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Brussels, 27 July 2016

TEXTE EN

MINUTES

of the 2176th meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 5 July 2016

(afternoon)

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Single sitting: Tuesday 5 July 2016 (afternoon)

The sitting opened at 13.32 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	
Ms GEORGIEVA	Vice-President	Items 1 to 14/15/16 (in part)
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	
Mr OETTINGER	Member	Items 1 to 14/15/16
Mr HAHN	Member	
Ms MALMSTRÖM	Member	Items 1 to 14/15/16
Mr MIMICA	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	Items 14/15/16 (in part) and 17
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr HOGAN	Member	
Lord HILL	Member	
Ms BULC	Member	
Ms BIEŃKOWSKA	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	

Ms VESTAGER	Member
Mr MOEDAS	Member

Absent:

Mr STYLIANIDES	Member
Ms CREȚU	Member

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

Mr GIAKOUMIS	A member of Mr STYLIANIDES's staff
Ms RUS	A member of Ms CREȚU's staff

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Director-General, DG Communication	
Mr SCHINAS	Head of the Spokesperson’s Service and Chief Spokesperson of the Commission	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr THOLONIAT	Adviser in the PRESIDENT’s Office	Item 17
Ms DEJMEK-HACK	Adviser in the PRESIDENT’s Office	Item 17
Mr DELVAUX	Adviser in the PRESIDENT’s Office	Items 14 to 16
Ms ARKI	PRESIDENT’s Office	Items 1 to 16
Mr WYNANDS	Chef de cabinet to Mr DOMBROVSKIS	Item 17
Mr BANNERMAN	Expert in Mr KATAINEN's Office	Items 14 to 16
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 14/15/16 (in part)
Ms ANDREEVA	Commission Spokesperson’s Service	
Mr DEMARTY	Director-General, DG Trade	Items 14 to 16

Secretary: Mr ITALIANER, Secretary-General, assisted by Ms Elsa COLLOMP, Administrator in the Secretariat-General.

1. AGENDAS
(OJ(2016) 2176/FINAL; SEC(2016) 304/FINAL)

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

2. WEEKLY MEETING OF CHEFS DE CABINET
(RCC(2016) 2176)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 July.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2173RD MEETING OF THE COMMISSION (15 JUNE) AND THE MINUTES OF THE 2174TH AND 2175TH MEETINGS (22 AND 27 JUNE)
(PV(2016) 2173; PV(2016) 2173, PART II; PV(2016) 2174)

The Commission approved the minutes of its 2173rd and 2174th meetings and decided to hold over for one week approval of the minutes of its 2175th meeting.

4. INTERINSTITUTIONAL RELATIONS
(RCC(2016) 88)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 1 July (RCC(2016) 88).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) European Parliament dossier – July part-session
(point 3.2 of the IRG record)

Ordinary legislative procedure – First reading

– Framework for energy efficiency labelling and repeal of Directive 2010/30/EU (Regulation) – TAMBURRANO report – 2015/0149 (COD)

The Commission approved the line set out in SP(2016) 469 and /2.

ii) Council dossier
(point 3.3 of the IRG record)

– Laying down of rules against tax avoidance practices that directly affect the functioning of the internal market (Council directive) – BAYET report – 2016/0011 (CNS)

The Commission approved the line set out in SI(2016) 295.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business
(SI(2016) 303)

The Commission took note of the information in SI(2016) 303 on the Council meetings between 7 and 20 July.

4.3. RELATIONS WITH PARLIAMENT

iv) Results of the Extraordinary Plenary Session (Brussels, 28 June)
(SP(2016) 448)

The Commission took note of the information on Parliament's extraordinary plenary session held on 28 June in Brussels set out in SP(2016) 448.

v) Non-legislative dossier
(point 5.1 of the IRG record)

– Committee of inquiry into Emission Measurements in the Automotive Sector (EMIS) – Access to documents to EMIS Committee

The Commission approved the line set out in SP(2016) 457/2.

4.4. RELATIONS WITH NATIONAL PARLIAMENTS, THE OTHER INSTITUTIONS AND BODIES, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

vi) Follow-up to opinions of the European Economic and Social Committee – Plenary sessions of January and February 2016
(point 6.3.1 of the IRG record)

The Commission approved document SC(2016) 24 on the follow-up by the Commission to the opinions adopted by the European Economic and Social Committee during the January and February 2016 sessions, for transmission to that Committee.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2016) 306 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 June and 1 July.

5.2. EMPOWERMENT
(SEC(2016) 307 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 June and 1 July.

5.3. DELEGATION / SUBDELEGATION OF POWERS
(SEC(2016) 308 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 27 June and 1 July, as archived in D*e*cide.

5.4. SENSITIVE WRITTEN PROCEDURES
(SEC(2016) 309)

The Commission took note of the sensitive written procedures for which the time limit expired between 4 and 8 July and of the finalisation written procedure initiated following the weekly meeting of Chefs de cabinet on 4 July.

5.5. GRANTING OF AN AD HOC EMPOWERMENT FOR THE ESTABLISHMENT OF THE 2017 DRAFT GENERAL BUDGET OF THE EUROPEAN UNION
(C(2016) 4263)

As set out in C(2016) 4263, the Commission decided to empower Ms GEORGIEVA, the Member of the Commission with responsibility for the Budget and Human Resources, in agreement with the PRESIDENT:

– to convert documents I, II, III and IV distributed as SEC(2016) 280 final into the corresponding volumes of the draft general budget for the 2017 financial year;

– in accordance with Article 314(1) of the Treaty on the Functioning of the European Union, to incorporate in the draft general budget for 2017 the estimates drawn up by the other institutions and submitted to the Commission before 30 June 2016, taking into account any differences between these estimates and the Commission's previous forecasts;

– to send all the volumes of the draft general budget for the 2017 financial year to the European Parliament and the Council and, for information, to the national parliaments.

6. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2016) 310/2)

ADMINISTRATIVE MATTERS
(PERS(2016) 57/2)

6.1. DG HUMAN RESOURCES AND SECURITY – SPECIAL ADVISERS TO THE MEMBERS OF THE COMMISSION (PERS(2016) 72)

The Commission noted the information in point 1 of PERS(2016) 57/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, decided:

– to appoint Mr Christian PENNERA and Ms María Isabel ROFES i PUJOL as Chair and Deputy Chair, respectively, of the Panel referred to in Article 108 of the Financial Regulation[1] for a period of five years as

[1] Regulation (EU, Euratom) 966/2012 on the financial rules applicable to the general budget of the Union, as amended by Regulation (EU, Euratom) 2015/1929.

special advisers to Ms GEORGIEVA;

- to authorise Ms GEORGIEVA to amend the contracts of these two Special Advisers in the event of urgent, unforeseen and duly justified needs and subject to the availability of sufficient budgetary appropriations;

- to authorise the Director-General for Human Resources and Security to implement this decision by signing contracts of employment on behalf of the authority empowered to conclude contracts of employment.

These decisions would take effect immediately.

6.2. EUROPEAN ANTI-FRAUD OFFICE – APPOINTMENT OF THE MEMBERS OF THE EUROPEAN ANTI-FRAUD OFFICE SUPERVISORY COMMITTEE, AND APPOINTMENT OF THEIR ALTERNATES
(SEC(2016) 322)

The Commission noted the procedure followed as described in point 2 of PERS(2016) 57/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, decided:

- to approve the appointment of Ms Colette DRINAN and Ms Grażina Maria STRONIKOWSKA, listed in alphabetical order, as members of the Supervisory Committee of the European Anti-Fraud Office, from the entry into force of the decision;

- to approve the appointment of Ms Maria Helena Pereira Loureiro Correia FAZENDA, Mr Petr KLEMENT and Mr Jan MULDER, listed in alphabetical order, as members of the Supervisory Committee of the European Anti-Fraud Office, from 23 January 2017;

- to approve the appointment of Mr Rafael MUÑOZ LÓPEZ-CARMONA, Ms Anca JURMA, Ms Dobrinka MIHAYLOVA, Mr Gerhard JAROSCH, Mr Kalliopi THEOLOGITOU, Mr Antonio BALSAMO and Mr Angelo Maria QUAGLINI, listed in order of priority, as alternate members;

– to endorse the draft decision of Parliament, the Council and the Commission set out in SEC(2016) 322;

– to authorise Ms GEORGIEVA to sign this decision on behalf of the Commission.

These decisions would take effect immediately.

6.3. DG BUDGET – AMENDMENT OF THE ORGANISATION CHART AND INTERNAL PUBLICATION AT GRADE AD15/16 OF THE VACANCY NOTICE FOR A DEPUTY DIRECTOR-GENERAL POST (PERS(2016) 70 AND /2)

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

– to create a post of Deputy Director-General in charge of Directorates BUDG.A ‘Expenditure’, BUDG.B ‘Own Resources and financial programming’ and BUDG.D ‘Central Financial Service’ in DG Budget;

– to authorise with immediate effect under Article 29(1)(a)(i) and (iii) of the Staff Regulations the publication of the vacancy notice for this new post (available from 1 August 2016), as set out in PERS(2016) 70/2.

Unless indicated otherwise, these decisions would take effect on 1 August 2016.

6.4. LEGAL SERVICE – AMENDMENT OF THE ORGANISATION CHART AND INTERNAL PUBLICATION AT GRADE AD14/15 OF THE VACANCY NOTICES FOR A PRINCIPAL LEGAL ADVISER POST AND PRINCIPAL ADVISER POST (PERS(2016) 71 AND /2; PERS(2016) 73 AND /2)

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

– to create a new SJ.N team 'Eurozone and Economic Issues' in the Legal Service with a post of Principal Legal Adviser;

– to create a post of Principal Legal Adviser, reporting to the Director-General of the Legal Service and in charge of 'Migration Issues and Strategic Horizontal Matters';

– to authorise with immediate effect under Article 29(1)(a)(i) and (iii) of the Staff Regulations the publication of the vacancy notices for the Principal Legal Adviser post and Principal Adviser post (available from 16 July 2016), as set out in PERS(2016) 73/2 and PERS(2016) 71/2 respectively.

Unless indicated otherwise, these decisions would take on 16 July 2016.

6.5. INTERNAL AUDIT SERVICE – DEPUTISING FOR THE DIRECTOR-GENERAL OF THE INTERNAL AUDIT SERVICE

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Mr TIMMERMANS, the Commission decided that Mr Jeffrey MASON, Director of the 'Audit in Commission and Executive Agencies I' Directorate in the Internal Audit Service, would deputise for the Director-General of the Internal Audit Service if he should be prevented from performing his duties.

This decision would take effect immediately.

7. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COURT OF AUDITORS – 2015 ANNUAL MANAGEMENT AND PERFORMANCE REPORT FOR THE EU BUDGET (COM(2016) 446)

The Commission:

– approved the 2015 Annual Management and Performance Report for the EU Budget, set out in COM(2015) 446, together with the technical annexes, for transmission to Parliament, the Council and the Court of Auditors, and, for information, to the national parliaments, indicating a link giving access to all the annual activity reports;

– took note of the fact that each Member of the Commission had been made aware of the annual activity report and declaration presented by his or her Director(s)-General or Head(s) of Service, and that a reference to this dialogue was specifically mentioned in each annual activity report;

– took note of the fact that the declarations of assurance contained in the annual activity reports did not cover the Members' private offices and their expenditure;

– authorised Ms GEORGIEVA, the Member of the Commission with responsibility for the Budget and Human Resources, to present the report to the discharge authority;

– took note of the three documents available in D*e*cide as supporting documents: (i) the Annual Report of the Audit Progress Committee for the period from May 2015-May 2016, distributed as SEC(2016) 227; (ii) the overall opinion of the Internal Auditor for 2015; and (iii) the annual report on the internal audit for 2015, reference Ares(2016) 2431098.

8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON FURTHER MEASURES TO ENHANCE TRANSPARENCY AND THE FIGHT AGAINST TAX EVASION AND AVOIDANCE
(COM(2016) 451 AND /2; RCC(2016) 90)

9. PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE 2011/16/EU AS REGARDS ACCESS TO ANTI-MONEY-LAUNDERING INFORMATION BY TAX AUTHORITIES
(COM(2016) 452 AND /2; RCC(2016) 90)

10. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE (EU) 2015/849 ON THE PREVENTION OF THE USE OF THE FINANCIAL SYSTEM FOR THE PURPOSES OF MONEY LAUNDERING OR TERRORIST FINANCING AND AMENDING DIRECTIVE 2009/101/EC
(COM(2016) 450 AND /2; SWD(2016) 223 AND /2; SWD(2016) 224; SEC(2016) 314; RCC(2016) 90)

The Commission:

– approved the communication in COM(2016) 451/2 for transmission to the European Parliament and the Council and, for information, to the European Economic and Social Committee, the European Data Protection Supervisor and the national parliaments;

– adopted the proposal for a Directive in COM(2016) 452/2, for transmission to Parliament, the Council, the European Economic and Social Committee and the national parliaments and, for information, to the European Data Protection Supervisor;

– adopted the proposal for a Directive in COM(2016) 450/2 for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 223/2 and SWD(2016) 224 respectively, the contents of which were noted;

– took note of the opinion of the Regulatory Scrutiny Board, distributed as SEC(2016) 314.

11. JOINT COMMUNICATION FROM THE COMMISSION AND THE HIGH REPRESENTATIVE OF THE EUROPEAN UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – ELEMENTS FOR AN EU-WIDE STRATEGIC FRAMEWORK TO SUPPORT SECURITY SECTOR REFORM
(JOIN(2016) 31 AND /2; SWD(2016) 221 AND /2; RCC(2016) 91)

The Commission approved the joint communication in JOIN(2016) 31/2, for transmission to Parliament and the Council and, for information, to national parliaments, together with the staff working document distributed as SWD(2016) 221/2, the contents of which were noted.

12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 230/2014 ESTABLISHING AN INSTRUMENT CONTRIBUTING TO STABILITY AND PEACE

(COM(2016) 447 AND /2; SWD(2016) 222 AND /2; SWD(2016) 225; SEC(2016) 313; RCC(2016) 91)

The Commission adopted the proposal for a Regulation in COM(2016) 447/2 for transmission to Parliament, the Council and the national parliaments, accompanied by the impact assessment and the summary thereof in staff working documents SWD(2016) 222/2 and SWD(2016) 225 respectively, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2016) 313.

13. OTHER BUSINESS

13.1. IMPLEMENTATION OF 2016 BUDGET AT 15 JUNE 2016 (INFO(2016) 67)

The Commission took note of the information in INFO(2016) 67.

13.2. MEASURES AGAINST CIGARETTE SMUGGLING (INFO(2016) 70)

The Commission took note of the information in INFO(2016) 70.

14. PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING ON BEHALF OF THE EUROPEAN UNION OF THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT BETWEEN CANADA OF THE ONE PART, AND THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE OTHER PART

(COM(2016) 444 AND /2; RCC(2016) 92)

15. PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT BETWEEN CANADA OF THE ONE PART, AND THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE OTHER PART
(COM(2016) 443 AND /2; RCC(2016) 92)

16. PROPOSAL FOR A COUNCIL DECISION ON THE PROVISIONAL APPLICATION OF THE COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT BETWEEN CANADA OF THE ONE PART, AND THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE OTHER PART
(COM(2016) 470; RCC(2016) 92)

Mr KATAINEN introduced the decision before the College that day to present to the Council a package of three proposals on the signing, conclusion and provisional application of the Comprehensive Economic and Trade Agreement between the European Union and Canada (CETA). The texts of these proposals, as revised after the meeting of Chefs de cabinet, were distributed at the beginning of the meeting.

He explained the rationale of these proposals, which was to ensure that this economic and trade agreement, which had considerable potential for growth and job creation, could be signed and implemented quickly to enable EU citizens and businesses to enjoy the anticipated benefits without any undue delay. For this reason he proposed that, as far as the European part was concerned, the agreement with Canada, under Ms MALMSTRÖM's authority, should be a mixed agreement between the Union and the Member States, rather than an agreement of the EU alone, as a strict application of European law would dictate. The proposal also provided for the agreement to be applied provisionally, pending its conclusion, which would involve a Council Decision after approval by the European Parliament and all of the Member States, in accordance with their national ratification procedures. Only then would the agreement enter into force in full.

This proposal for a Decision did not undermine the legal position which the

Commission had outlined when it requested the EU Court of Justice's opinion on the trade agreement between the European Union and Singapore. In this opinion the Court would decide whether competence to conclude such an agreement rested with the Union alone or the Union and its Member States.

He concluded his presentation by stressing that this question, although important, should not detract from the content of the agreement, which was particularly advanced and more ambitious than any other to date. However, he did not underestimate the political difficulty of obtaining support for the agreement in the current climate which was particularly anti-European and distrustful of trade agreements, hence the idea of involving the Member States more closely in implementing and defending it.

Ms MALMSTRÖM, for her part, felt that the agreement with Canada - the most ambitious ever negotiated between the European Union and a third country - would help to strengthen the long-standing ties with a close partner country whose current government was particularly open to the EU. It would contribute to the growth and job creation Europe needed, while fully upholding the EU's high standards. She hoped that it could be signed, provisionally applied and concluded rapidly, in the interests of consumers, workers and businesses.

She emphasised the pragmatic option being presented to the College as regards the procedural aspect. Although from a legal point of view this was exclusively a European Union agreement, as was usual for agreements of this kind, she believed that the idea of proposing a mixed agreement was the most realistic way of ensuring it was signed quickly. She explained that once the Council had given the green light and Parliament had approved it, the intention was for the agreement to be applied provisionally in order to reap the benefits as soon as possible. Specifically, this would mean that from day one 99% of customs duties on trade between Europe and Canada would be removed, allowing EU businesses to save hundreds of millions of euros every year, which would directly benefit European consumers in the form of lower prices.

She went on to list some of the benefits expected from the agreement with Canada, starting with its impact on the volume of trade in services, but also mentioning access to new markets for European firms in sectors where they were world leaders, such as maritime services, telecommunications and engineering. The agreement also contained strict rules on protecting workers' rights and the environment and gave a high level of protection to over 140 European designations of origin on the Canadian market which they had not enjoyed until now. Finally, she noted that the agreement with Canada introduced a new court system and tighter rules to protect investments. This system guaranteed the right of EU governments to regulate in the interest of their citizens, while still encouraging foreign investors by protecting their investments and through a mechanism that made investment dispute resolution fairer and more transparent.

Ms MALMSTRÖM ended by stressing that all the Member States supported this agreement with Canada and were aware of all its benefits. She hoped that they would also take responsibility for the agreement.

The PRESIDENT took the floor and said that he had examined the legal arguments and listened to the EU Heads of State or Government, whom he had asked about their support for the comprehensive economic and trade agreement with Canada at the European Council meeting on 28 and 29 June. He concluded that the Member States wanted this agreement, just as they wished to pursue the trade negotiations that the Commission was currently conducting with the US and Japan. However, given the strong pressure exerted by certain currents of opinion, the pragmatic approach of a mixed agreement was, in this particular context, the most likely to result in the signing of the agreement at the EU-Canada summit in October.

During the discussion which followed, the Commission raised the following main points:

- emphasis on the agreement's uniquely ambitious nature and the benefits it was expected to bring both for EU citizens and EU businesses, as a result of the significant savings that would result from the abolition of almost all customs duties and the opportunities for the different economic sectors that would result from the opening up of markets;

- the importance for the Union of the strategic partnership with Canada at both the political and diplomatic level, in the context of the refugee crisis and the area of social and environmental standards; the significant step that Canada would take from the point of view of its trading alliances and the practical and strategic benefits of the agreement for the Union; the desirability of maintaining as far as possible the objective of signing the agreement at the EU-Canada summit in October;

- on the question of competence to conclude the agreement with Canada, confirmation that, from a strictly legal standpoint, the agreement fell within the sole competence of the Union under the Treaties; at the same time, acknowledgement of the strong reactions to this trade agreement in some strands of opinion; the need to show pragmatism given the position that, for different political considerations, the Member States might adopt at the Council;

- the desirability of an approach that would take these factors into account, while giving the Union as a whole the means of taking advantage of the opportunities offered by the proposed agreement as soon as possible thanks to its provisional application;

- in the light of these considerations, the Commission Members' support for the approach proposed by Mr KATAINEN and Ms MALMSTRÖM; the need for very clear communication of the Commission's legal analysis, which indicated consistently that the agreement could legally be concluded as an agreement of the Union alone, and to point out just as clearly that, while the Commission was considering the option of a mixed agreement in order to facilitate a consensus around the significant collective interest of the agreement and its benefits, this choice would not affect other similar cases, whether for existing or future agreements;

– some requests for legal clarification on the possibility of classifying it as a mixed competence agreement, on the impact that this option might have on the forthcoming opinion of the EU Court of Justice concerning the trade agreement with Singapore, and on the possibility of classifying certain parts of the agreement as provisions coming under the sole competence of the Union and other parts as provisions coming under mixed competence between the Union and the Member States;

– beyond this specific case, the need to do everything possible to ensure that the Union's common commercial policy did not pay the price of a general climate in which political action was denigrated at both national and European level; the need for more effective information to the public and national parliaments to ensure a better understanding of the benefits of international trade agreements in terms of growth and job creation; the example of the trade agreement between the EU and South Korea, which had also raised some concerns when it was concluded in 2010 and had now demonstrated its highly stimulating and beneficial effect for the European economies;

– the need to initiate an in-depth and constructive dialogue with the Council in order to raise awareness of the adverse consequences for the Union as a whole of a very reserved or negative attitude towards European initiatives in the hope of keeping populist opinions on board, and to convince its members of the collective interest of firmly defending the Community system; the key role of the Commission in this context;

– furthermore, a reminder that only the Commission had the expertise and capacity needed to negotiate comprehensive trade agreements;

– reaffirmation of the Commission Members' full commitment to explaining and defending the powers and responsibilities conferred on the Union in the collective European interest; the wish for a clear 'roadmap' in this respect and the suggestion that part of the Commission seminar on 30 and 31 August be devoted to these issues;

– the important work to be done in terms of explaining the nature of European integration, which was democratic by definition; the contribution that could be made by citizens' dialogues; the suggestion that there should be further reflection on ways to strengthen the concept of European citizenship and that a proposal should be announced to that effect;

– lastly, the lessons to be learned, particularly as regards public communication on complex subjects, the need for targeted communication and the particular attention that should be given to social media.

The PRESIDENT asked the Director-General of the Legal Service to clarify some of the points raised in the discussion, including the nature of a mixed agreement, shared between the Union and the Member States, as proposed for the agreement with Canada.

The Director-General of the Legal Service explained that the agreement with Canada and the agreement with Singapore, on which the Court of Justice was to give its opinion in spring 2017, pursued the same objectives and were similar in content. He reminded the meeting of the Commission’s position that the agreement with Singapore could be concluded by the Union alone by dint of its exclusive competences. He justified the Commission’s position on the grounds that (i) nothing in the agreement with Singapore fell within the exclusive competences of the Member States, (ii) most of the provisions of the agreement came under the common commercial policy pursuant to Article 207 of the Treaty on the Functioning of the European Union, and therefore fell within the exclusive competences of the Union under Article 3(1) TFEU, and (iii) cross-border transport services and portfolio investments, which came under law governing transport and free movement of capital, respectively, did not form part of the common commercial policy but were covered by secondary European law, and therefore came under the exclusive competences of the Union pursuant to Article 3(2) of the TFEU. He also noted that the Commission's position was supported by Parliament.

The Commission now had to identify the best possible solution to ensure that the agreement with Canada produced the desired results quickly. He said that the solution consisting of proposing the conclusion of a mixed agreement in this case and calling on the Council to apply it on a provisional basis, without prejudice to the position that the Commission had taken vis-à-vis the Court in the case of the agreement with Singapore, was of a kind to meet that objective. This provisional application mechanism, which required a qualified majority in the Council, would not be necessary if the agreement with Canada was concluded solely by the Union, since it would be concluded more rapidly than if it was concluded by the Union and the Member States, which would involve a lengthy ratification process by the national parliaments of the Member States. A decision on the provisional application of all the provisions of an agreement had already been proposed in the case of other international agreements, for example with South Korea and Kazakhstan.

Mr KATAINEN replied to a number of comments made in the course of the discussion. With regard to the advisability of taking a decision at that stage, he took the view that any delay could heighten the passions unleashed by the process of negotiating free trade agreements with Canada and the United States. He recommended avoiding tension between the EU institutions, which would ultimately only undermine the EU-Canada Agreement itself, and called on the Members to defend the Commission and its prerogatives if necessary and encourage the Member States to adopt a stance on this very important agreement. Lastly, provisional application of the agreement would provide a practical demonstration of its benefits.

Ms MALMSTRÖM returned to the connection between the draft comprehensive economic and trade agreement with Canada and the Transatlantic Trade and Investment Partnership currently being negotiated with the United States, a connection made by sections of public opinion which were hostile to free trade agreements in the hope of derailing both agreements. She suggested appropriate communication explaining the ins and outs of the negotiations to clarify this matter.

For her part, she was committed to defending the common commercial policy and the competence of the Commission in this area. In the light of the need to secure an agreement with Canada which would be economically beneficial to all the Member States, she felt that the strategy for achieving that aim required a political dimension. She advised against postponing the decision proposed to the Commission on that day, taking the view that it would not alter the political context or the perception that some sections of public opinion had of the draft agreement with Canada. Moreover, any delay could be misinterpreted by some parties as indecisiveness on the part of the Union in the wake of the UK referendum. A decision by the Council to apply the proposed agreement on a provisional basis should enable the benefits of the agreement to be demonstrated rapidly. For that reason she strongly urged the Members to go to the national parliaments of the Member States to explain the substance of the agreement.

The PRESIDENT advocated that the Commission state in the clearest possible terms that, from the legal perspective, it considered that the draft agreement with Canada, like the agreement reached with Singapore, could be concluded as an agreement of the Union alone. Indeed, he had suggested at the previous week's European Council meeting that the Council Legal Service could issue an opinion on the matter before the summit in October. However, the public debate triggered by the agreement would be political rather than technical, and criticism would be levelled at the agreement whichever procedural option was chosen. In the light of elections in the EU in 2017, it was not a good idea to postpone the decision, since delay could result in the draft agreement with Canada becoming an election issue and being held hostage to election campaigns.

It was his firm hope that the substance of the agreement with Canada would not be overshadowed by the ratification process, that a detailed information campaign would be launched and that EU governments would make the case for the agreement in their national parliaments. Once the ratification process had started, he felt sure it would have a knock-on effect on all the Member States.

Following this detailed discussion, the PRESIDENT noted the Commission's agreement on the three proposals examined at the meeting and on the option of a mixed agreement for the conclusion of the Comprehensive Economic and Trade Agreement between the EU and Canada; there should be a recommendation for the agreement to be implemented on a provisional basis.

The Commission:

– adopted the proposal for a Council Decision on the signing of the agreement as set out in COM(2016) 444/2, including its annexes, for transmission to the Council and, for information, to Parliament and the national parliaments;

– adopted the proposal for a Council Decision on the conclusion of the agreement as set out in COM(2016) 443/2, including its annexes, for transmission to Parliament and the Council and, for information, to the national parliaments;

– adopted the proposal for a Council Decision on the provisional application of the agreement as set out in COM(2016) 470 for transmission to the Council and, for information, to Parliament and the national parliaments.

17. BUDGETARY SITUATION IN SPAIN AND PORTUGAL

Mr DOMBROVSKIS introduced the discussion on the situation of Spain and Portugal under the excessive deficit procedure, which had already been raised at the

Commission's meetings from 10 to 18 May; it had been agreed to come back to the matter at the beginning of July. It had already been clear at that time that neither Spain nor Portugal had achieved their targets under this stage of the procedure.

As a result, under Article 126(8) of the Treaty on the Functioning of the European Union (TFEU), he considered that the College had to adopt recommendations for Council decisions establishing that no effective action had been taken by Spain and Portugal in response to the Council Recommendations of 21 June 2013.

Spain and Portugal had relaxed their budgetary efforts, either for electoral reasons or to reduce the pressure exerted by the markets during the financial assistance programme. Although this loosening was understandable after years marked by substantial constraints, it was nonetheless excessive. Spain and Portugal had utilised the margins resulting from increasing growth and falling interest rates to undertake expenditure rather than reduce their debt, as a result of which they had not achieved their objectives and still had deficits and debt at substantial levels.

At its meeting on 12 July, the Economic and Financial Affairs Council would probably discuss decisions establishing that no effective action had been taken, and could decide whether the decisions should be adopted immediately or postponed.

The timetable for Council decisions under Article 126(8) TFEU was important because it influenced the deadlines set for the subsequent stages of the possible procedure to be followed, i.e. (i) the imposition of a fine, (ii) the suspension of part of the commitments for the European Structural and Investment Funds in 2017, and (iii) the definition of a new fiscal adjustment path under the excessive deficit procedure.

Mr DOMBROVSKIS stressed that, at this stage, the imposition of fines or suspension of the structural funds was not up for discussion, although these questions would arise soon. The main objective of the Stability and Growth Pact was to encourage the implementation of responsible fiscal policies, in the interest of every Member State, the euro area and the EU as a whole. In this context, the threat of sanctions was part of an incentive system of last resort that had never been actually used. The decision was not for the Commission but for the Council, on the basis of a Commission proposal.

He explained that the Stability and Growth Pact provided for leeway that allowed these measures to be applied judiciously and that a dialogue with the Member States could accompany the process in order to avoid adverse effects. For example, although the failure to comply with the rules in the Stability and Growth Pact related to the past, the fines could be reduced considerably if the Member States in question made credible fiscal-policy commitments and brought in long-term structural reforms.

With regard to a possible suspension of the structural funds, the amounts could be adjusted to a certain extent and suspension would not have any substantive impact if the new budgetary recommendations were effective.

Lastly, he stressed the importance of clearly explaining that the role played by the Commission stemmed from the responsibility that the Member States had wished to give it in terms of monitoring implementation of the Stability and Growth Pact, which it exercised with caution and in close cooperation with the countries concerned in order to determine the best course of action for the future.

Mr MOSCOVICI explained, for his part, that the purpose of the discussion by the College was to reach a common interpretation of the facts and figures relating to past budgetary implementation by Spain and Portugal in order to determine whether the two Member States had fulfilled their commitments.

Once the Commission had reached a decision, the Council would then have to give its opinion and envisage the continuation of the procedure, in particular with regard to any penalties and a potential freeze on the structural funds available to Spain and Portugal.

He also called for prompt discussions on new budgetary recommendations, as Spain and Portugal needed to know quickly what commitments they would have to sign up to in 2016 and 2017, so that they could prepare their draft 2017 budgets in September and thereby bring their budget deficits back under the 3% threshold for the long term.

He stressed too the importance of communicating these issues in such a way as to avoid uncertainties that could cause market volatility. In particular, he noted that if no decisions were taken at this stage on penalties and a freeze on European structural funds, it was important to dispel any doubts regarding the possibility of heavy fines that would hold back growth. He therefore suggested working out a detailed and constructive set of arguments on the applicable rules and the approach to be followed.

Referring to the respective situations in Spain and Portugal, Mr MOSCOVICI set out the main reasons for concluding that no effective action had been taken.

Spain had been meant to correct its excessive deficit in 2016, yet the deficit in 2014 had been 5.9% of GDP, falling to 5.1% in 2015, compared with the targets of 5.8% and 4.2% respectively. Spain's structural fiscal effort for the period 2013-2015 was estimated at 0.6% of GDP, compared with a recommended figure of 2.7%. Lastly, he noted that the 2016 spring economic forecasts were predicting a deficit of 3.9% in 2016 and 3.1% in 2017. These figures were not compatible with a rapid and lasting correction of the excessive deficit in 2016.

He then turned to Portugal, which had been meant to correct its excessive deficit in 2015, but had in the end recorded a deficit of 4.4% of GDP. The main reason for the gap was the rescue of the Banif bank at the end of 2015. Otherwise the deficit would have been just slightly over 3%. He added that the structural fiscal effort for the period 2013-2015 was estimated at 1.1% of GDP, compared with the target of 2.5% set in the recommendation.

Mr MOSCOVICI felt that it was therefore impossible to conclude that effective action had been taken towards either of the two benchmarks in the applied methodology, i.e. the headline target and the structural target, despite the fact that Spain and Portugal were in a relatively favourable economic situation, though admittedly still affected by the serious consequences of the financial, economic and social crisis. For that reason he and Mr DOMBROVSKIS were proposing that the Commission recommend to the Council that it establish the absence of any effective action in relation to the past. If the Council approved this proposal at a forthcoming meeting of the Economic and Financial Affairs Ministers, the Commission would then have to put forward proposals on possible fines and a suspension of structural funds. However, no such measures were on the table at this stage.

The PRESIDENT stressed the importance of spelling out very clearly to the Finance Ministers what the next steps in the procedure were, so that they could take an informed decision under Article 126(8) of the TFEU with regard to Spain and Portugal. Such a decision would mean that any penalties would be adopted within 20 days.

During the discussion which followed, the Commission raised the following main points:

– the many criticisms directed at the Commission in relation to economic governance, although the decisions were in fact taken by the Council;

– with regard to the specific case of Spain and Portugal, the observation that the ex post decision-making method caused a time-lag that made the process hard to understand for citizens who had made considerable efforts in the past and were now beginning to see the results in terms of an improvement in their country's fiscal position;

– the importance, for some Members, of having the courage to review the applicable rules in order to lend greater credibility to the EU's economic governance process; with this in mind, the need to examine ways of ensuring that the rules applied had the desired effects, in particular on growth and jobs;

– for others, the relevance of the economic governance rules, which were frequently misunderstood or misinterpreted, as was the case with the suspension of structural funds: suspension would not apply fully from the first day on which penalties were imposed, but would be introduced gradually and could even be avoided entirely, provided that a new fiscal adjustment path was set and adhered to;

– in this context, the importance of reiterating the need to reduce government debt and deficits and of defending the relevance of the existing rules, notwithstanding any adjustments and adaptations that might be useful.

In Mr MOSCOVICI's view, the issue here was not to call into question the need to reduce government debt and deficits, but to develop rules that were simpler, easier to understand and more consistent.

The PRESIDENT wound up the discussion by pointing out first of all that any adjustment of the economic governance rules should be envisaged with the support of the European Parliament in order to ensure that the rules were effective and took account of economic and social realities.

He noted the College's agreement on the proposals for Recommendations for Council Decisions presented under Article 126(8) TFEU, which would be formally adopted by written procedure, in accordance with Article 12(5) of the Commission's Rules of Procedure, at 12.00 on Thursday 7 July (PE/2016/3338 and PE/2016/3337).

The Commission also noted that the text of the country-specific recommendations sent to Spain and Portugal would have to be adapted to take account of the current state of play in the excessive deficit procedure and the corresponding decisions. It agreed in principle on such an adaptation.

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The meeting closed at 16.01.