of office.

The PRESIDENT thanked everyone for their contribution and praised the quality of the debate and the diversity of the opinions expressed. He concluded that the Commission's approach to this important and politically sensitive dossier was balanced and legally sound and rested on the powers it disposed of to act in this area.

The chosen legal basis made it necessary to combine the rules and powers of the internal market with the need to ensure high standards of protection of human health in Europe, and he insisted that the proposal in no way altered the situation of *snus* in Sweden or the provisions of Sweden's Accession Treaty on the subject. He felt that, instead of quelling the debate, an additional derogation excluding *snus* from the provisions of the present proposal for a Directive would provoke more controversy. The discussion would undoubtedly continue on this and other points during the forthcoming negotiations in the Council.

In the light of the foregoing, he concluded that a consensus had been reached in favour of the adoption of the proposal under consideration without amendment.

Following the debate, the Commission adopted the proposal for a Directive in COM(2012) 788/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments together with the impact assessment and the summary thereof in staff working documents SWD(2012) 452 and /2 and SWD(2012) 453 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Directive, as set out in SEC(2012) 718.

8. INTERINSTITUTIONAL RELATIONS (RCC(2012) 133)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 14 December (RCC(2012) 133).

It paid particular attention to the following points.

8.1. LEGISLATIVE MATTERS

i) Horizontal dossier
(point 1.1 of the IRG record)

– Decentralised agencies - Implementation of the common approach between the European Parliament, the Council and the Commission – Roadmap and adaptation of founding acts

The Commission approved the line set out in SI(2012) 599/2.

ii) Ordinary legislative procedure
(point 1.2 of the IRG record)

<u>Dossiers at Parliament first reading</u>

– Multiannual financial framework 2014-2020 – Cohesion policy – Specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (Regulation) – MANNER report – 2011/0273 (COD)

– Multiannual financial framework 2014-2020 – Cohesion policy – Common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council

Regulation (EC) 1083/2006 (Regulation) – VAN NISTELROOIJ / KREHL report – 2011/0276 (COD)

– Multiannual financial framework 2014-2020 – Cohesion policy – European Social Fund and repeal of Regulation (EC) 1081/2006 (Regulation) – MORIN-CHARTIER report – 2011/0268 (COD)

The Commission approved the line set out in SI(2012) 594/4.

– ‘Schengen’ package – Establishment of an evaluation mechanism to verify application of the Schengen acquis (Regulation) – COELHO report – 2010/0312 (COD) / Amendment of Regulation (EC) 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (Regulation) – WEBER report – 2011/0242 (COD)

The Commission approved the line set out in SI(2012) 592.

– Amendment to Directive 2003/98/EC on the re-use of public sector information (Directive) – KALFIN report – 2011/0430 (COD)

The Commission took note of the information in SI (2012) 593.

– Annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Directive) – LEHNE report – 2011/0308 (COD)

The Commission approved the line set out in SI(2012) 600.

– Mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change (Regulation) – EICKHOUT report – 2011/0372 (COD)

The Commission approved the line set out in SI(2012) 604.

– European system of national and regional accounts in the European Union (Regulation) – BOWLES report – 2010/0374 (COD)

The Commission approved the line set out in SI(2012) 605.

– Customs enforcement of intellectual property rights (Regulation) – CREUTZMANN report – 2011/0137 (COD)

The Commission approved the line set out in SI(2012) 608.

8.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business
(SI(2012) 603)

The Commission took note of the information in SI(2012) 603 on the Council meetings between 17 and 21 December.

iv) Results of the European Council meeting (Brussels, 13 and 14 December 2012)
(SI(2012) 607)

The PRESIDENT reported on the main results of the European Council meeting of 13 and 14 December 2012 and mentioned the letter he had sent to the Members of the Commission setting out his analysis.

The agreement reached by the Economic and Financial Affairs Council the day before the European Council meeting on the proposal for a single banking supervisory mechanism was a major success for Europe and for the Commission. Congratulating Mr BARNIER on this result and thanking him for his personal commitment, he said that the mechanism represented the cornerstone of the future banking union. The fact that agreement had been reached quickly proved that it was possible to make progress with deepening Economic and Monetary Union while also preserving the integrity of the single market and of the European Union as a whole.

This European Council had produced very useful and constructive exchanges of views on the deepening of Economic and Monetary Union. Its conclusions had taken over several elements of the Commission blueprint to support this project, such as ex ante coordination of major reforms, contractual arrangements and the solidarity mechanism referred to by the Commission as the ‘Convergence and Competitiveness Instrument’.

The issues raised would need to be discussed in depth in the Member States, but, the lack of progress on several Commission proposals notwithstanding, the European Council meeting had given rise to better mutual understanding and thus formed a solid foundation for the work which would have to be carried out in 2013. Reminding those present that the Commission, together with each Member State, would have to contribute to the emergence of a consensus on the ways and means of moving forward in these crucial areas, he welcomed the fact that the principles underpinning the blueprint had not been disputed and that no door had been definitively closed.

The President of the European Council, in cooperation with the President of the Commission and in consultation with the Member States, would submit the planned measures and a timetable for their adoption to the Council meeting in June 2013. In the course of the next few weeks the Commission should therefore carry out a careful evaluation of the specific proposals it wished to put forward, including the much-anticipated proposal for a single bank resolution mechanism, the proposal for ex ante coordination of major reforms and the proposal for contractual arrangements.

Referring briefly to certain paragraphs of the European Council’s conclusions, the PRESIDENT provided some background information and spelt out the implications for the Commission’s future work. He also mentioned the conclusions with regard to the common security and defence policy, noting that the Commission had set up a task force for that purpose under the aegis of Baroness ASHTON, Mr BARNIER and Mr TAJANI which had been instructed to draft a communication on the European defence industry for the European Council meeting in December 2013.

Mr BARNIER also mentioned the agreement concluded by the Ministers for Finance of the European Union, on 13 December, on the single banking supervision project following a complex negotiation. He noted the importance of the stakes, which were no less than to ensure financial stability and to end the current link between sovereign debt and the banking sector.

He welcomed this firm agreement which would enable genuine integrated supervision to be set up at the euro-area level and explained that the European Central Bank (ECB) would play a direct part as regards the main banks in the euro area, which held over 30 billion euros of assets, and an important role, in close collaboration with the national supervisory authorities, as regards all the other banks, for which it would be able to take over direct supervision should it be necessary. He considered, on this issue, that the question of the respective roles of the ECB and the national supervisory authorities, which was one of the most debated during the negotiation, had led to a good compromise. He also stressed that the setting-up of a single supervisory handbook in the euro area, the role of the supervisory committee set up within the ECB and the capacity for action granted to it, were all factors which would make it possible to prevent any dual system, which would be both inefficient and fragile. Furthermore, he declared himself satisfied with the agreement reached on the participation of non-euro area Member States. He pointed out that the Council had decided to postpone to 1 March 2014 the entry into force of the system, contrary to the Commission's more ambitious proposal. Moreover, if the European Stability Mechanism (ESM) was activated in order to recapitalise a particular bank, the ECB would be able to supervise that establishment.

Mr BARNIER also spoke of the follow-up to the procedure, which currently consisted in reaching an agreement with the European Parliament on this legislative package, given that the Commission had opted for an overall approach, even if, formally, only the Regulation on the European Banking Authority (EBA) had been subject to an ordinary legislative procedure. He had the previous day taken part in the first trilogue with the two rapporteurs, Ms Marianne Thyssen and Mr Sven Giegold, whose work he praised. Their report reflected a very broad convergence of approaches with the

Commission, particularly as regards the ambition it gave to the EBA’s role and to the date of its entry into force. He mentioned that, starting in January 2013, five more trilogues would be held, which he hoped would lead to an overall agreement being finalised.

He concluded by stating the need for the co-legislators, at this stage, to agree on the proposals for directives relating to bank recovery and resolution and to the deposit-guarantee schemes. He stressed that the initiatives linked to the other components of the banking union would then need to be implemented at the right time, i.e. the setting-up at the European level of the bank resolution and the single deposit guarantee systems. In this context, he pointed out that the Commission was preparing a proposal on a European Bank Resolution Authority for June 2013.

Mr REHN spoke briefly to state that the results of the year coming to an end were not insignificant, particularly as regards maintaining the integrity of the euro area, making progress with a banking union and the European Council agreeing in principle to the single resolution mechanism. He agreed with the PRESIDENT's statement on the European Council and declared himself satisfied with the conclusions as regards the short-term Commission initiatives. In the medium and long term, he was of the opinion that the results of the European Council were to be expected, in so far as the initiatives submitted required in-depth discussion both in the Member States and at the European level. Furthermore, he considered that the European Parliament, by not finalising the adoption of the ‘two-pack’ economic governance measures before the start of the European Council, had acted in an inopportune and even counter-productive manner, since the coordination of national budgets was a cornerstone of the Union's response to the debt crisis.

v) Negotiations on the Multiannual Financial Framework 2014-2020

As regards the multiannual financial framework, the PRESIDENT briefly described the state of play of negotiations and pointed out that the European Council had asked him and its President, Mr Herman Van Rompuy, to continue working on this issue in order to make progress towards reaching an agreement at the beginning of 2013. While stressing again that the Commission was maintaining its initial proposals, he stated that some amendments could nonetheless be considered and that exploratory contacts to this end had been made with certain Heads of State or Government. He also mentioned the continued contacts he had with the European Parliament.

Ending on this point, the PRESIDENT pointed out the stakes and the particularly difficult context of the ongoing discussion, particularly given the requests by Member States considered to be ‘net contributors’, and asked each Member of the Commission and their departments to defend the Commission's proposal in all their contacts with the Council and the European Parliament. Lastly, he stated that this discussion could continue at the Commission seminar on 18 January, where Mr Van Rompuy’s intentions and their consequences for the various programmes and instruments of each of the Commission’s policies would be revealed in greater detail.

The Commission took note of this information.

vi) Preparations for Council meeting (Agriculture and Fisheries) (Brussels, 18 to 20 December)
(point 2.3.1 of the IRG record)

– Fishing opportunities for 2013 available to Union vessels for certain fish stocks and groups of fish stocks which are not subject to international negotiations or agreements (Council Regulation) – 2012/0292 (NLE)

The Commission approved the line set out in SI(2012) 590.

– Fishing opportunities for 2013 available in Union waters and, to Union vessels, in certain non-Union waters for certain fish stocks which are subject to international negotiations or agreements (Council Regulation) – 2012/0319 (NLE)

The Commission approved the line set out in SI(2012) 591.

– Fishing opportunities for 2013 for certain fish stocks and groups of fish stocks applicable in the Black Sea (Council Regulation) – 2012/0339 (NLE)

The Commission approved the line set out in SI(2012) 589/2.

8.3. RELATIONS WITH PARLIAMENT

vii) Action to be taken on Parliament's legislative opinions and resolutions of a legal nature
(SP(2012) 884)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2012) 884, drawn up following the December part-session of Parliament, the contents of which were noted.

viii) Results of Parliament's December part-session
(SP(2012) 872; SP(2012) 873)

The Commission took note of the information in SP(2012) 872 and SP(2012) 873 on the proceedings of the part-session of Parliament held in Strasbourg from 10 to 13 December.

8.4. EXTERNAL RELATIONS

ix) ***Draft conclusions of the Council of the EU and the Representatives of the Governments of the Member States meeting within the Council on a Swiss financial contribution for Croatia***
(point 5.1 of the IRG record)

The Commission approved the line set out in SI(2012) 606.

9. RELATIONS WITH NON-MEMBER COUNTRIES

RECENT DEVELOPMENTS IN EXTERNAL POLICY

Baroness ASHTON set out recent developments in external policy, stressing the importance of the work done on defence industrial policy in cooperation with Mr TAJANI and Mr BARNIER, which would form the basis of an initial general discussion of the subject at the European Council in December 2013, and highlighted the aspects linked both to the internal market and European defence capability.

The situation in Syria was extremely serious, given recent events such as the capture of a refugee camp near Damascus by rebel forces. She also referred to the conclusions of the Foreign Affairs Council on the National Coalition for Syrian Revolutionary and Opposition Forces, which the European Union regarded as the legitimate representatives of the aspirations of the Syrian people. She went on to describe the efforts made by the Joint Special Representative of the UN and the League of Arab States, Mr Lakhdar Brahimi, to align the positions on Syria of certain key countries, in particular Russia and China.

Moreover, she welcomed the progress achieved by Serbia and Kosovo, in particular the agreement on crossing points that they had concluded, and stressed the need for the Union to maintain the present momentum in order to obtain tangible results in the normalisation of relations between the two parties, which would allow them as a result to continue their *rapprochement* with the Union.

Finally, Baroness ASHTON referred briefly to the situation in Egypt and the referendum on the Constitution, and the forthcoming summit between the European Union and Russia on 20 and 21 December, in particular to the question of the removal of visas between the Union and that country and to the planned customs union between Russia, Belarus and Kazakhstan.

In reply to a question about the trial of two Italian marines in India, she referred to the negotiations under way to allow them to return home for Christmas pending their court appearance.

Returning to the situation in Syria, Ms GEORGIEVA agreed with Baroness ASHTON and stressed that the internal conflict in Syria affected the Palestinians, to whom she recommended providing assistance in order to avoid the risk of an adverse impact on the balance in the entire region. More generally, it was a priority to focus efforts on providing humanitarian assistance.

Ms GEORGIEVA also raised the very worrying situation in Mali and the conclusions of the Foreign Affairs Council on that country, and the setting up of a European military mission with a view to training and organising the Malian army to control the Islamist groups occupying the north of the country.

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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 10.23.