



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2015) 2138 final

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Brussels, 23 September 2015

TEXTE EN

MINUTES

of the 2138th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 16 September 2015

(morning)

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Single sitting: Wednesday 16 September 2015 (morning)

The sitting opened at 9.24 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	Items 1 to 9 (in part)
Ms MOGHERINI	High Representative / Vice-President	
Ms GEORGIEVA	Vice-President	
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	
Mr HAHN	Member	Items 7 (in part) to 9
Ms MALMSTRÖM	Member	Items 1 to 9 (in part)
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	Items 1 to 9 (in part)
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	Items 1 to 7 (in part)
Mr STYLIANIDES	Member	
Mr HOGAN	Member	
Lord HILL	Member	
Ms BULC	Member	Items 1 to 7 (in part)
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	Items 1 to 7 (in part), 8 and 9
Ms VESTAGER	Member	
Mr MOEDAS	Member	

Absent:

Mr OETTINGER	Member
Mr MIMICA	Member
Mr ARIAS CAÑETE	Member
Mr VELLA	Member
Ms BIENKOWSKA	Member

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

Mr HAGER	Chef de cabinet to Mr OETTINGER	Items 1 to 9 (in part)
Mr BEHRNDT	Chef de cabinet to Mr MIMICA	
Ms LOBILLO BORRERO	Chef de cabinet to Mr ARIAS CAÑETE	
Mr MÜLLER	Chef de cabinet to Mr VELLA	
Mr HEDBERG	Deputy 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	Items 1 to 9 (in part)
Ms ANDREEVA	Commission Spokesperson's Service	Items 7 (in part) to 9
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr ZADRA	Adviser in the PRESIDENT's Office	Item 7 (in part)
Mr SZOSTAK	Adviser in the PRESIDENT's Office	Item 7 (in part)
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	Item 7 (in part)
Mr MANSERVISI	Chef de cabinet to Ms MOGHERINI	Items 1 to 7 (in part)
Mr KARNITSCHNIG	Chef de cabinet to Mr HAHN	Item 7 (in part)
Ms UDWIN	Deputy Chef de cabinet to Mr HAHN	Item 7 (in part)
Ms ÅSENIUS	Chef de cabinet to Ms MALMSTRÖM	Item 7 (in part)

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Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 7 (in part)
Ms OEN	Deputy Chef de cabinet to Ms BULC	Items 7 (in part) to 9
Mr ONACA	Deputy Chef de cabinet to Ms CREȚU	Item 7 (in part)
Mr DANIELSSON	Director-General, DG Neighbourhood and Enlargement Negotiations	Item 7 (in part)

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

1. AGENDAS

(OJ(2015) 2138/FINAL; SEC(2015) 350/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2015) 2138)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 14 September.

3. MINUTES OF 2137TH MEETING (8 SEPTEMBER)

(PV(2015) 2137)

The Commission approved the minutes of its 2137th meeting.

4. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

STATE AID AND OTHER COMPETITION RULES

(SEC(2015) 358/2; RCC(2015) 70)

The Commission's decision on this item is recorded in the special minutes.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2015) 351 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 September.

5.2. EMPOWERMENT

(SEC(2015) 352 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 September.

5.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2015) 353 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 7 and 11 September, as archived in Decide.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2015) 354 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 14 and 18 September and of the finalisation written procedure initiated following the weekly meeting of Chefs de cabinet on 14 September.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2015) 355/2)

ADMINISTRATIVE MATTERS

(PERS(2015) 78/2)

6.1. EUROPEAN ANTI-FRAUD OFFICE – APPOINTMENT OF AD14/15 DIRECTOR

(PERS(2015) 28 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, ‘Investigations II’, in the European Anti-Fraud Office (PERS(2015) 28).

It took note of the opinions of the Consultative Committee on Appointments of 1 and 11 June 2015 (PERS(2015) 28/2 and /3).

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

This decision would take effect on 16 October 2015.

**6.2. JOINT RESEARCH CENTRE – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2015) 39 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, 'Policy Support Coordination', at the Joint Research Centre (PERS(2015) 39).

It took note of the opinions of the Consultative Committee on Appointments of 3 and 18 June (PERS(2015) 39/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr NAVRACSICS, as well as Mr ANSIP, Mr DOMBROVSKIS and Mr KATAINEN, it decided to appoint Ms Delilah AL-KHUDHAIRY to the post.

This decision would take effect on 1 November 2015.

**6.3. DG EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION –
APPOINTMENT OF AD14/15 DIRECTOR
(PERS(2015) 22 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, 'Europe 2020: Social Policies' in the Directorate-General for Employment, Social Affairs and Inclusion (PERS(2015) 22).

It took note of the opinions of the Consultative Committee on Appointments of 7 and 28 May (PERS(2015) 22/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Ms THYSEN and also Mr DOMBROVSKIS and Mr KATAINEN, it decided to appoint Mr Stefan OLSSON to the post.

This decision would take effect on 1 October 2015.

**6.4. DG EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION –
APPOINTMENT OF AD14/15 DIRECTOR
(PERS(2015) 23 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, 'Social market economy in the Member States II: ESF' in the Directorate-General for Employment, Social Affairs and Inclusion (PERS(2015) 23).

It took note of the opinions of the Consultative Committee on Appointments of 7 and 28 May (PERS(2015) 23/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Ms THYSEN and also Mr DOMBROVSKIS and Mr KATAINEN, it decided to appoint Ms Barbara KAUFFMANN to the post.

This decision would take effect on 1 October 2015.

**6.5. DG EDUCATION AND CULTURE – TERMINATION OF A SELECTION
PROCEDURE FOR AN AD14/15 DIRECTOR POST
(PERS(2015) 27 TO /3)**

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr NAVRACSICS, as well as Mr ANSIP, Mr DOMBROVSKIS and Mr KATAINEN, the Commission decided to terminate internal selection procedure COM/2015/378 for the post of Director, 'Modernisation of Education II: Education policy and programme, Innovation, EIT and MSCA', in the Directorate-General for Education and Culture without making an appointment and to authorise re-publication of the vacancy in order to attract a greater number of candidates. The new vacancy notice and its publication date would be approved by Ms GEORGIEVA in agreement with the PRESIDENT.

These decisions would take effect immediately.

**6.6. SECRETARIAT GENERAL – AMENDMENT OF ORGANISATION
CHART AND INTERNAL PUBLICATION OF THE VACANCY NOTICE
FOR THE AD14/15 POST OF OMBUDSMAN OF THE
EUROPEAN COMMISSION
(PERS(2015) 79)**

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

- to upgrade to principal advisor level (AD14/15) the post of Ombudsman of the European Commission, and to create a principal advisor post in the Secretariat General accordingly;
- to approve the wording of the vacancy notice set out in PERS(2015) 79, and to publish the vacancy notice for the post of European Commission

Ombudsman in accordance with the provisions of Article 29(1)(a)(i) and (iii) of the Staff Regulation with a view to the future appointing decision pursuant to Article 6(3) of the Commission Decision on the reinforced Mediation Service (C(2002) 601).

These decisions would take effect immediately.

6.7. *DG TRADE – AMENDMENT OF ORGANISATION CHART AND APPOINTMENT OF A PRINCIPAL ADVISER*

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

- to approve the creation of a temporary post of principal adviser in the Directorate-General for Trade, directly attached to the Director-General; this post would be abolished upon departure of the job holder;
- to fill this post by transferring, in the interest of the service under Article 7 of the Staff Regulations, Ms Ewa SYNOWIEC, currently Head of the European Commission Representation in Poland.

These decisions would take effect on 1 October 2015.

6.8. *DG COMMUNICATION – AMENDMENT OF THE ORGANISATION CHART AND APPOINTMENT OF A HEAD OF EUROPEAN COMMISSION REPRESENTATION*

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, the Commission decided to fill the post of Head of the European Commission Representation in Hungary by transferring, in the interest of the service under Article 7 of the Staff Regulations, Mr Gabor ZUPKÓ, currently Director, 'Resources', in the Directorate-General for Communication.

As a result, and by way of derogation from Commission Decision

C(2008) 5028 on middle-management staff, the Commission also decided to upgrade to director level (AD14/15) the post of Head of its Representation in Hungary for the duration of Mr ZUPKÓ's posting.

These decisions would take effect on 1 December 2015.

6.9. INTERNAL AUDIT SERVICE – AMENDMENT OF THE ORGANISATION CHART
(SEC(2015) 369)

The Commission took note of the information set out in point 9 of PERS(2015) 78/2, and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr TIMMERMANS, decided:

- to increase by one the number of structural advisers in the Internal Audit Service;
- to adopt the new organisation chart set out in SEC(2015) 369.

These decisions would take effect on 16 September 2015.

Following the reorganisation, the total number of adviser posts in the Internal Audit Service would rise from 1 to 2.

6.10. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE
(C(2015) 6335)

The Commission adopted the decision set out in C(2015) 6335.

The Commission, taking into account the opinion of the ad hoc ethics committee of 22 August 2015, decided:

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- to confirm its decision of 15 April 2015 concerning the unpaid academic activity planned by former Vice-President Baroness ASHTON OF UPHOLLAND at Yale University, provided that Baroness ASHTON scrupulously fulfilled her obligations of discretion and collective responsibility and confidentiality under Articles 245 and 339 of the Treaty on the Functioning of the European Union (TFEU) and section 1.7 of the Code of Conduct for Commissioners, and that she refrained from lobbying the Commission and/or its departments for 18 months after leaving the Commission with regard to any request Yale University might make in order to gain support from the European Union;
- that Baroness ASHTON's planned involvement in activities of the think tank Inter Mediate was compatible with Article 245(2) TFEU, providing Baroness ASHTON scrupulously fulfilled her obligations of discretion and collective responsibility and confidentiality under Articles 245 and 339 TFEU and section 1.7 of the Code of Conduct for Commissioners, and that she refrained from lobbying the Commission and/or its departments for 18 months after leaving the Commission with regard to any request Inter Mediate might make in order to gain support from the European Union.

The Commission instructed the Secretary-General to inform Baroness ASHTON of this decision and of the above conditions.

6.11. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE
(C(2015) 6336)

The Commission adopted the decision set out in C(2015) 6336.

The Commission, taking account of the opinion of the ad hoc ethics committee of 2 September 2015, decided that the unpaid activity planned by

former Commissioner Ms Máire GEOGHEGAN-QUINN as a member of the Board of the Biomedical Sciences Institute at Trinity College (TBSI) in Dublin was compatible with Article 245(2) Treaty on the Functioning of the European Union (TFEU), providing Ms GEOGHEGAN-QUINN, for 18 months after leaving the Commission, (i) referred proactively to the internal rules of TBSI in order to refrain from participating in any dossiers concerning relations between TBSI and the European Commission and the programmes of the European Union, (ii) refrained from lobbying the Commission and/or its departments with regard to any financing requests from TBSI to the European Union, and (iii) ensured that none of TBSI's commercial partners, either current or potential, could unduly benefit from the knowledge and experience Ms GEOGHEGAN-QUINN gained during her term of office.

The Commission reminded Ms GEOGHEGAN-QUINN that she must, under all circumstances, even after the 18 month period following her departure from the Commission, act with integrity and discretion and protect the collective responsibility and confidentiality of matters dealt with by the Commission during her term of office, under Articles 245 and 339 TFEU.

The Commission instructed the Secretary-General to inform Ms GEOGHEGAN-QUINN of this decision and of the above conditions.

7. INTERINSTITUTIONAL RELATIONS

(RCC(2015) 67)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 11 September (RCC(2015) 67).

It paid particular attention to the following points.

7.1. EARLY WARNING**i) *Transatlantic Trade and Investment Partnership/Investor-State Dispute Settlement – TTIP/ISDS***

(point 2 of the IRG record)

Ms MALMSTRÖM presented to the Members of the Commission the main features of the planned draft reform of the dispute settlement mechanism between investors and States under the trade and investment agreements concluded by the Union with third countries.

Investment protection and dispute settlement between European or American investors and one of the parties to the Transatlantic Trade and Investment Partnership (TTIP) had been the subject of intense discussions in the EU over recent months. In this context, the Commission had undertaken to reform the approach to investment protection and investor-State dispute settlement (ISDS) that was traditionally followed in the agreements negotiated and concluded by the EU with third countries.

The general thrust of this reform had already been set out in a concept paper entitled ‘Investment in TTIP and beyond – the path for reform’ published on 5 May 2015. The reform had two fundamental objectives: the first was to ensure that the right to legislate in order to achieve public policy objectives was not restricted, and the second was to abandon the current system of ad hoc arbitration in favour of a new system based on a tribunal responsible for dispute settlement which provided the necessary guarantees in terms of impartiality, democratic control and transparency.

Ms MALMSTRÖM noted that the text tabled that day translated the political objectives set out in the concept paper into legal language, while taking account of the resolution on the TTIP adopted recently by Parliament.

The text prepared for the TTIP negotiations placed a greater emphasis on the right of governments to regulate in order to pursue legitimate public policy objectives. While, in the Comprehensive Economic and Trade Agreement (CETA) with Canada, the general statement on the right to regulate was part of the preamble, in the proposed text for TTIP it was contained in a separate article of the text. Another innovative aspect of the new article was a clarification that investment protection provisions should not be interpreted as a commitment from governments not to change their legal framework, including in a manner that might negatively affect an investor's expectations of profits. Lastly, the question of State aid had also been taken into account, as advocated by the concept paper.

She also referred to the other key provisions in the text on investment protection, known under the generic term of 'high standards of investment protection', which were based on the provisions agreed during the negotiations on the agreement with Canada, in which the obligations of governments were clearly and closely defined in order to prevent abuses.

With regard, more specifically, to the dispute settlement and investment arbitration mechanism, Ms MALMSTRÖM pointed out that the proposed text provided for a new system consisting of a standing Tribunal of First Instance and a standing Appeals Tribunal, which was a fundamental change in relation to the current, ad hoc dispute settlement mechanism, in which the arbitrators were appointed by the parties involved.

According to this draft, the 15 judges in the Tribunal of First Instance would be appointed jointly by the EU and the US government, and were the only ones authorised to hear cases under the TTIP. The judges had the highest technical and legal qualifications and were recognised for their independence and impartiality. The United States and the EU would each propose five of their nationals, while the remaining judges would be nationals of third

countries. Each case would be assigned on a random basis so that the parties would not know in advance which three judges would be dealing with their case, as was already the case in national legal systems. She felt that this proposal was essential in order to ensure the legitimacy of the planned system of arbitration tribunals.

The concept paper also provided for an appeals mechanism, which was an important aspect of the democratic approach being advocated. The text proposed that day for the TTIP therefore included the setting up of a standing Appeals Tribunal composed of six members, with the EU and the United States each appointing two members, while the remaining two would be jointly appointed third-country nationals. The members of the Appeals Tribunal would be subject to very strict ethical and qualification requirements in order to ensure the indisputable legal validity of the decisions handed down by the Tribunal. The proposed text also set out strictly limited procedural deadlines in order to ensure that the final decisions were issued quickly.

Lastly, the proposed new system of arbitration tribunals involved another major innovation in that the criticisms of the current system related to the risk of bias where financial interests linked arbitrators and investors. The Commission was proposing to resolve this problem by providing for fixed remuneration for the judges and the members of the Appeals Tribunal, as was the case for judges appointed to national and international courts. She also noted that even though these judges could exercise other professions, they were none the less forbidden from acting as legal counsel in ISDS cases covered by an agreement with the EU or any other agreement.

Ms MALMSTRÖM took the view that these provisions ought to increase confidence in the impartiality of decisions handed down, even where they were favourable to the investor, while promoting a good investment climate

for foreign companies.

To this list of proposed changes she added full procedural transparency, public access to hearings, a ban on investors engaging in treaty shopping, government control of the interpretation of investment provisions in free trade treaties, early dismissal of unfounded claims, and the application of the loser pays principle to prevent vexatious claims.

Ms MALMSTRÖM ended by noting that the proposed text did not contain any provisions on the multilateral investment court that was referred to in the concept paper. However, discussions were well advanced, but in parallel with the TTIP negotiations, and in cooperation with other countries. In any event, the longer-term objective was for a multilateral court to replace the current system of arbitration courts in the agreements concluded by the EU, by its Member States or by third countries, which would be an additional reform of the system to boost its efficiency, consistency and legitimacy.

She ended her presentation by thanking the Members of the Commission, their cabinets and the Legal Service for their close cooperation and the quality of their contributions, which had enabled a complete overhaul of the system of investment arbitration courts to be tabled.

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

- the importance of the proposed reform for relations between States and investors under trade and investment agreements for the continuation of the negotiations on the TTIP with the American government;
- the guarantees of transparency and impartiality enabled by the new dispute settlement system, while maintaining a high level of health and consumer protection;

- attention should be given to the communication measures which would have to accompany the adoption of the reform in order to support the continuation of negotiations on these new bases.

Mr TIMMERMANS ended the discussion by stressing the economic and strategic importance of concluding a partnership agreement on trade and investment with the United States. He considered that the proposed reform would enable the continuation of the negotiations, which had attracted considerable political attention. The new principles introduced by the reform would provide a blueprint for future trade agreements to be negotiated by the EU. Lastly, the conclusion of the transatlantic partnership was one of the current Commission's ten political priorities. In his view, restarting negotiations should result in an agreement in principle with the United States at political level by the end of the year.

He thanked the Commission services for the quality of their work and their creativity, which had helped overcome the deadlock in these negotiations which were essential for economic growth in the EU.

The Commission took note of this information and approved the line set out in SI(2015) 330.

7.2. LEGISLATIVE MATTERS

ii) Trilogues

(point 3.1 of the IRG record)

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

The Commission approved the line set out in SI(2015) 314.

- Establishment of a programme on interoperability solutions for European public administrations, businesses and citizens (ISA2) (Decision) – ZORRINHO report – 2014/0185 (COD)

The Commission approved the line set out in SI(2015) 324/3.

iii) Council dossier

(point 3.3 of the IRG record)

- Amendment of Regulation (EU) 1303/2013 of the European Parliament and the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund with regard to specific measures for Greece (Regulation) – MIHAYLOVA report – 2015/0160 (COD)

The Commission approved the line set out in SI(2015) 334.

7.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iv) Programming of Council business

(SI(2015) 337)

The Commission took note of the information in SI(2015) 337 on the Council meetings between 17 and 30 September.

v) Non-legislative dossiers

(point 4.1 of the IRG record)

- Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) – Weddell Sea

The Commission approved the line set out in SI(2015) 327.

- Position to be taken by the European Union in the OECD Working Party of the Participants to the Arrangement on Officially Supported Export Credits with regard to climate change and export credits (Council Decision) – 2015/0171 (NLE)

The Commission approved the line set out in SI(2015) 329.

- Position to be taken by the European Union within the OECD Export Credit Committees on modifications of the OECD Arrangement on Officially Supported Export Credits with regard to coal-fired power plants (Council Decision) – 2015/0155 (NLE)

The Commission approved the line set out in SI(2015) 340.

- Proposal for a Council Decision to open negotiations and enter into a framework agreement with the Republic of Armenia

The Commission approved the line set out in SI(2015) 336.

- Position to be taken on behalf of the European Union within the Council for Trade in Services of the World Trade Organization on the acceptance of preferences notified by WTO Members as regards services and service providers of the least developed countries other than those described in Article XVI of the GATS (Council Decision) – 2015/0156 (NLE)

The Commission approved the line set out in SI(2015) 339/3.

- Position to be adopted, on behalf of the European Union, in the International Telecommunication Union (ITU) World Radiocommunication Conference 2015 (WRC-15) (Council Decision) – 2015/0119 (NLE)

The Commission approved the line set out in SI(2015) 333.

**vi) Preparations for Council meeting (Justice and Home Affairs)
(Brussels, 14 September)**

(point 4.2.2 of the IRG record)

- Provisional measures in the area of international protection for the benefit of Italy and Greece (relocation) (Council Decision) – KELLER report – 2015/0125 (NLE)

The Commission approved the line set out in SI(2015) 325/2.

**vii) Results of Council meeting (Justice and Home Affairs) (Brussels,
14 September) – Refugee crisis**

Mr TIMMERMANS reported on the discussions at and conclusions of the extraordinary meeting of the Council (Justice and Home Affairs - JHA) held in Brussels on 14 September, which he had attended alongside Ms MOGHERINI and Mr AVRAMOPOULOS.

Invoking the tense political backdrop to the meeting, he lamented the weakness of the Council's commitments on certain specific points, while noting that the comprehensive nature of the measures proposed by the Commission on 9 September had been welcomed as an important step towards managing the current influx of refugees into the EU.

As regards emergency measures, the Council had agreed in principle on the relocation of an additional 120 000 persons in need of international protection from any Member State exposed to massive migratory flows. While all the eligible Member States had expressed their readiness to take part in this relocation exercise, he acknowledged with regret that they had failed to reach a formal decision to translate these words into action, even though the need for unity and a European response was being increasingly felt on the ground.

Negotiations between Member States were continuing. If they arrived at a decision, it would be adopted at another extraordinary Justice and Home Affairs Council scheduled for 22 September, as the Council had asked Parliament to examine the proposals without delay.

In this context, Mr TIMMERMANS stressed the crucial role which the Commission would play in the next few days in bridging the gap between different positions, helping all sides to rise to the challenge together and putting an end to the current political one-upmanship. He called on the Members of the Commission to play their part, acting in the spirit of the Agenda on Migration, which had European solidarity at its core. He also welcomed the action taken by the Luxembourg Presidency on this issue.

In matters of communication, he asked the Members of the Commission to take a balanced line covering all aspects of the whole issue, in particular policy on returns, protection of the EU's external borders and action to tackle the root causes of irregular migration.

Turning to the practical implementation of the measures already adopted by the Council, he felt that there was a need to spell out in detail how the refugee reception and registration centres ('hotspots') would operate, pointing to their twofold objective of receiving migrants under appropriate conditions and helping to protect the borders.

Against this background, Mr TIMMERMANS felt that the Commission's limited human resources should be deployed more effectively, in particular to enhance the capacity of DG Migration and Home Affairs and the EU's technical capabilities on the ground, notably those of the agencies. He also mentioned the possibility of issuing a call for national experts from the Member States in order to draw on all sources of expertise held by the latter.

Ms MOGHERINI confirmed the widespread support from the Member States

for the external policy measures under the Agenda on Migration, which she had presented to the Commission the previous week and at the extraordinary meeting of the Justice and Home Affairs Council on Monday. Nevertheless, she stressed that the EU's current difficulties in establishing a common approach to tackle an internal crisis would have international repercussions. She was therefore in favour of the Commission playing a mediation role in order to try to break the deadlock.

She hoped that the Member States would adopt a decision on the provisional measures proposed for the relocation of migrants on 22 September, while stressing that the Commission would face the major task of supporting and following up its implementation. She emphasised that the deployment of both relocation and resettlement arrangements and the establishment of 'hotspots' would require significant support. She pointed out that while some Member States had experience in these areas, others would be new to such procedures.

Ms MOGHERINI then spoke about the EU's immediate neighbourhood, in particular the latest developments in Serbia. The EU was working closely with the Office of the UN High Commissioner for Refugees (UNHCR) to respond to the influx of refugees into Serbia and the consequences of the decision by the Hungarian authorities to close their common border. The situation would have to be monitored very closely. More generally, she warned that other countries in the Western Balkans might come under extra pressure imminently and hoped that the EU would provide the necessary human and financial resources. She confirmed her close cooperation with Mr HAHN on these issues, which ultimately related to the EU's neighbourhood policy.

As regards the root causes of irregular migration, she had asked the EU Home Affairs ministers to ensure that the EU trust funds set up for Syria and Africa had enough funds to meet the challenges being faced. She also stressed the

need for a real collective effort by the Member States to ensure that development aid was a credible pillar of the EU's comprehensive approach to migration.

Mr AVRAMOPOULOS agreed with the analysis that had been made of the unsatisfactory outcome of the extraordinary meeting of EU Home Affairs Ministers on 14 September. He regretted the fact that the considerable efforts invested by the Luxembourg Presidency and many Member States had not resulted in real demonstration of solidarity and the adoption of the urgent relocation measures proposed by the Commission.

Nevertheless, other proposals had been welcomed. In particular, the Council had adopted the decision to relocate from Italy and Greece 40 000 people requiring international protection. This was a crucial step forward.

He stressed, however, that events on the ground over the last few days had made it all the more urgent for the Union to show that it could unite in order to act, while demonstrating its adaptability. Close attention would have to be paid to the growing number of refugees now in Serbia and the first arrivals of migrants in Croatia after the decision by the Hungarian authorities to close their border with Serbia.

Provisional measures on the relocation of 120 000 refugees from Italy, Greece and Hungary would be discussed at the extraordinary meeting of the Justice and Home Affairs Council on 22 September. He urged the Members of the Commission to take an active role in the days ahead in order to foster a better understanding of the content of this proposal and ensure that the Member States rose to the challenge on these crucial issues.

He also confirmed that these measures had the broad backing of the European Parliament. Its President, Martin Schulz, had announced that an urgent vote would be held on the proposed provisional measures for Italy,

Greece and Hungary at the plenary session on Thursday 17 September.

Alongside the efforts to increase solidarity within Europe, he reiterated the need for closer cooperation with the EU's international partners. He would soon be visiting Turkey to develop closer coordination with the authorities there. He also proposed to step up talks with the United States and Canada on these issues and on their capacity to take in refugees.

Mr AVRAMOPOULOS stressed that the EU's human and financial resources would have to be mobilised without delay in order to implement the measures already adopted. Otherwise it would be impossible to set up the 'hotspots' quickly enough. Moreover, the immediate priority was to ensure that there was enough capacity to accommodate the migrants during the few weeks it would take to process their asylum applications.

He pointed in particular to the critical human resources situation in DG Migration and Home Affairs, which was being called on more and more to ensure the practical implementation of the priority measures adopted at the highest political level. He was therefore asking the Members of the Commission to consider the possibility of the redeployment or temporary transfer of staff with the requisite experience and skills by other Commission DGs.

Lastly, he mentioned the extra financial resources that would be needed in 2015 and 2016, as the funds available to finance emergency assistance in the Member States had already proved insufficient to cover the ever-growing requirements. He promised to send Ms GEORGIEVA an analysis of additional financial needs as soon as possible.

Mr HAHN saw the current crisis as a historic challenge for the Union, with nearly 20 million refugees in its neighbourhood. To help meet this challenge, he said he was ready to use the full range of means available to him in the

framework of the Union's neighbourhood and enlargement policies. He emphasised the need for an approach that was as flexible as possible, while recommending that the Union should be demanding of its partners. In the medium term, he believed the main objective was to keep the refugees as close as possible to their home regions.

Although EU financial aid was in many ways essential, he felt that it would not be sufficient to solve a crisis that should mobilise all Union policies in order to address the root causes of mass displacement.

He also stressed the need to distinguish among the countries directly involved in the refugee crisis and to adopt a nuanced approach adapted to each. Among the priority areas of EU action, Mr HAHN highlighted Syria and its immediate neighbours Lebanon and Jordan, Turkey, which he believed was a special case, Ukraine and finally the Western Balkans, a transit region entirely enclosed within the Union.

On the subject of Syria and its immediate neighbours, he said that the Union and its Member States had provided no less than EUR 4 billion in recent years, but it was clear that needs were still increasing by the day, particularly in Jordan and Lebanon, where there were now more Syrian than Lebanese or Jordanian children in schools. He said it was appropriate to encourage participation in the general effort by countries that were not yet genuinely helping to manage the crisis, such as Saudi Arabia, but also Member States that were not yet contributing to the Trust Fund for Syria, although they were calling on the EU to do more for the civilian population in that country.

Mr HAHN wondered to what extent the margins of the Union's budget were still usable and, in the longer term, what impact this constant financial pressure would have on the multiannual financial framework. He pointed out that the amounts allocated under this framework had been agreed a long time

before the crises in Syria and Ukraine flared up.

He had himself exploited every possibility to reallocate funds intended for the Southern Neighbourhood countries to cover the needs arising from the war in Syria, but he believed that the Commission could not sustain such a financial effort for several years.

With regard to Turkey, he said credit should be given to the substantial efforts made by that country, which had already taken in more than two million refugees. He had already granted aid of EUR 175 million to support Turkey and had committed additional funds that would be spent on helping migrants and strengthening the country's capacity to receive them. He was willing to mobilise other funding by reallocating part of the budgets to the integration of refugees in Turkey.

However, he stressed that the Union should be very clear on what it expected in exchange for its aid, for example in terms of border control and registration of refugees. It was also necessary to consider setting up reception centres for refugees, despite Turkey's opposition to the idea, to stop migrants from continuing to travel freely across the country to get to the EU.

He also thought Turkey needed to be far stricter with human traffickers and that, for its part, the EU should be more firm with Turkey concerning readmission and resettlement measures. He added that in return Turkey would probably ask for visa liberalisation to be speeded up. Finally, although he understood that some Member States opposed the 'Safe Country of Origin' concept in this regard, he stressed that it should remain on the Union's agenda on migration.

Turning to the situation in Serbia and the former Yugoslav Republic of Macedonia (FYROM), Mr Hahn observed that the Western Balkans formed an enclave within the EU and that to get there refugees necessarily had to

cross one of the EU Member States. It was therefore difficult to accuse those countries of not controlling their borders without urging the Member States themselves to do better in that regard.

In conclusion, he warned against anything that might add to the instability in the Western Balkans, which must not become an assembly area for refugees awaiting resettlement. Lastly, he highlighted the need to ease the tensions between Hungary and Serbia over the control of their respective borders. Mr HAHN said this was why the Union's assistance for action on migration in the Western Balkans had been increased, thanks to aid of EUR 45 million to Serbia and EUR 24 million to FYROM.

Ms GEORGIEVA outlined the budget situation, which she described as critical, as the Commission had already used all the available margins for manoeuvre during the preparation of the Union's budgets for 2015 and 2016 to cover the financial needs generated by the migration crisis. She regretted that the fragmented approach used to gather together funds to help third countries meant that the considerable financial assistance provided by the Union was not always sufficiently visible.

In the medium term, she said that the necessary budgets would be determined by the measures to be taken to integrate migrants and by the need for assistance to the Member States. She reiterated that there were numerous budgetary constraints and emphasised the need to remain strictly within the limits set by the multiannual financial framework. The constraints were particularly delicate as regards commitments, while the payments situation was more favourable.

As far as commitments were concerned, she said that only Heading IV of the budget offered some flexibility and that her departments were currently working on possible solutions to increase the financial effort.

She said that, in an economic upturn, judicious use could be made of the Structural Funds to adjust certain actions in order to contribute directly or indirectly to financing measures to manage the migration crisis. On a more general note, she asked Members of the Commission to take a multi-pronged approach to Union programmes and to integrate migration policy objectives into them wherever possible.

Ms GEORGIEVA described two other options to increase EU financial assistance, either (i) encourage Member States that had not yet done so to contribute to the Trust Fund for Syria, and (ii) use loans from the European Investment Bank (EIB) at low interest rates.

In terms of human resources, she stressed that it would not be possible for the Commission to raise its staffing levels and so internal redeployment should be considered in order to meet requirements.

She also said that by 19 October she would be able to propose a detailed budget strategy to identify funds that could possibly be redeployed.

Finally, she encouraged best use of the expertise of the agencies of the Union and the United Nations High Commission for Refugees (UNHCR), and the analyses of the World Bank demonstrating the positive impact of migrants on the economy of the host country.

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

- the continued support of Members for the Commission's proposals on migration tabled on 9 September and for maintaining that approach; similarly, there was support for the human and historical dimensions given to those proposals by the President in his State of the Union speech to MEPs on 9 September;

- acknowledgement of the European Parliament's positive response to the proposals, although there were obstacles to their being adopted at the extraordinary meeting of the Justice and Home Affairs Council on 14 September;
- the complexity of the situation, in that it was extremely urgent and needed to be addressed without delay, at the same time as there were largely uncoordinated national decisions, some of them involving the temporary suspension of the Schengen Agreements, a major symbol of the European project;
- the main obstacle to agreement by Member States, as highlighted by some, which lay in the mandatory and permanent nature of the distribution key proposed by the Commission for relocating refugees among EU countries;
- regret about the divisions spawned by the current crisis and the negative political image they gave of the European Union; a call for responsible behaviour by Member States, on the one hand, and, on the other, for restoring European unity, which had been badly shaken; the vital need for European solidarity in this crisis;
- the diversity of situations in different Member States in relation to the inflow of migrants; in particular, the sense of injustice and of being misunderstood experienced by certain Member States called upon to take urgent action to protect, by their own means, the external borders of the Schengen area, despite not being on the frontline with regard to the inflow of refugees and when no aid, especially logistical aid, had been made available to them by other Member States or at European level;
- the need for political reflection followed by concrete measures, with respect to the means of effectively protecting the Union's external

borders.

- an explanation for the stalemate and ongoing political tension concerning the urgent response to the refugee crisis in the doubts and fears of certain Member States before a sudden, massive inflow of migrants, which they were not used to or prepared for; caution, on this point, concerning misunderstandings and hastily drawn parallels; the need to respond to fears, which were often the fear of the unknown, by a consistent communications effort;
- the unpopularity of some reception measures for refugees with certain sections of European public opinion and the populist capital being made out of them by certain European political leaders; concern about support and integration of refugees by social systems already under strain; fear that the ongoing migrant crisis could prompt a historic reversal in terms of openness in certain Member States;
- the suggestion that ways should be found to provide support for reception centres in non-EU countries, for example, by establishing coalitions, which could bring together European institutions, Member States, certain international organisations and non-governmental organisations (NGOs);
- a proposal specifically to make use of the programmes and resources of the European Social Fund (ESF);
- the suggestion of helping Member States to come up with innovative mechanisms to fund the measures included among the Commission's proposals; the highly pro-active approach of the EIB in this respect;
- the announcement of an economic analysis of the consequences of migration by the Commission's departments; the question of whether expenditure attributable to migration should be debated within the context

of the Stability and Growth Pact;

- reference to sectoral measures which Members of the Commission suggested taking in their respective policy areas to help in managing the reception of refugees as efficiently as possible, with respect for fundamental rights;
- acknowledgement of the role played in the current refugee crisis and in border control by certain non-member States, such as Serbia, for which the European Union had to provide support;
- the risk for Europe in the future of having to handle migratory flows prompted by climate or environmental factors.

Ms MOGHERINI responded to some of the points raised in the discussion. She accepted the need for political reflection at European level about the multicultural dimensions of European societies in the long term.

As for Serbia and the countries of the wider Balkan region, she was in favour of the idea of supporting the efforts they were undertaking in the ongoing crisis, especially as the refugees located there would probably only transit the region on their way towards the European Union.

As to the issue of including Turkey on the list of safe countries, she said that she expected differences between Member States on that point as well.

To close, she stressed the necessarily mandatory nature of the distribution key for refugees proposed by the Commission, which, in her view, would ensure that a new system for sharing responsibilities at European level was activated and was effective. While she acknowledged the difficulty of the task, she held that it could be achieved.

Mr AVRAMOPPOULOS said that he strongly hoped that national

considerations and, in some cases, nationalistic rhetoric, would be laid aside, with a return to a European approach in the face of the collective mobilisation required to rise to a challenge which concerned Europe as a whole.

Mr TIMMERMANS added that political action sometimes required unpopular decisions in order to set a courageous course, before securing support. He noted, moreover, that the spirit of the European project consisted of bringing together the continent's strengths and upholding its values.

The PRESIDENT expressed his concern about the arguments that he had to listen to at times during discussions on the refugee issue. Although he understood the extremely difficult situation certain Member States had been put into, he could not accept that building walls, evocative of painful memories for European citizens, could be considered a viable solution to a complex and unprecedented crisis. That was why he was asking Members of the Commission to convey a very clear message to the general public and the media explaining that the Commission condemned the implementation of summary measures which were morally incompatible with the Union's values.

He also ruled out using the structural funds to penalise Member States that were opposed to the mandatory nature of the distribution key for refugees per country. On the contrary, he recommended doing everything to smooth out and overcome differences.

In any event, he asked the College to continue to defend unequivocally the binding nature of the system put forward, on which there was a consensus among Members. He also stressed the necessity of challenging the old reflexes and simplistic solutions which certain Member States had adopted in panic.

He praised the significant implication of the Commission's departments and

the agencies in managing the crisis, as well as that of the EIB, the President of which, Mr Werner Hoyer, he was due to meet shortly.

The PRESIDENT concluded by inviting Ms GEORGIEVA, in agreement with Mr TIMMERMANS and Mr AVRAMOPOULOS, to submit to the budgetary authority as quickly as possible proposals aimed at boosting human and financial resources so as to help, on the one hand, those Member States where the reception and asylum systems had come under disproportionate pressure and, on the other, Union agencies which had seen their workload increased significantly in handling the refugee crisis.

He further asked Ms GEORGIEVA, in cooperation with Mr TIMMERMANS, Mr AVRAMOPOULOS and the other Members of the Commission concerned, to launch a call for expressions of interest aimed at Commission staff with corresponding expertise – using the appropriate means, including, where needed, redeployment or temporary secondment – to increase staff numbers at the Directorate-General for Migration and Home Affairs (DG HOME) and possibly at the other departments and agencies involved to enable them to respond to the most urgent needs arising from the ongoing crisis.

7.4. RELATIONS WITH PARLIAMENT

viii) Results of the September I part-session of Parliament

(SP(2015) 499; SP(2015) 500)

The Commission took note of the information in SP(2015) 499 and SP(2015) 500 on the proceedings of the part-session of Parliament held in Strasbourg from 7 to 10 September.

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

(SP(2015) 523)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Mr TIMMERMANS 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(2015) 523, drawn up following the September I part-session of Parliament, the contents of which were noted.

8. OTHER BUSINESS

JUDGMENT OF THE COURT OF JUSTICE OF THE EUROPEAN UNION OF 15 SEPTEMBER 2015 IN CASE C-67/14 – FREEDOM OF MOVEMENT AND RIGHT OF RESIDENCE FOR EU CITIZENS AND ACCESS TO SOCIAL SECURITY BENEFITS IN THE HOST COUNTRY

At the PRESIDENT's request, Ms THYSSEN presented to the Members of the Commission the conclusions of a significant ruling on the previous day (15 September) by the Court of Justice of the European Union in *Jobcenter Berlin Neukölln v Nazifa Alimanovic, Sonita Alimanovic, Valentina Alimanovic, Valentino Alimanovic* (C-67/14).

Ms THYSSEN reminded the Members that the judgment related to the issue of the link between freedom of movement and access to social security benefits.

She first noted that the judgment followed on from another significant ruling by the same Court dating from November 2014, the Dano judgment (C-333/13), which she had referred to at a previous meeting (see item 9 of the minutes of the meeting of

12 November 2014 – PV(2014) 2105 final) and which also related to the granting of social security benefits. In the first case, the EU Court of Justice had ruled that it was lawful for a Member State to refuse to grant social security benefits to unemployed nationals of another Member State who had never been employed and were not actively seeking employment.

Ms THYSSEN explained how the new judgment supplemented the previous one. She first recalled the facts of the case. Ms Alimanovic, born in Bosnia, and her three children, born in Germany in 1994, 1998 and 1999, who were Swedish nationals, had left Germany for Sweden in 1999. They had returned to Germany in June 2010. She stated that, upon their return, the mother and eldest daughter had until May 2011 held several short-term jobs or only been given employment opportunities lasting less than a year. They had not been gainfully employed since then. The family was then granted basic benefits from 1 December 2011 until 31 May 2012 (subsistence allowances for the long-term unemployed for the mother and eldest daughter, and social allowances for beneficiaries unfit to work, for the other children). In 2012 the competent authority (*Jobcenter Berlin Neukölln*) had finally ceased payment of the benefits because it considered that Ms Alimanovic and her eldest daughter were precluded from claiming the allowances at issue since they were foreign job seekers whose right of residence arose solely out of the search for employment. She concluded by stating that the authority had consequently excluded the other children from entitlement to their respective benefits.

Ms THYSSEN explained that the Court held that the benefits at issue were intended to cover subsistence costs for persons who could not cover those costs themselves and that, as in the *Dano* case, these benefits were considered social security benefits. She noted that the Court also held that in order to be able to claim such benefits, an EU citizen could claim equal treatment with nationals of the host Member State only if his or her residence on the territory of the host Member State complied with the requirements of the ‘EU citizen’ Directive (Directive 2004/38/EC of the

European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States).

Ms THYSSEN therefore observed that there were two ways for a right of residence to be granted. She first referred to EU citizens who had a right of residence as workers in involuntary unemployment after working for less than a year and who had registered as a job-seeker with the relevant employment office. In this case, she noted that they would retain their status of worker and right of residence for no less than six months, during which they could invoke the principle of equal treatment and be entitled to social security benefits. Secondly, Ms THYSSEN referred to EU citizens who had not yet worked in the host Member State or whose six-month period had expired. In this case, she observed that job seekers could not be expelled from that Member State for as long as they could provide evidence that they were continuing to seek employment and that they had a genuine chance of being engaged. However, she specified that the host Member State was then entitled to refuse to provide any social security benefit.

Ms THYSSEN welcomed the fact that these two judgments brought legal certainty and transparency to the provision of social security and specified the provisions which were directly applicable both for the citizens concerned and for the providers of social assistance. The Court clarified a number of important questions, in particular by stating that (i) inactive persons did not have equal access to social security benefits in other Member States, (ii) nationals from another Member State who had worked in their host Member State for at least a year before finding themselves involuntarily unemployed had equal access to social security benefits in their host Member State for six months, but no longer, (iii) freedom of movement did not imply automatic access to social security benefits, and (iv) active workers from another Member State were more entitled to such benefits in the host country than nationals of that host Member State who were seeking employment and, also, that persons who were actively seeking employment were more entitled than

unemployed persons who were not.

Ms THYSEN stressed the significance of the previous day's judgment for the future Labour Mobility Package that she would be presenting at the end of the year and on which the Commission would be holding a policy debate at the end of September. She particularly underlined the convergence between the principles underpinning the package and those now laid down by EU case-law and suggested that these principles be codified.

Mr TIMMERMANS concluded this reference to the Court's judgment by thanking Ms THYSEN and by supporting the idea of codifying the case-law, in cooperation with the Commission's Legal Service, in order to have a complete analysis which would make it possible to have an exact idea of the available room for manoeuvre in the context of the future Labour Mobility Package.. He stressed the sensitivity of the case in some Member States, which was why he recommended that its scope and content be set out very precisely. He noted that it would be one of the priorities of the Dutch Presidency of the Council.

The Commission took note of this information.

9. POLICY DEBATE ON THE REVIEW OF THE EUROPEAN NEIGHBOURHOOD POLICY (SEC(2015) 368; RCC(2015) 68)

Mr HAHN introduced the policy debate on the review of the European Neighbourhood Policy (ENP) which the PRESIDENT had called for by setting out his policy guidelines. The review was justified by the radical changes that had occurred since the policy was put in place in 2003 to develop closer relations between the newly enlarging EU and its neighbouring countries. He illustrated this point by referring to the situation in Syria, Libya and Ukraine.

The purpose of the debate was not to determine the detailed contents of a new ENP, but to reach agreement on the general policy direction of this important EU foreign policy instrument. The policy debate had been preceded by wide-ranging public consultations launched in March. The background note, distributed under the authority of Ms MOGHERINI and himself as SEC(2015) 368, was based on those consultations.

He briefed the meeting on the main conclusions, the first of which was that support for the European Neighbourhood Policy remained strong. At the same time, not all the EU's current neighbours necessarily aspired to, or were in a position to adopt, the European model of democracy and free trade; basically, this was the initial premise of the ENP. The EU would have to ensure that its neighbours, irrespective of whether they were moving forward with reform, shared its commitment to tackling the major problems of migration, terrorism and energy security, none of which respected national borders. Those two aspects were linked - the EU could not defend its own interests effectively, which clearly included promoting its values, without stabilising its neighbourhood.

For that reason he favoured adopting a more pragmatic and focused approach to neighbourhood policy with a view to achieving the EU's ultimate objective, namely to stabilise the continent. Accordingly, he suggested that the Members consider realigning the ENP by promoting (i) greater differentiation in the EU's approach to individual partners, (ii) a sharper focus on areas of interest to the EU and its citizens, and (iii) new ways of working to involve the neighbours of our partner countries where this was useful.

Firstly, the notion of a 'bespoke relationship' involved moving towards a genuine partnership and real added value by limiting the number of areas of cooperation, which would reflect the priorities of the EU but also those of the partner countries. Secondly, he suggested a more flexible approach to countries which wanted to cooperate with the EU but, for whatever reason, were not interested in an

association agreement or a comprehensive free trade agreement. Thirdly, procedures should be streamlined and, in particular, progress reports for partner countries engaged in reform, which were regarded as somewhat condescending, should be discarded in favour of annual meetings with a sharper focus on tangible measures. Fourthly, the European values underpinning the ENP should be promoted in a more subtle way using different forms of leverage in different partner countries. Lastly, there was a willingness to adopt more flexible financial programming arrangements by making provision in the budget for unforeseen events.

Mr HAHN wound up by noting that the Member States would have to be more closely involved in the neighbourhood policy, in particular with a view to defining priorities with each partner country and providing stronger support to civil society in those countries.

Ms MOGHERINI stressed that there was a readiness to engage in a new type of partnership which was more political and more attuned to the respective positions of the parties and represented a more focused policy mix, the aim being to meet the interests of both the EU and the partner countries. The realignment also reflected the realistic proposition that the ENP would yield better results if it offered many of the countries concerned a partnership rather than a systematic process of rapprochement with the European model. She hoped the EU would use all the instruments at its disposal to achieve this aim and to meet the expectations of the partner countries, which remained high.

Accordingly, the communication which would be submitted to the Commission on 18 November would advocate a more efficient form of cooperation based on a shared vision of the problems common to the Member States and the partner countries. She concluded by noting that realigning the ENP would entail greater internal coordination within the Commission.

Mr AVRAMOPOULOS welcomed the idea of focusing on a limited number of

priorities - migration, work to combat terrorism and organised crime, and energy security. He suggested highlighting the work already being done by the EU with third countries under the first two strands of the ENP, thereby acknowledging the considerable efforts made by certain neighbouring countries, particularly Lebanon and Jordan, to host migrants. He also welcomed the idea of developing relations with the neighbours of our neighbours, thereby helping to stabilise the continent and the world as a whole.

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

- the proposed ENP realignment, its pragmatism and the idea of adopting a focused and more effective ‘bespoke’ partnership approach received broad support; lessons should be learnt from the experience acquired in the last twelve years of the ENP; the notion of a limited number of priorities was endorsed;
- it should be made clear that the EU's political interest in its neighbours was as strong as ever; the danger of the public misinterpreting a shift from a value-based approach to an approach based on objective interests should be borne in mind; it should be made quite clear that promoting democratic principles and respect for human rights remained one of the EU's fundamental interests;
- in the EU's recent past, the European perspective had contributed to neighbourly relations by bringing peoples together and promoting economic development;
- emphasis was laid on the EU's unique soft power; it could derive visibility from this power by supporting educational and cultural projects in the partner countries;
- together with institutions like the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), it would be worthwhile exploring ways of combining resources so that projects under the

new ENP were more effective;

- there were limits to an ‘à la carte’ relationship in the field of trade;
- it was important to continue helping the partner countries to develop their administrative capacity to ensure maximum uptake of European funds; exchanges of good practice in this area should be stepped up;
- the partner countries and their neighbours should be made aware of certain risks which they shared with the EU, particularly in the energy security and public health fields;
- a question was raised about the tangible impact of the redeployment of funds referred to in the background note;
- the promising nature of the proposed realignment of the ENP, which might also serve as a model for a new development aid policy;

Mr HAHN replied to some of these comments by spelling out that the proposed realignment did not in any sense imply that the EU was giving up its fundamental principles, but merely entailed finding ways of adjusting the relationship with each partner country in a mutually beneficial fashion, while continuing to strengthen the rule of law, support civil society and promote economic ties. Basically, the concept meant placing the right emphasis on the right forms of leverage to enable European values to prosper.

Ms MOGHERINI emphasised that there was no contradiction between the EU's values and its interests. Financial resources were not the only lever which Europe could use to develop links with neighbouring countries, and this was simply about developing other forms of leverage.

The PRESIDENT thanked Ms MOGHERINI and Mr HAHN for their contribution to this debate, which was very important to the future of the EU and the wider

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

continent. The forthcoming meeting on 18 November would examine a communication based on the conclusions of this policy debate which the Members would receive in due course.

The Commission took note of the results and conclusions of the policy debate and of the background note distributed under the authority of Ms MOGHERINI and Mr HAHN as SEC(2015) 368.

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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 12.34 p.m.