EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 7 September 2016

TEXTE EN

MINUTES

of the 2178th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 20 July 2016

(morning)

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<u>Single sitting</u>: Wednesday 20 July 2016 (morning)

The sitting opened at 9.19 with Mr JUNCKER, President, in the chair.

<u>Present</u>:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	Items 1 to 13, and 14 (in part)
Ms GEORGIEVA	Vice-President	
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	Items 1 to 12, and 14 (in part)
Mr OETTINGER	Member	Items 1 to 14 (in part)
Mr HAHN	Member	Items 6 (in part) to 11, 13 (in part) and 14
Ms MALMSTRÖM	Member	Items 1 to 12, and 14 (in part)
Mr MIMICA	Member	Items 6 (in part) to 14
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr HOGAN	Member	Items 1 to 14 (in part)
Ms BULC	Member	Items 1 to 13 (in part)
Ms BIEŃKOWSKA	Member	
Mr NAVRACSICS	Member	
Ms VESTAGER	Member	
Mr MOEDAS	Member	

<u>Absent</u>:

Mr STYLIANIDES	Member
Ms JOUROVÁ	Member
Ms CREȚU	Member

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

Ms CHRISTOPHIDOU	Chef de cabinet to Mr STYLIANIDES	Items 1 to 14 (in part)
Ms NIKOLAY	Chef de cabinet to Ms JOUROVÁ	
Mr DE MICHELIS	Chef de cabinet to Ms CREŢU	

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 BALTAZAR	Chief adviser in the PRESIDENT's Office	Items 1 to 11
Ms DEJMEK-HACK	Adviser in the PRESIDENT's Office	Item 14
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	Items 1 to 6
Mr WYNANDS	Chef de cabinet to Mr DOMBROVSKIS	Items 13 (in part) and 14
Mr ROMAKKANIEMI	Chef de cabinet to Mr KATAINEN	Items 7 to 12, and 14 (in part)
Ms ÅSENIUS	Chef de cabinet to Ms MALMSTRÖM	Item 12
Mr BEHRNDT	Chef de cabinet to Mr MIMICA	Items 1 to 6 (in part)
Ms LOBILLO BORRERO	Chef de cabinet to Mr ARIAS CAÑETE	Items 7 to 11
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 6
Mr HERMANS	Chef de cabinet to Ms THYSSEN	Item 13

Mr BAILLY	Chef de cabinet to Mr MOSCOVICI	Items 13 (in part) and 14
Ms ANDREEVA	Commission Spokesperson’s Service	
Mr DEMARTY	Director-General, DG Trade	Item 12
Mr DELBEKE	Director-General, DG Climate Action	Items 7 to 11

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

1. AGENDAS
(OJ(2016) 2178/FINAL; SEC(2016) 331/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) 2178)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 18 July.

3. APPROVAL OF THE MINUTES OF THE 2176TH AND 2177TH MEETINGS OF THE COMMISSION (5 AND 13 JULY 2016)

The Commission held over approval of the minutes of its 2176th and 2177th meetings for the following week.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED
(SEC(2016) 332 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 11 and 15 July.

4.2. EMPOWERMENT
(SEC(2016) 333 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 11 and 15 July.

4.3. DELEGATION / SUBDELEGATION OF POWERS (SEC(2016) 334 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 11 and 15 July, as archived in Decide.

4.4. SENSITIVE WRITTEN PROCEDURES (SEC(2016) 335 TO /3)

The Commission took note of the sensitive written procedures for which the time limit expired between 18 and 22 July and of the finalisation written procedure initiated following the weekly meeting of Chefs de cabinet on 18 July.

5. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2016) 336)

ADMINISTRATIVE MATTERS
(PERS(2016) 78)

5.1. DG COMMUNICATION – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2016) 25 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, ‘Resources’, in the Directorate-General for Communication (PERS(2016) 25).

It took note of the opinions of the Consultative Committee on Appointments of 13 and 23 June 2016 (PERS(2016) 25/2 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 Ms Fabrizia DE ROSA to the post.

This decision would take effect on 1 September 2016.

5.2. DG INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs – APPOINTMENT OF AD14 DIRECTOR

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Ms BIEŃKOWSKA, and also Mr ANSIP, Mr ŠEFČOVIČ, Mr DOMBROVSKIS and Mr KATAINEN, the Commission decided to fill the post of Director, 'Modernisation of the Single Market', in the Directorate-General for the Internal Market, Industry, Entrepreneurship and SMEs, by transferring in the interest of the service, under Article 7 of the Staff Regulations, Mr Hubert GAMBS, an AD14 official and currently Director of the 'Mediterranean and Black Sea' Directorate in the Directorate-General for Maritime Affairs and Fisheries.

This decision would take effect on 1 September 2016.

5.3. DG FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION – TERMINATION OF THE INTERNAL SELECTION PROCEDURE FOR AN AD14/15 DIRECTOR (PERS(2016) 62)

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Mr DOMBROVSKIS, the Commission decided to terminate internal selection procedure COM/2016/587 for the post of

Director, 'Investment and company reporting', without making any appointment.

This decision would take effect immediately.

5.4. DG COMMUNICATION – EXTENSION OF THE TERM OF OFFICE OF THE HEAD OF A COMMISSION REPRESENTATION

The Commission noted the information in point 4 of PERS(2016) 78 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, decided to derogate from Article 2 of the Commission Decision establishing Rules on the rotation of officials in Representations (C(2008) 3983) and to extend, on an exceptional basis, the term of office of Mr Panayotis CARVOUNIS as Head of the Commission's Representation Office in Greece from 1 November 2016 to 30 November 2017, the eve of his retirement.

This decision would take effect on 1 November 2016.

5.5. DG RESEARCH AND INNOVATION – EXTENSION OF THE TERM OF OFFICE OF THE DIRECTOR OF THE RESEARCH EXECUTIVE AGENCY (REA)

The Commission took note of the information in point 5 of PERS(2016) 78 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Mr MOEDAS and also Mr ANSIP, Mr ŠEFČOVIČ, Mr DOMBROVSKIS and Mr KATAINEN, decided:

– to extend the term of office of Mr Gilbert GASCARD as Director of the Research Executive Agency from 1 November 2016 to 31 March 2017;

– to second Mr Gilbert GASCARD to the Research Executive Agency, in the interest of the service under Articles 37 and 38 of the Staff

Regulations, for the duration of his term of office to carry out his duties as a temporary staff member.

These decisions would take effect on 1 November 2016.

5.6. DG RESEARCH AND INNOVATION – AMENDMENT OF THE ORGANISATION CHART, EXTERNAL PUBLICATION (GRADE AD14 – EU-28) OF THE VACANCY NOTICE FOR A PRINCIPAL ADVISER, AND AUTHORISATION TO RECRUIT A TEMPORARY STAFF MEMBER UNDER ARTICLE 2(A) OF THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS OF THE EUROPEAN UNION (PERS(2016) 79)

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

– to create a temporary post of Principal Adviser in the Directorate-General for Research and Innovation;

– to authorise the external publication (at grade AD14 EU-28) of a vacancy notice for the newly created Principal Adviser post in the Directorate-General for Research and Innovation (PERS(2016) 79);

– to authorise the recruitment of a temporary staff member under Article 2(a) of the Conditions of Employment of Other Servants of the European Union to the newly created Principal Adviser post in the Directorate-General for Research and Innovation for a period of four years, renewable once for a maximum of two years.

These decisions would take effect immediately.

6. OTHER BUSINESS

6.1. ANALYSIS AND EUROPEAN MEASURES TO COMBAT TERRORISM FOLLOWING THE ATTACK IN NICE ON 14 JULY 2016

Mr AVRAMOPOULOS presented the latest available information on the attacks in Nice, France on 14 July and Würzburg, Germany on 19 July, discussing the lessons to be learned in relation to the deployment of the measures and initiatives taken by the EU under the European Agenda on Security.

After underlining a number of key points about the perpetrators of the two attacks and the avenues of investigation being explored, he discussed the particular challenges posed by these two cases, which, though they differed in some respects, both appeared to have been committed by mentally unstable individuals mainly acting alone and who had become radicalised very quickly. It was therefore essential that the EU should not only take short-term measures but also develop deeper, longer-term strategies, such as preventing radicalisation and furthering integration.

He went on to discuss in greater detail the series of initiatives and measures the Commission had already proposed under the European Agenda on Security, which had been adopted in April. A number of them had been implemented following the Nice attack: the European Counter Terrorism Centre – launched by Europol in January 2016 – had dispatched an Emergency Response Team, and Europol's mobile office was also deployed in Nice on the night of 14 July.

Alongside this, the Internet Referral Unit – also part of Europol – had taken immediate action under the cooperation scheme overseen by the EU Internet Forum with the aim of removing terrorism-related content, leading to the deletion of 150 Twitter accounts and the closure of four Facebook pages.

With regard to physical cooperation on the ground, he confirmed that, in accordance with Schengen rules, France and Italy had immediately strengthened internal border checks.

He reiterated the proposals already tabled by the Commission in relation to firearms and the fight against terrorism in a more general sense, and recommended an even more strategic analysis, emphasising that European citizens expected the EU to introduce tangible measures.

Based on the measures already implemented and the initiatives proposed under the European Agenda on Security, Mr AVRAMOPOULOS suggested focusing efforts over the next few months on the following four main areas:

– improving information sharing within the EU and the interoperability of information systems, while strengthening and developing Europol's European Counter Terrorism Centre;

– the possibility of implementing a new European system of prior travel authorisation for third-country nationals who were not required to obtain a visa to travel to the Schengen area, similar to the Electronic System for Travel Authorisation in the US;

– the lessons to be learned for the Schengen area from current events, such as the possibility of allowing internal border checks to be introduced for longer periods where a Member State faced a permanent terrorist threat;

– strengthening and accelerating the implementation of the measures proposed under the strategy to combat radicalisation, including the areas for cooperation at European level put forward by the Commission in June.

Mr AVRAMOPOULOS emphasised in particular the need to continue working towards a genuine culture shift, in order to put an end to the fragmentation that was making Europe more vulnerable. He reiterated the message at the heart of the effective and genuine Security Union, proposed by the Commission in April 2016, which was based on the principle that the internal security of one Member State represented the internal security of all Member States. The College could examine these issues again at its post-recess seminar on 30 and 31 August.

Ms MOGHERINI briefly reported on the Foreign Affairs Council meeting on 18 July, the security situation and European solidarity faced with the terrorist threat having been added to the agenda at France's request.

She noted that France had once again invoked Article 42(7) of the Treaty on the European Union, concerning the support and solidarity of Member States where another Member State is the victim of armed aggression on its territory. This request had been renewed both for international operations forming part of ‘capacity-building in support of security and development’ (under EU CSDP) and in relation to the fight against terrorism within the EU.

She confirmed that all Member States had indicated their full commitment to ensuring European solidarity faced with the risk to the EU's fundamental values posed by the terrorist threat, and shared their determination to find joint solutions.

The PRESIDENT thanked Mr AVRAMOPOUOS and Ms MOGHERINI for their contributions.

The Commission took note of this information.

6.2. LATEST DEVELOPMENTS CONCERNING THE RULE OF LAW IN POLAND

The PRESIDENT invited Mr TIMMERMANS to report to the College on the discussions between the Commission and the Polish authorities since the Commission's adoption of an opinion on the rule of law in Poland, which had been sent to the Polish government on 1 June.

The Commission took note of this information.

6.3. SITUATION IN TURKEY AND IMPACT ON EU POLICY

At the invitation of the PRESIDENT, Ms MOGHERINI described the current situation in Turkey following the failed coup during the night of 15-16 July in which many people had been killed and injured, and the subsequent reaction by the Turkish government, with the declaration of a state of emergency and the introduction of authoritarian measures to remove officials from the military, judiciary, education sector and media.

The Commission took note of this information.

7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, AND THE COMMITTEE OF THE REGIONS – ACCELERATING EUROPE'S TRANSITION TO A LOW-CARBON ECONOMY – COMMUNICATION ACCOMPANYING MEASURES UNDER THE ENERGY UNION FRAMEWORK STRATEGY (COM(2016) 500 AND /2; RCC(2016) 98; RCC(2016) 100)

8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, AND THE COMMITTEE OF THE REGIONS – A EUROPEAN STRATEGY FOR LOW-EMISSION MOBILITY (COM(2016) 501 TO /3; SWD(2016) 244 AND /2; RCC(2016) 98; RCC(2016) 100)

9. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE INCLUSION OF GREENHOUSE GAS EMISSIONS AND REMOVALS FROM LAND USE, LAND USE CHANGE AND FORESTRY INTO THE 2030 CLIMATE AND ENERGY FRAMEWORK AND AMENDING REGULATION 525/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON A MECHANISM FOR MONITORING AND REPORTING GREENHOUSE GAS EMISSIONS AND OTHER INFORMATION RELEVANT TO CLIMATE CHANGE
(COM(2016) 479 AND /2; SWD(2016) 249 AND /2; SWD(2016) 246 AND /2; SEC(2016) 338; RCC(2016) 98; RCC(2016) 100)

10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON BINDING ANNUAL GREENHOUSE GAS EMISSION REDUCTIONS BY MEMBER STATES FROM 2021 TO 2030 FOR A RESILIENT ENERGY UNION AND TO MEET COMMITMENTS UNDER THE PARIS AGREEMENT AND AMENDING REGULATION 525/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON A MECHANISM FOR MONITORING AND REPORTING GREENHOUSE GAS EMISSIONS AND OTHER INFORMATION RELEVANT TO CLIMATE CHANGE
(COM(2016) 482 TO /4; SWD(2016) 247 AND /2; SWD(2016) 248 AND /2; SEC(2016) 339; RCC(2016) 98; RCC(2016) 100)

11. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON EVALUATING THE IMPLEMENTATION OF DECISION 406/2009/EC PURSUANT TO ARTICLE 14 THEREOF
(COM(2016) 483; SWD(2016) 251; RCC(2016) 98; RCC(2016) 100)

Mr ŠEFČOVIČ presented the package of initiatives being tabled that day for approval by the Commission in the context of the Energy Union strategy that was adopted in 2015, aimed at implementing a visionary policy for tackling climate change. He pointed out that the shift to a low-carbon, circular economy was now under way worldwide, after being given fresh impetus by the agreement concluded in Paris at the 21st Conference of the Parties to the UN Framework Convention on Climate Change in December 2015. To maintain its pioneering role in this field, the Union would have to make its economy more competitive and less carbon-intensive, generate growth and create jobs for the future. These were precisely the reasons for presenting the current package, which was wide-ranging in scope, hence the involvement of several Members of the Commission – Mr ARIAS CAÑETE, Mr KATAINEN, Ms BULC, Mr OETTINGER, Mr VELLA, Ms BIEŃKOWSKA, Mr HOGAN, Mr MOEDAS and Ms JOUROVÁ.

He described the content of the package, which consisted of three parts. He began with the ‘effort-sharing’ proposal on reducing greenhouse gas emissions, which, together with the existing proposal for reforming the emissions trading system, would enable the EU to establish a firm legislative basis for the energy and climate policy measures agreed by the European Council in October 2014 for the period up to 2030. He noted the principles underpinning these measures – fairness, economic efficiency and solidarity – and explained that, as well as reducing greenhouse gas emissions, the aim was also to chart an economic course by setting clear objectives that would provide a stable outlook for businesses and investors who were keen to innovate and invest.

Mr ŠEFČOVIČ then spoke about the proposal which for the first time took into account greenhouse gas emissions and removals arising from land use and forestry, in response to a decision taken by the European Council.

Thirdly, he turned to the initiative that was devoted specifically to transport and followed the same logic, i.e. to modernise the European economy, it was necessary to modernise this important sector, which accounted for 7% of the EU's GDP and employed 15 million people. The Union should introduce decarbonisation measures so that it could remain competitive while other regions of the world were advancing apace. Taking road transport as an example, he noted that the EU still led the field in the number of patent applications for improving combustion engines, but the rest of the world was outperforming Europe when it came to the number of patent applications for alternative fuels. In addition, the market for low-emission vehicles was growing at a faster rate outside the Union. He explained that the transport sector must also be integrated as soon as possible into the climate policy pursued by the EU in order to halt the upward trend in its share of total greenhouse gas emissions in the run-up to 2050 and, in the automotive sector in particular, to restore consumer confidence.

For all these reasons, Mr ŠEFČOVIČ felt that the Commission was setting out an ambitious project – aiming for a reduction in greenhouse gas emissions of at least 60% by 2050 compared to 1990, while putting itself firmly on course towards zero emissions – with the aid of a practical action plan to be implemented during its current term of office. The Commission was also launching that day two public consultations in this field, and very soon a solid impact assessment would get under way, which would factor in economic efficiency. Among the measures set out in the action plan were a proposal on standards for carbon dioxide emissions from lorries and other proposals aimed at speeding up the development of low-emission vehicles and zero-emission electric vehicles.

On the question of financing instruments, for the period 2014-2020 the Union had already earmarked a total of 100 billion euros to support a more effective and sustainable transport policy, over and above the European Fund for Strategic Investments.

Mr ŠEFČOVIČ ended his presentation by highlighting – and praising – the collective effort involved in preparing this package of proposals.

Mr ARIAS CAÑETE added that the proposals tabled that day provided the Member States with the legislative tools needed to achieve the ambitious climate targets the EU had set itself. Another tool would also contribute to this: the

European Fund for Strategic Investments. He stressed the investment effort that would have to be made – including by small and medium-sized enterprises – which he believed would create millions of jobs.

He noted that the targets for reducing greenhouse gas emissions proposed to the Member States in this package were realistic, fair and flexible. First of all, the buildings, transport, agriculture and waste management sectors would have to cut their emissions by 30% compared to 2005 in order to contribute to the overall target of a 40% reduction in emissions by 2030 compared to the 1990 level. He believed that, given the progress made in recent years, the Union could reach these ambitious targets. Secondly, in line with the wishes of the European leaders, the objectives set per Member State varied between 0 and - 40% in order to allow for the differences in per capita GDP. Lastly, the system was flexible in that Member States could reduce their emissions either taking action jointly in the transport, agriculture and buildings sectors, and/or by varying their efforts over time, including the purchase of rights between Member States, which would for example make it possible to allow for fluctuations in the economy.

He considered that the proposed result in terms of sharing the effort of reducing greenhouse gas emissions was a good compromise which resolved the main problems that had been raised, although not all the Member States would be entirely satisfied. He noted however that the three biggest economies in the EU had agreed to make additional efforts so that the system could work.

Mr ARIAS CAÑETE ended by stressing the difficulties in communicating in detail on all of these proposals given their extremely technical nature. He therefore recommended placing the greatest emphasis on the economic aspects and their contribution to the Commission's political priorities.

In the exchange of views that followed, the Commission discussed the following main points:

- support for the considerable work that had been accomplished, the ambitious nature of the proposals and the factoring-in of economic efficiency; the balance struck in the effort-sharing asked of Member States in the economic sectors concerned in order to reduce greenhouse gas emissions;

- the Commission's political and technical know-how reflected in this package, which set a course for the future and proposed long-term solutions that were acceptable to all sides in order to resolve very specific problems on which the Member States were divided, in areas where there was public support for action at European level;

- emphasis of the stimulus which this package would give to the European economy and industry and also to the quality of life of European citizens;

- the need to adopt a comprehensive approach ranging from clean vehicles to the development of renewables to energy efficiency, while at the same time introducing horizontal policies that were conducive to such developments, particularly in terms of investment, research and innovation;

- the importance, for the sake of legal certainty, of responding to the expectations of private investors, particularly in the very promising low-carbon transport sector;

- in the transport field, the need for intelligent solutions not only for the construction of electric vehicles, but also for heavy goods vehicles; the growing importance of digitalisation in transport; participation by local authorities in the decarbonisation of transport;

- the need to view efforts in the mobility sector against the background of the international negotiations under way in the International Maritime Organisation and the International Civil Aviation Organisation;

– the balanced contribution to the overall effort being asked of agriculture; on biofuels, the case for a flexible transition in order to attract investment.

In response, Mr ŠEFČOVIČ referred briefly to the situation facing Europe’s automotive industry, whose status as a world leader needed to be maintained. To do so, he felt that the industry needed to repair its image, which had been somewhat undermined by recent events, but also make a firm commitment to clean vehicle design, a future avenue for which the technology already existed.

On the last point, Mr ARIAS CAÑETE added that the Commission’s impact assessment would be very thorough and would weigh up all the aspects to be taken into account in the policy decision, depending on their technological feasibility.

The PRESIDENT ended the discussion by warmly thanking Mr ŠEFČOVIČ and Mr ARIAS CAÑETE, as well as the departments under their authority, for the impressive work they had carried out. He thanked them for having involved the relevant Commission Members, on the one hand, and the Member States, with whom they had cooperated closely, on the other hand. The proposals were a credit to the Commission.

Following this exchange of views, the Commission:

– approved the Communication in COM(2016) 500/2 for transmission to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments;

– approved the Communication in COM(2016) 501/3 for transmission to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments, together with the staff working document SWD(2016) 244/2, the contents of which were noted;

- adopted the proposal for a Regulation in COM(2016) 479/2 for transmission to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 249/2 and SWD(2016) 246/2, the contents of which were noted;

- took note of the opinion of the Regulatory Scrutiny Board in SEC(2016) 338;

- adopted the proposal for a Regulation in COM(2016) 482/4 for transmission to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 247/2 and SWD(2016) 248/2, the contents of which were noted;

- took note of the opinion of the Regulatory Scrutiny Board in SEC(2016) 339;

- approved the report in COM(2016) 483 for transmission to Parliament and the Council, and, for information, to the European Economic and Social Committee, the Committee of the Regions, and the national parliaments, together with staff working document SWD(2016) 251, the contents of which were noted.

12. SECOND ORIENTATION DEBATE ON THE CONSEQUENCES OF THE EXPIRY, ON 11 DECEMBER 2016, OF CERTAIN PROVISIONS OF CHINA'S PROTOCOL OF ACCESSION TO THE WORLD TRADE ORGANISATION AGREEMENT (SEC(2016) 348)

The Commission held a second orientation debate on the methods envisaged for handling anti-dumping and anti-subsidy cases following the expiry, in December 2016, of certain provisions of China's protocol of accession to the World Trade Organisation agreement.

The Commission took note of this information and the outcome of the debate, as well as the background note in SEC(2016) 348.

13. INTERINSTITUTIONAL RELATIONS (RCC(2016) 99)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 15 July (RCC(2016) 99).

It paid particular attention to the following points.

13.1. LEGISLATIVE MATTERS

i) Trilogue meetings
(point 3.1 of the IRG record)

– Amendment of Council Regulation (EC) 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks (Regulation) – DODDS report – 2012/0236 (COD)

The Commission approved the line set out in SI(2016) 309.

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

– Amendment of Council Regulation (EC) 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) 597/2009 on protection against subsidised imports from countries not members of the European Community (Regulation) – FJELLNER report – 2013/0103 (COD)

The Commission approved the line set out in SI(2016) 313/3.

13.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business
(SI(2016) 320)

The Commission took note of the information in SI(2016) 320 on the Council meetings between 21 and 29 July.

iv) Non-legislative dossiers
(point 4.1 of the IRG record)

– The signing, on behalf of the European Union, of a Framework Agreement between the European Union and Kosovo[1] on the general principles for the participation of Kosovo in Union programmes / Conclusion of a Framework Agreement between the European Union and Kosovo on the general principles for the participation of Kosovo in Union programmes (Council Decisions) – 2013/0114 (NLE) / 2013/0115 (NLE)

The Commission approved the line set out in SI(2016) 314.

– International Maritime Organisation (IMO) – Council Shipping Working Party – Joint European Union submissions (SWD(2016) 252)

The Commission approved the line set out in SI(2016) 317.

13.3. RELATIONS WITH PARLIAMENT

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

[1] This designation is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244/1999 and the International Court of Justice Opinion on the Kosovo declaration of independence.

– Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – Commission's replies to the new additional written questions from the Committee of Inquiry

The Commission took note of SP(2016) 489 and the replies to the new additional questions set out in the Annex thereto.

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

The Commission approved the line set out in SP(2016) 493 and /2, further to document SP(2016) 457/2, which it had approved on 5 July.

vi) Action taken on non-legislative resolutions adopted by Parliament at its April I part-session
(point 5.6.2 of the IRG record)

The Commission approved document SP(2016) 484 on the action taken on the non-legislative resolutions adopted by Parliament at its April I part-session, for transmission to Parliament.

vii) Action taken on non-legislative resolutions adopted by Parliament at its April II part-session
(point 5.6.3 of the IRG record)

The Commission approved document SP(2016) 485 on the action taken on the non-legislative resolutions adopted by Parliament at its April II part-session, for transmission to Parliament.

viii) Action taken on non-legislative resolutions adopted by Parliament at its May I part-session
(point 5.6.4 of the IRG record)

The Commission approved documents SP(2016) 486 and /2 on the action taken on the non-legislative resolutions adopted by Parliament at its May I part-session, for transmission to Parliament.

ix) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its June I and II part-sessions
(point 5.6.5 of the IRG record)

The Commission approved document SP(2016) 487 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its June I and II part-sessions, for transmission to Parliament.

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

x) Relations with national parliaments
(point 6.1 of the IRG record)

– Communication from the Commission to the European Parliament, the Council and the national parliaments on the proposal for a Directive amending the Posting of Workers Directive, with regard to the principle of subsidiarity, in accordance with Protocol 2 to the Treaties – COM(2016) 505 and /2 – SNP(2016) 41 and /2

Ms THYSSEN presented the Communication, proposing that the Commission approve it on the basis of the results of the examination of the legislative proposal adopted by the Commission on 8 March 2016 regarding the posting of workers, with regard to the principle of subsidiarity in accordance with Protocol 2 to the Treaties. This was only the third time since it was set up under the Lisbon Treaty that the subsidiarity control mechanism had been triggered, in the present case in the light of reasoned opinions submitted by several national parliaments in May.

Ms THYSSEN explained that all the arguments raised by the national parliaments had been examined, in strict compliance with the legislation in force, for their compliance with the principle of subsidiarity. She had had an open and transparent dialogue both with representatives of the national parliaments that had expressed concerns, and with other national stakeholders, including the social partners.

The thorough legal analysis confirmed that the Commission proposal complied fully with the principle of subsidiarity and she therefore proposed that the Members of the Commission maintain the legislative proposal of 8 March in its present state. Given that the posting of workers was by definition a cross-border activity, Ms THYSSEN pointed out that it could only be regulated at Union level. As the EU rules currently in force on the posting of workers dated back to 1996, it was imperative that they be updated to take account of the major developments that had taken place in the labour market in the Union in the intervening years, in the interests of greater social equity.

As regards the other arguments put forward by the national parliaments, which related to the actual content of the proposed revision and did not fall within the scope of the subsidiarity check, Ms THYSSEN explained that they would be discussed in due course during the interinstitutional negotiations between the Parliament and the Council in the context of the legislative procedure, so that today's proposed adoption of the Communication would mark the beginning, and not the end, of deliberations on the Commission’s proposal.

At the same time she underlined the need to maintain the political dialogue with national parliaments, indicating that she would send an individual reply to each of them that had expressed concerns unrelated to the subsidiarity test.

She was in particular grateful to Mr TIMMERMANS for actively participating alongside her in the political dialogue with the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union, a forum which she described as particularly conducive to better mutual understanding, an essential prerequisite for the spirit of cooperation and compromise needed to move towards the vision of a more social Europe. On a more general note, she called on the Members of the Commission to contribute actively to encouraging national parliaments to take ownership of this issue and, hence, to involving citizens more closely in the European political process.

Ms THYSSEN then turned to the balanced approach of the proposed revision itself, which had been the subject of a broad informal consultation, in particular with the social partners, noting that its aim was to chart a course between the positions and interests of the different groups of stakeholders concerned. She also wished to correct certain misconceptions related to the issue, such as the idea that the proposal would bring about a division between the Member States of the East and West of the Union. She explained that the proposal aimed primarily to ensure a fair system of social protection according to the principle that the same work done in the same place should be remunerated in the same way, but that the European political landscape was much more nuanced.

In conclusion she said that, through its proposed revision, the Commission was defending its vision of building a fairer internal market in which the free movement of workers would provide opportunities, but at the same time ensuring a level playing field and adequate protection against abuses arising from circumvention of the rules in force.

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

- the support of the Members of the Commission for the constructive and open approach proposed by Ms THYSSEN, based on understanding and examining the concerns raised by the national parliaments;

- the clarity of the legal analysis, which confirmed that the proposed revision presented by the Commission in March complied fully with the principle of subsidiarity; the emphasis on carefully gauging the proposal on the basis of a broad prior consultation; the Commission's consequent justification in maintaining its legislative proposal in its present form;

- the value of preserving and even strengthening the political dialogue with national parliaments; support for Ms THYSSEN's proposal to send letters to the national parliaments identifying which arguments were not a matter of subsidiarity and pointing out that these could be examined during the legislative process; for some, the need to take a broader look at the factors that might underlie the concerns in question;

- the emphasis on the role played by the Commission in unifying the different outlooks on this complex issue; the willingness of the Members of the Commission to actively engage in political dialogue, with the national parliaments in particular;

- the need for balanced communication to promote better mutual understanding of each other's points of view; the insistence on the fact that the proposed revision aimed mainly to ensure fairness in the practical implementation of the internal market; the Commission's obligation to combat the practice of social dumping in all its forms and the need to respond to those who felt left behind in the globalised economy; the importance of ensuring consistency and clarity in the Commission’s messages on the priority given to the construction of a more social Europe;

– the need to correct a number of misconceptions, notably the idea that any competition on prices would be ruled out by the specific amendments proposed to the Directive; the lessons to be learned by the Commission from the two previous experiences of applying the procedure provided for in Protocol 2 to the Treaties; the special attention that should be given to communication of the measure in the current tense political climate.

Ms THYSSEN wound up by raising the more general issue of the pace of economic convergence within the Union. She referred to the instruments deployed under the European Structural and Investment Funds, the general budget of the Union or the structural reforms encouraged by the country-specific recommendations made in the context of the European semester.

The PRESIDENT thanked Ms THYSSEN for the items presented in the discussion. Although Protocol No 2 to the Treaties provided for a review of compliance with the subsidiarity principle of legislative proposals adopted by the Commission, no infringement of that principle had been shown in this instance, since by definition the posting of workers had a cross-border dimension. In his view, therefore, putting forward arguments relating to the substance of the proposal on the pretext of reviewing compliance with the subsidiarity principle was an abuse of procedure; those arguments could properly be raised in the interinstitutional discussions held as part of the legislative procedure.

The purpose of the targeted review of the Directive on Posting of Workers proposed by the Commission was to prevent abuse of the legislation, which was designed to regulate the conditions of employment of workers posted for a short period of time. He was determined to do all he could to make the exploitation of workers, once widespread in Europe, a thing of the past, and to ensure that social dumping had no place in the Union. Referring to the political guidelines underpinning the Commission’s work programme for the current term, he emphasised the principle of equal pay for equal work in the same place. He called on the Members to convey that message.

Lastly, with regard to operational aspects, the PRESIDENT confirmed that since the proposed review was fully compatible with the subsidiarity principle, the Commission would maintain its initial proposal, which should pave the way for the legislative procedure during which arguments relating to aspects other than subsidiarity could also be raised if appropriate.

Following this exchange of views, the Commission approved the communication in COM(2016) 505/2 for transmission to the European Parliament, the Council and the national parliaments.

– Reply to the Contribution of the 55th Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (The Hague, 12 to 14 June 2016)

The Commission approved document SNP(2016) 43 containing its reply to the Contribution of the 55th Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) for transmission to the Presidency of COSAC.

14. OTHER BUSINESS (CONTINUED)

BUDGETARY SITUATION IN SPAIN AND PORTUGAL

Mr DOMBROVSKIS opened the debate on the fiscal position of Spain and Portugal following the unanimous adoption by the Economic and Financial Affairs Council on 12 July of the recommendations transmitted by the Commission on 7 July which concluded that no effective action had been taken by Spain and Portugal for the years 2013 to 2015.

Once these decisions were adopted, European economic and budgetary governance required the Commission to propose a new fiscal trajectory to the Member States, to set deadlines for fiscal corrections and to recommend additional measures. In addition, the Commission had 20 days in which to propose to the Member States that a fine be imposed on Spain and Portugal for failing to take effective action. Lastly, the Commission was also required to submit a proposal on the suspension of part of the commitments under the structural funds for these two Member States.

With regard to the setting of a new fiscal adjustment trajectory, Mr DOMBROVSKIS reminded the Members that the Commission had provided Spain and Portugal with preliminary guidelines in its country-specific recommendations on 18 May, but that the new fiscal adjustment path had to be adopted by a decision under the excessive deficit procedure. The Commission had not been able to table a decision following its recommendations on failure to take effective action because of market volatility at the time. That notwithstanding, he underlined the importance of setting a new fiscal trajectory, which, once completed, would enable the suspension of structural funds to be lifted.

He then turned to the level of the fines to be imposed. By law, the maximum rate was set at 0.2% of gross domestic product (GDP) of the Member State concerned. The criteria used to set the level of fines was based on the previous years in which no effective action was deemed to have been taken. Accordingly, in this case the Commission would take account not just of the years 2013 to 2015 but also of the six or seven years which followed the financial crisis, during which Spain and Portugal had made considerable efforts. Both Spain and Portugal had consolidated their public finances and implemented a number of structural reforms which justified a significant reduction in the level of fines. The future should also be taken into consideration by assessing the budgetary commitments entered into by the Spanish and Portuguese Governments. Under the law, the Commission could reduce fines on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned.

Mr DOMBROVSKIS took the view that although the economic situation was still difficult, Spain and Portugal could not invoke exceptional circumstances at this stage. The Spanish and Portuguese Governments had submitted reasoned requests to the Commission and he would restrict himself to examining their future commitments.

He noted that it was also possible to cancel the fines altogether. However, he felt that it was essential to involve the Council in a decision of this kind, even though in the absence of response from the Council or a rejection by qualified majority, the Commission's proposal was deemed to have been adopted.

Mr DOMBROVSKIS suggested therefore that the level of the fines should reflect the considerable efforts made by Spain and Portugal over the past six years and should therefore be well below 0.2% of their gross domestic product.

There was no margin of discretion when it came to the suspension of the structural funds, and a decision would have to be proposed at a later date, following talks with the European Parliament.

Mr MOSCOVICI welcomed the constructive approach of both governments, which had wanted to react before expiry of the ten-day deadline following adoption by the Council of the Decision establishing that no effective action had been taken, and wished to conclude the debate on fines, which had been ongoing since May. They had submitted their arguments to the Commission following informal talks which had allowed some of the Commission's comments on their respective budgetary situations to be taken into account. In particular, he noted that in two documents, each accompanied by a letter signed by their Finance Ministers, Spain and Portugal had set out arguments justifying their failure to take effective action.

These arguments concerning the past were somewhat similar in both cases. They were based on methodological considerations, recalling the unprecedented budgetary efforts the countries had made in previous years and the major structural reforms they had undertaken, and explaining that to continue fiscal consolidation at the same pace was becoming politically untenable, given the social legacy of the crisis and the increase in unemployment, poverty and inequality. Both Member States were therefore requesting that the penalties be cancelled. However, this was conceivable only against clear commitments for 2016 in the reasoned requests.

Mr MOSCOVICI said that Spain had pledged to bring its deficit below 3% of GDP in 2017 and to make further commitments to that end, to reform the system of advance payments of corporation tax and to adopt new measures to tackle tax evasion. According to the government, these measures would offset the deterioration of the structural deficit expected this year, which in May was calculated to be 0.5% of gross domestic product. He concluded that if the Commission was able to confirm these figures, and if the deficit remained stable, the Spanish government's commitments would be a step in the right direction.

Mr MOSCOVICI said the Portuguese authorities had pledged to act swiftly and in compliance with European rules as regards *Banco Novo* and *Caixa Gal* to guarantee the stability of the banking system as a whole, a priority for the country's economy. The Portuguese public finances showed a gap of 0.2 percentage points of GDP and the authorities had announced the sequestration of the same amount of expenditure in 2016. Lastly, the Portuguese authorities had restated their resolve to carry out structural reforms included in the country-specific recommendations addressed to Portugal by the Commission, which would have a budgetary impact in the medium term.

In conclusion, Mr MOSCOVICI emphasised that the Commission was using the fines procedure under Article 126(8) of the Treaty on the Functioning of the European Union for the first time, which meant there was no strict methodology to follow.

Even though the reasoned requests submitted by Spain and Portugal were partly insufficient and did not contain specific measures to clarify their budgetary position at this stage, he believed that the Commission could decide to cancel the fines in view of the considerable efforts made in 2013-2015, which did not justify a fine of 0.2% of gross domestic product, and in view of the convincing steps taken to reduce the identified budget shortfalls. He thought that a penalty would convey a severe message in the current political climate.

For all these reasons, Mr MOSCOVICI believed it was economically prudent and politically wise to prepare two decisions to cancel the fines for adoption by the College of Commissioners, on which the Council would have to decide.

Aside from the penalties, he said that the Commission should also adopt the proposal for partial suspension of commitments under the Structural Funds, with conditionality concerning 2017, after consulting the European Parliament. Lastly, with regard to the recommendations on future fiscal trajectories, he thought it necessary to move quickly, before the draft budgets for 2017 were prepared, to ensure that the trajectories set out were credible and could be implemented without delay.

Mr KATAINEN made the point that suspension of the structural funds was automatic under the excessive deficit procedure, and that it could concern up to 20 % of the budgetary commitments for 2017. He pointed out that only commitments for next year would be affected; funds already committed would not be concerned, and a suspension could always be lifted as soon as the Member States concerned implemented the Union’s recommendations.

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

- the need to take into account the depressed economic environment and the impact on growth prospects of the announcement of Brexit when setting the amount of fines;

- the importance of assessing the long-term consequences of cancelling fines on the credibility of the rules of economic and fiscal governance, the prospects for fiscal consolidation and the Commission’s role in budgetary surveillance; the risk that the cancellation of fines could compromise the desired deterrent effect;

- the usefulness of imposing fines in some cases, even if they were to be considerably reduced to limit their economic impact;

- the enormous efforts made by Spain and Portugal in recent years and the need to take account of unemployment and increasing poverty in those countries;

- the need to refrain from imposing fines and, in the longer term, to review the existing rules in order to lend greater credibility to the process of economic and fiscal governance and to ensure that those rules had the desired effect, particularly on growth and employment.

Mr DOMBROVSKIS said that a longer-term debate on the current governance rules would make no sense if those rules were not applied.

Mr MOSCOVICI said it was a question of finding the right balance between a literal application of the rules and fair application. In his view, the rules on economic and budgetary governance had proved themselves and worked well, as they made it possible to pursue a trajectory of budgetary consolidation while taking account of economic and social realities and efforts already made.

The PRESIDENT thanked all those who had contributed to the discussion.

The Commission took note of this information.

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

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The meeting closed at 13.21.