EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2016) 2187 final

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

Brussels, 30 November 2016

TEXTE EN

MINUTES

of the 2187th meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 25 October 2016

(afternoon)

TABLE OF CONTENTS

<u>Single sitting</u>: Tuesday 25 October 2016 (afternoon)

The sitting opened at 13.13 with Mr JUNCKER, President, in the chair.

<u>Present</u>:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	Items 1 to 10
Ms GEORGIEVA	Vice-President	Items 1 to 11 (in part)
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	Items 1 to 11 (in part) and 13/17 (in part)
Mr OETTINGER	Member	Items 1 to 8
Mr HAHN	Member	
Ms MALMSTRÖM	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	Items 1 to 11 (in part)
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr STYLIANIDES	Member	Items 1 to 11 (in part)
Mr HOGAN	Member	Items 1 to 10, and 13/17 (in part)
Ms BULC	Member	
Ms BIEŃKOWSKA	Member	
Ms JOUROVÁ	Member	Items 1 to 8 (in part)
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Ms VESTAGER	Member	
Mr MOEDAS	Member	
Sir Julian KING	Member	

Absent:

Ms MOGHERINI	High Representative / Vice-President
Mr MIMICA	Member

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

Ms PANZETTI	Chef de cabinet to Ms MOGHERINI
Mr ČAJO	A member of Mr MIMICA'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	
Mr PAQUET	Deputy Secretary-General	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr BALTAZAR	Chief adviser in the PRESIDENT's Office	
Ms SILLAVEE	PRESIDENT's Office	
Ms SUTTON	Deputy Chef de cabinet to Mr TIMMERMANS	Items 1 to 10
Mr NOCIAR	Chef de cabinet to Mr ŠEFČOVIČ	Items 8 (in part) and 11
Mr RADZIEJEWSKI	A member of Mr KATAINEN's staff	Items 8 and 9
Mr HAGER	Chef de cabinet to Mr OETTINGER	Items 9 to 17
Ms ASTERIADI	Deputy Chef de cabinet to Mr AVRAMOPOULOS	Items 9 and 10
Mr HUSAK	Chef de cabinet to Ms BIEŃKOWSKA	Item 9
Ms CONSTANTIN	A member of Ms JOUROVÁ's staff	Items 8 (in part) to 17
Ms ANDREEVA	Commission Spokesperson's Service	

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

1. AGENDAS
(OJ(2016) 2187/FINAL; SEC(2016) 436/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) 2187)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 24 October.

3. APPROVAL OF MINUTES OF THE 2184TH MEETING (4 OCTOBER), MINUTES AND SPECIAL MINUTES OF THE 2185TH MEETING (12 OCTOBER), AND MINUTES OF THE 2186TH MEETING (19 OCTOBER)
(PV(2016) 2185; PV(2016) 2185, 2ND PART)

The Commission approved the minutes of its 2185th meeting, and decided to hold over for one week approval of the minutes of its 2184th and 2186th meetings.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED (SEC(2016) 437 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 17 and 21 October.

4.2. EMPOWERMENT (SEC(2016) 438 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 17 and 21 October.

4.3. DELEGATION / SUBDELEGATION OF POWERS (SEC(2016) 439 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 17 and 21 October, as archived in Decide.

4.4. SENSITIVE WRITTEN PROCEDURES (SEC(2016) 440 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 24 October and 4 November and of the finalisation written procedure initiated following the weekly meeting of Chefs de cabinet on 24 October.

5. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2016) 441/2)

ADMINISTRATIVE MATTERS
(PERS(2016) 108)

5.1. DG HUMAN RESOURCES AND SECURITY – APPOINTMENT OF AD14/15 PRINCIPAL ADVISER (PERS(2016) 97 TO /4)

The Commission had before it an application under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Principal Adviser on security matters, in the Directorate-General for Human Resources and Security (PERS(2016) 97).

It took note of the opinions of the Consultative Committee on Appointments of 30 September and 6 October (PERS(2016) 97/3 and /4).

The Commission proceeded to consider the applicant's qualifications for the post. It also considered his ability, efficiency and conduct in the service. On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, it then decided to appoint Mr Richard SONNENSCHEIN to the post.

This decision would take effect on 1 November 2016.

5.2. EUROSTAT – INTERNAL AND INTERINSTITUTIONAL (AD15/16) AND EXTERNAL (AD15 – EU-28) PUBLICATION OF THE VACANCY NOTICE FOR A DIRECTOR-GENERAL POST (PERS(2016) 109)

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and after consulting Ms THYSSEN and also Mr DOMBROVSKIS and Mr KATAINEN, the Commission decided to authorise the publication, under

Articles 29(1)(a)(i) and (iii), 29(1)(b) and 29(2) of the Staff Regulations, of the vacancy notice set out in PERS(2016) 109 for the post of Director-General of DG Eurostat.

This decision would take effect immediately.

5.3. DG COMMUNICATION – AMENDMENT TO THE RULES GOVERNING THE COMPOSITION OF THE CABINETS OF THE MEMBERS OF THE COMMISSION AND OF THE SPOKEPERSON'S SERVICE (C(2016) 6922)

The Commission took note of the decision of the PRESIDENT set out in C(2016) 6922.

The provision concerning the composition of the Spokesperson's Service, amended accordingly, would take effect immediately.

6. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – COMMISSION WORK PROGRAMME 2017 – DELIVERING A EUROPE THAT PROTECTS, EMPOWERS AND DEFENDS (COM(2016) 710 TO /3; SWD(2016) 400 TO /3; RCC(2016) 125)

The Commission approved the Communication in COM(2016) 710/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments, together with the Commission staff working document distributed as SWD(2016) 400/3, the contents of which were noted.

7. INTERINSTITUTIONAL RELATIONS (RCC(2016) 124)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 21 October (RCC(2016) 124).

It paid particular attention to the following points.

7.1. LEGISLATIVE MATTERS

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

– Provision of further Macro-Financial Assistance to the Hashemite Kingdom of Jordan (Decision) – MAUREL report – 2016/0197 (COD)

The Commission approved the line set out in SI(2016) 398.

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

The Commission approved the line set out in SI(2016) 399.

ii) European Parliament dossier – October II part-session
(point 3.2 of the IRG record)

<u>Ordinary legislative procedure – First reading</u>

– Union legal framework for customs infringements and sanctions (Directive) – KALLAS report – 2013/0432 (COD)

The Commission approved the line set out in SP(2016) 663.

iii) Council dossiers
(point 3.3 of the IRG record)

– Fixing for 2017 of the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea (Council Regulation) – 2016/0260 (NLE)

The Commission approved the line set out in SI(2016) 400.

– Implementing enhanced cooperation in the area of financial transaction tax (Council Directive) – 2013/0045 (CNS)

The Commission approved the line set out in SI(2016) 401.

7.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iv) Programming of Council business
(SI(2016) 409)

The Commission took note of the information in SI(2016) 409 on the Council meetings between 27 October and 9 November.

v) Results of the European Council meeting (Brussels, 20 and 21 October 2016)
(SI(2016) 410)

Ms MALMSTRÖM reported on progress towards the signature and provisional application of the Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part. She said that the Commission was fully engaged in the ongoing discussions with the Minister-President of Wallonia, Paul Magnette, and the other Belgian authorities with a view to resolving the reservations expressed about the agreement. She stressed that, in this context, the Commission was adopting a constructive and neutral approach in the face of a position which seemed to be largely driven by domestic political considerations. She mentioned the efforts also made by the PRESIDENT and several Members of the Commission, the President of the European Council, Donald Tusk, and the Canadian Prime Minister and Trade Minister, Justin Trudeau and Chrystia Freeland. Although she regretted the current stalemate, which threatened to compromise the EU-Canada Summit planned for 27 October, she explained that the Economic and Trade Agreement between the EU and Canada was nevertheless still on the table and that discussions would continue until a compromise solution could be found.

The Commission took note of this information.

7.3. RELATIONS WITH PARLIAMENT

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

– Draft general budget of the European Union for 2017 – all sections – GEIER and TARAND Report

The Commission (i) approved the line set out in SP(2016) 674 and /2, (ii) authorised the Member of the Commission with responsibility for the budget to take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council in accordance with Article 314(5) of the Treaty on the Functioning of the European Union, and (iii) empowered the Member of the Commission with responsibility for the budget, in agreement with the PRESIDENT, to propose, where necessary, in the context of the conciliation procedure, amendments to the decisions on mobilising the flexibility instrument and the contingency margin, pursuant to the conditions laid down in Articles 11 and 13 respectively of the Council Regulation on the multiannual financial framework 2014-2020, and points 12 and 14 respectively of the interinstitutional agreement between the European

Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and sound financial management.

– Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – Commission's reply to written questions from the Committee of Inquiry to Mr Erkki LIIKANEN, former Member of the Commission.

The Commission took note of SP(2016) 682.

– Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – Commission's reply to written questions from the Committee of Inquiry to Ms Margot WALLSTRÖM, former Member of the Commission.

The Commission took note of document SP(2016) 683/2.

vii) Action taken on non-legislative resolutions adopted by Parliament at its March part-session – Action taken on the resolution on the tobacco agreement (*PMI* agreement)
(point 5.6.2 of the IRG record)

The Commission approved document SP(2016) 705 on the action taken on the non-legislative resolution on the tobacco agreement adopted by Parliament at its March part-session, for transmission to Parliament.

8. POLITICAL DISCUSSION ON ECODESIGN AND ENERGY LABELLING (SEC(2016) 446; RCC(2016) 126)

At the PRESIDENT's request, Mr TIMMERMANS opened the political discussion on the Commission package on ecodesign and energy labelling which followed on from the policy debate held by the College on 20 April. He reminded the meeting that the PRESIDENT had wanted to encourage the College to take political ownership of this dossier, which was often ridiculed for the supposedly intrusive nature of EU rules in certain aspects of daily life. He stressed, however, that ecodesign and energy labelling contributed to the EU's ambitious energy and climate policy objectives up to 2030, to its commitments under the agreement reached at the 21st Conference of parties to the UN Convention on Climate Change held in December 2015, and to the strategy put forward by the Commission, again in 2015, to launch the transition to a circular economy.

At the end of that initial policy debate the PRESIDENT had concluded that the College wished to present grouped proposals so as to demonstrate the cumulative savings that could be made as a result of advances in ecodesign policy or energy labelling when applied to everyday products.

He stressed that with all the measures currently being recommended, the savings made by 2030 would be equivalent to the total primary energy consumption of a country such as Sweden over one year. They would lead to advantages for businesses, whose competitiveness and innovation would receive a boost, but above all they would mean a saving in the region of €500 a year for household budgets.

In terms of content, the package was made up firstly of a new draft working plan for 2016-2019 and a draft recommendation for self-regulation providing guidance for companies that wished to conclude voluntary agreements. Lastly, he mentioned a list of ecodesign measures eagerly awaited by industry and ready for adoption.

Mr TIMMERMANS began by returning to the draft list of products envisaged for inclusion in the 2016-2019 ecodesign working plan. He focused on 5 of the 15 products included in the draft, selected on the basis of the size of the potential savings they could make.

He mentioned first two products – electric kettles and high pressure cleaners – on which a discussion must be held to decide whether they were to be included on the list of products to be subject to ecodesign or were to require a simple label enabling consumers to make fully informed purchasing choices.

He went on to mention three products in the field of information and communications technology (gateways/home network equipment, mobile/smart phones, and base stations) which offered many benefits in terms of the circular economy, and for which he recommended a separate approach, namely a detailed study with the aim of deciding whether they should be included in the working plan.

Finally, he described two other products included in the aforementioned working plan for which new measures could be drawn up, depending on the conclusions of the political discussion proposed to the College. The first concerned taps and showers, for which a simple energy label was recommended given the findings of a preliminary study that the ecodesign rules would bring few additional advantages. The second concerned windows, for which an 'installer's label' was suggested.

Mr KATAINEN commented that the recommendations presented that day to the Commission were based partly on the ecodesign regulations, which laid down consumption and energy efficiency standards for products in order to reduce emissions of pollutants, waste and energy dependence in the Union, and partly on two incentive schemes in favour of the market. These were (i) energy labelling rules which provided the information that consumers needed to make informed choices, and (ii) voluntary ecolabel schemes in the Union. He emphasised the substantial benefits that these measures could provide to consumers and in terms of job creation. That was why he recommended approving the work plan, which would trigger an internal consultation process and enable targeted communication to be developed.

Mr ŠEFČOVIČ said that the future list of products covered by the ecodesign regulations should be objectively justified by very substantial energy savings. That said, ecodesign and energy labelling accounted together for 25% of the greenhouse gas emission reduction target set for 2020. This advantage had to be built on in order to achieve the 2030 targets. He supported the recommendations presented that day to the Commission and the solid approach proposed, and was in favour of preparing a robust communication plan which demonstrated the merits of European regulation in the case of the selected products. He concluded by suggesting that future proposals be integrated into the major package of energy measures which the Commission would be invited to adopt at the end of November.

Mr ARIAS CAÑETE also stressed the importance of the planned measures, not only in terms of achieving the targets laid down in the UN climate change agreement but also in terms of competitiveness and the internal market. He was in favour of ambitious standards but called for a cautious, reasoned approach to the list of products in order to take account of the present populist climate. While acknowledging the complexity of the political decision on whether to include electric kettles on the list, he stressed the objectively substantial energy savings that could be made if they were included. In any event, he called on the whole Commission to make the case for the institution's future proposals and suggested developing positive PR highlighting the €500 savings which these proposals would generate for each household.

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

– the Members broadly supported the proposed recommendations, which were a step in the right direction, were ambitious and provided consumers with better information and businesses with greater predictability; the recommendations were consistent with the Union's policy objectives in terms of energy, action to combat climate change and commitment to the circular economy;

- prudence was advised regarding the choice of items to be included on the list of products covered by the ecodesign regulations or energy labelling measures; it was suggested that provision be made for the lists of products to be reviewed every five years;

- the need for collective ownership of proposals made by the Commission at a later stage, even if they were not always popular;

- care should be taken with information campaigns on future proposals and their political impact and economic benefits for businesses should be highlighted; at the same time, everything should be done to ensure that consumers clearly understood the tangible benefits they would receive, in particular the savings of €500 per household;

- figures or comparisons couched in simple terms and understandable at national level should demonstrate the advantages for each Member State; national politicians and consumer associations should be involved in presenting future proposals to the public and choosing the right time to do so;

- the link between the Commission's initiatives in this field and the Union's research and innovation activities should be demonstrated.

The PRESIDENT thanked Mr TIMMERMANS, Mr KATAINEN, Mr ŠEFČOVIČ and Mr ARIAS CAÑETE for their work. He summed up by noting that the Commission did not wish to present its final decision that day and would therefore refrain from any comment at this stage so as to give itself time to develop a good communication package. Accordingly, the Commission's consultations on this file would not be launched for at least two weeks.

He confirmed that 5 products (materials for the construction of greenhouses, hair dryers, toasters, signage displays and hot drink vending machines) would be excluded from the 2016-2019 ecodesign working plan, as indicated in Annex 1 to document SEC(2016) 446.

A majority of Members was in favour of including electric kettles on the future list of products covered by the ecodesign regulations because the objective arguments in favour of including them were sound, particularly in terms of the potential energy savings. However, high pressure cleaners, windows and taps and showers/water related products would require only energy labelling.

He also indicated that the three products marked with an asterisk in the box in Annex 4 (voluntary Ecolabel) to SEC(2016) 446 would not be extended.

In addition, the five products also marked with an asterisk in Annex 4 to SEC(2016) 446 for which the criteria are due to expire in 2017-2018 were being examined as part of the Regulatory Fitness and Performance Programme (REFIT). The decision on whether to continue and discontinue measures for each of these products would be confirmed once that process had been completed.

He concluded by saying that the Commission would resume work on the file in due course.

Subject to the PRESIDENT's conclusions mentioned above, the Commission took note of SEC(2016) 446.

9. INTERINSTITUTIONAL RELATIONS (CONTINUED) (RCC(2016) 124)

LEGISLATIVE MATTERS

Trilogues

(point 3.1 of the IRG record)

– Amendment of Council Directive 91/477/EEC on control of the acquisition and possession of firearms (Directive) – FORD report – 2015/0269 (COD)

Mr KATAINEN opened the discussion on the legislative work under way on the Commission's proposal on control of the acquisition and possession of firearms in the Union, aimed at combating terrorism and reinforcing public security in the EU. The divergent positions of the Council and the Parliament on certain key points of this proposal were jeopardising its rapid adoption at a time when its implementation would enable the security of EU citizens to be reinforced in the context of the increase in the number of terrorist attacks in the Union in recent months.

Ms BIEŃKOWSKA gave a more detailed account of the state of play of the legislative procedure with regard to this proposal for a directive. She pointed out that the Commission had adopted this legislative proposal only five days after the Paris attacks on 13 November 2015. It was regrettable that almost one year later, the proposal had still not been adopted. She noted with concern that the co-legislators, in particular the European Parliament, were seeking to lower the level of ambition of the proposal significantly, under the influence of an active minority of hunters, persons who engaged in shooting sports, collectors and arms dealers.

Until now, the parliamentary work had benefited from the relative lack of interest of the institution and the media in this proposal. She herself was determined to do what she could to maintain the level of ambition of the Commission's initial proposal and to give way in nothing concerning the security of EU citizens.

She therefore intended to oblige the European Parliament to face up to its responsibilities.

Ms BIEŃKOWSKA then referred to the difficult negotiations that had preceded the adoption of a common position at the Council last June and the adoption of the draft report of the European Parliament's Committee on the Internal Market and Consumer Protection in July. On 5 September, the committee had mandated its rapporteur to begin negotiations with a view to adoption of the proposal at first reading.

The main point of disagreement at this stage concerned the type of firearms to be prohibited. In its initial proposal, the Commission had proposed prohibiting semi-automatic firearms (whether automatic firearms converted into semi-automatic firearms or semi-automatic firearms that resembled automatic firearms).

The Council, while it accepted the ban on automatic firearms converted into semi-automatic firearms, considered that criteria should be proposed for defining the firearms in the second category, in particular their length and the number of projectiles authorised in their loading devices.

However, she considered Parliament's position particularly worrying, since it envisaged authorising automatic firearms converted into semi-automatic firearms provided they were converted in accordance with criteria to be laid down by the Commission. She noted that the European Parliament was proposing to prohibit loading devices, but only for more than 20 projectiles. This capacity was too high in the event of further terrorist attacks.

With regard to the question of 'semi-automatic firearms that resembled automatic firearms', she agreed that the criterion of resemblance to automatic firearms was difficult to implement and could create a legal uncertainty.

Ms BIEŃKOWSKA therefore reiterated her intention of maintaining not just the essential points of the Commission's initial proposal, in particular the prohibition of the most dangerous semi-automatic firearms, but of adding more binding provisions such as the explicit prohibition of type AK-47 Kalashnikov and their US equivalent AR-15s. These assault rifles were prohibited even in the most liberal countries in the world on the issue of the possession of weapons.

She would also be proposing the introduction of a limitation on the number of weapons authorised per person in order to reduce the circulation of semi-automatic weapons that were not prohibited.

Finally, she pointed out that the Commission had proposed, in parallel with its proposal for the revision of Directive 91/477/EEC, a regulation harmonising the criteria for deactivating firearms to render them unusable.

She stressed that this represented considerable progress in a context in which there were different rules applicable in the Union and in which certain weapons could be reactivated and used for terrorist attacks, as in the case of the attempted attack on the Thalys train. Drawing up these harmonised rules had required at least two years' intensive technical work and had been unanimously approved by experts in the Member States. This work was now being jeopardised by the European Parliament rapporteur, who was proposing that a new list of criteria, promoted by the industry, be annexed to the Directive. This would nullify the progress achieved.

Winding up, Ms BIEŃKOWSKA reiterated the importance of not allowing an active minority to lower the level of ambition of a proposal aimed at reinforcing public security in the face of terrorist threats, while trying to encourage a compromise to be reached as quickly as possible given the urgency of taking action in this field.

Sir Julian KING very much regretted the lack of progress made in this area. It was important for the Commission to maintain the chief elements of the initial proposal. He stressed that nothing could justify the reactivation of a weapon that had already been deactivated. He noted, moreover, that the measures proposed by the

Commission would in no way harm the activities of hunters or persons engaged in shooting sports. He considered that the question of the limitation of the rounds authorised for each loading device could if necessary facilitate the adoption of the proposal by the co-legislators.

Mr AVRAMOPOULOS stressed that the main points of the Commission’s proposal should be maintained in order to address the Union’s security needs. He was opposed to any attempt to dilute the initiative in the name of specific interests.

The PRESIDENT concluded the discussion by noting the College’s agreement on the line proposed. He therefore indicated that the College authorised Ms BIEŃKOWSKA, in agreement with Mr KATAINEN, Mr AVRAMOPOULOS and Sir Julian KING, to present the Commission’s position to the co-legislators.

The Commission took note of this information and approved the line set out in SI(2016) 404.

10. PROPOSAL FOR A COUNCIL IMPLEMENTING DECISION SETTING OUT A RECOMMENDATION FOR PROLONGING TEMPORARY INTERNAL BORDER CONTROL IN EXCEPTIONAL CIRCUMSTANCES PUTTING THE OVERALL FUNCTIONING OF THE SCHENGEN AREA AT RISK (COM(2016) 711 AND /2)

Mr AVRAMOPOULOS noted that, in May, the Council had decided, on the proposal of the Commission, to authorise the reintroduction, until 12 November, of border controls on certain sections of the internal borders of five Schengen countries – Austria, Denmark, Germany, Norway and Sweden. The Commission therefore needed to take an initiative that day concerning the possible prolongation of these controls and submit it to the Council for a decision.

He felt that, in doing so, the Commission should ensure a coordinated approach to border controls in accordance with the Schengen Border Code, taking all factors into account. He remarked that, at the European Council meeting of 20 and 21 October, EU leaders had agreed that their common goal was to 'get back to Schengen by adjusting the temporary internal border controls to current needs'. He stressed that the Commission's ultimate aim was also to restore the Schengen Area to full operation as soon as possible, as it had indicated in its roadmap on this issue.

However, the Commission was now proposing a one-off prolongation of border controls, at the same crossing points, for a further period of three months. As justification for this proposal, he cited the ongoing exceptional circumstances – with some 60 000 irregular migrants still present in Greece who could potentially enter other Member States – coupled with the workload created in the five countries concerned by the number of asylum applications to be processed.

As far as the Commission was concerned, these controls should only be carried out where necessary. He also pointed out that, in three months' time, the Commission expected the European Border and Coast Guard Agency to be fully operational and that the EU-Turkey joint statement on refugees would still be implemented at a steady pace.

Mr AVRAMOPOULOS stressed that the five Schengen countries covered by the proposal for a decision presented that day – Austria, Denmark, Germany, Norway and Sweden – should, on a weekly basis, check the need, frequency, location and duration of the controls, adjust their intensity to suit the threat level, reduce them gradually where possible, and cooperate with and report this information to the Commission every month.

Finally, although the five countries in question had written to the Commission to request the continuation of border controls, Slovenia had expressed concern about them on its border with Austria.

The PRESIDENT concluded by stating his desire that the latter point be examined closely and objectively based on the number of refugees, while noting the approval of Mr AVRAMOPOULOS' proposal.

The Commission adopted the Proposal for a Council Implementing Decision set out in COM(2016) 711/2, for transmission to the Council, and, for information, to the European Parliament and the national parliaments.

11. COMMISSION DECISION ON REVIEW OF THE EXEMPTION OF THE OSTSEEPIPELINE-ANBINDUNGSLEITUNG FROM THE REQUIREMENTS ON THIRD PARTY ACCESS AND TARIFF REGULATION GRANTED UNDER DIRECTIVE 2003/55/EC (C(2016) 6950; RCC(2016) 127)

Following the presentation of the various aspects of the draft decision by Mr ŠEFČOVIČ, Mr ARIAS CAÑETE and Ms VESTAGER, the Commission, on a proposal from the PRESIDENT, agreed to adopt formally the decision described in document C(2016) 6950 by finalisation written procedure, the deadline for which was set at 18.00 on Friday 28 October 2016 (PE/2016/7373).

12. OTHER BUSINESS

DRAFT BUDGETARY PLANS FOR 2017

The PRESIDENT invited Mr DOMBROVSKIS and Mr MOSCOVICI to report on the draft budgetary plans that euro area Member States had recently submitted to the Commission in accordance with Regulation 473/2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area, in the context of European economic governance of the European semester, specifically budgetary governance relating to 'two-pack' legislation.

Mr DOMBROVSKIS explained that all 18 Member States in the euro area had met the deadline of 17 October for submitting their draft budgetary plans to the Commission (which were published on the Commission's website), as had Spain and Portugal for their reports drawn up in response to the recommendations made to them in July as part of the excessive deficit procedure.

He pointed out the procedure laid down in Article 7 of the above Regulation, which stated that, 'where, in exceptional cases, after consulting the Member State concerned within one week of submission of the draft budgetary plan, the Commission identifies particularly serious non-compliance with the budgetary policy obligations laid down in the SGP, the Commission shall adopt its opinion within two weeks of submission of the draft budgetary plan'. In this case, the Commission could request that the draft plan be revised and re-submitted within three weeks. In other cases, the deadline for the adoption of Commission opinions was 30 November, which was why the issue would be raised at its meeting on 16 November.

The aim of this procedure was to inform the authorities responsible for the budgetary process in the Member States. It allowed national parliaments to take the opinions of the Commission into account when finalising financial laws.

Mr DOMBROVSKIS explained, therefore, that the first decision that the Commission had had to take at this point was whether or not it should send a letter to certain Member States. Based on a preliminary assessment, Mr DOMBROVSKIS, in liaison with Mr MOSCOVICI, was preparing to send a letter that day to seven Member States, asking them for additional information on a number of points, with a deadline of Thursday 27 October. He nonetheless emphasised that sending these letters did not mean the countries in question were being asked to revise their draft budgetary plans.

He noted that the Commission had identified three situations that posed problems, to which Mr MOSCOVICI would return, namely (i) draft budgetary plans with unchanged policies presented by interim governments, (ii) draft budgetary plans with correct targets, but which on preliminary examination appeared to run the risk of a significant gap in relation to the recommended fiscal adjustment, and (iii) draft budgetary plans that intended to deviate from the criteria of the Stability and Growth Pact.

Mr MOSCOVICI described the first category of draft budgetary plans and explained that it included Spain and Lithuania, whose sitting governments were dealing with current business while waiting for new governments to be formed. In their case, the Commission was expecting finalised draft budgetary plans that complied with the Stability and Growth Pact as soon as possible.

The draft budgetary plans of the second category, which comprised Portugal and Belgium, seemed to comply with the rules of the Stability and Growth Pact, but the Commission wanted additional information on the measures underlying the stated budgetary paths, in particular the ability to make good the structural effort planned for 2017.

Last, there was the third group of Member States, comprising Italy, Finland and Cyprus, where the Commission took the view that there was a serious risk that the draft budgetary plans would not comply with the Pact. These drafts required particular vigilance and did not correspond to the recommended or agreed targets. That was why the Commission needed additional information on the justification for these differences.

He concluded his presentation by confirming that the opinions on the 18 draft budgetary plans received would be adopted by the Commission on 16 November and presented to the Eurogroup meeting on 5 December. He noted that, on the same date, the Commission would also adopt the report on the Annual Growth Survey and the macroeconomic imbalances scoreboard.

The Commission took note of this information and these initiatives.

13. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – BUILDING A FAIR, COMPETITIVE AND STABLE CORPORATE TAX SYSTEM FOR THE EU
(COM(2016) 682 AND /2; RCC(2016) 122)

14. PROPOSAL FOR A COUNCIL DIRECTIVE ON A COMMON CONSOLIDATED CORPORATE TAX BASE (CCCTB)
(COM(2016) 683 AND /2; SWD(2016) 341 AND /2; SWD(2016) 342; SEC(2016) 443; RCC(2016) 122)

15. PROPOSAL FOR A COUNCIL DIRECTIVE ON A COMMON CORPORATE TAX BASE
(COM(2016) 685 AND /2; SWD(2016) 341 AND /2; SWD(2016) 342; SEC(2016) 443; RCC(2016) 122)

16. PROPOSAL FOR A COUNCIL DIRECTIVE ON DOUBLE TAXATION DISPUTE RESOLUTION MECHANISMS IN THE EUROPEAN UNION
(COM(2016) 686; SWD(2016) 343; SWD(2016) 344; SEC(2016) 444; RCC(2016) 122)

17. PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE (EU) 2016/1164 AS REGARDS HYBRID MISMATCHES WITH

THIRD COUNTRIES
(COM(2016) 687; SWD(2016) 345; RCC(2016) 122)

Mr MOSCOVICI outlined all of the proposals in the field of corporate taxation that were being tabled that day for the Commission's approval, a package which added to the many measures taken over the past two years to combat tax evasion and tax avoidance.

These new proposals would provide solutions to the majority of companies that wished to benefit from the internal market, pay their taxes and contribute to growth and employment in Europe. Today, these companies faced exorbitant administrative costs of more than €800 million per annum because there was no European framework.

He referred to the work carried out by the Commission with its partners since 2011 to review the outlines of the common consolidated corporate tax base (CCCTB), an initiative supported by businesses but that remained blocked in the Council. The proposal he was presenting that day was aimed specifically at relaunching the CCCTB by facilitating agreement by the Member States and making the initial proposal more attractive to companies. The proposal provided for a single common definition to enable companies to calculate their taxable profits so that they would have to file only one tax return and deal with only one tax administration, regardless of the number of Member States in which they operated. The income would then be fairly distributed between the Member States in which the company had business activities, and it would be taxed at the national rate.

This proposal had three new features, namely (i) a mechanism for correcting debt bias, in order to create a level playing field for debt and equity financing, (ii) a tax incentive for research and development in the shape of the tax deductibility of research and development expenditure that could be as high as 150% for companies spending up to €20 million, and even 200% for start-ups, and (iii) an obligation for all companies with a turnover in excess of €750 million to apply the common consolidated tax base.

Mr MOSCOVICI went on to point out that this package was also accompanied by two further key measures intended to develop the tools in the fight against tax evasion and tax avoidance, i.e. a new dispute-resolution mechanism in the event of double taxation of companies and a proposal to extend the elements of the fight against tax avoidance affecting the common consolidated tax base to other countries.

He concluded by highlighting the ambition of the Commission, which was continuing along the path it had taken by laying the foundations for fairer and more stable taxation for EU companies. Given the political dimension of these questions, however, he was proposing a two-step approach; first a common tax base, then a consolidated tax base. He did not under-estimate the difficulty of the interinstitutional negotiations ahead.

During the very brief discussion that followed, the Commission raised in particular the new features in this package of proposals and the wish to see new impetus given to this matter after ten years of deadlock in the Council.

At the end of this presentation, the Commission:

- approved the Communication in COM(2016) 682/2 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;

- adopted the proposals for Council Directives in COM(2016) 683/2 and COM(2016) 685/2 for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments and, for information, to the Committee of the Regions, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 341/2 and SWD(2016) 342, the contents of which were noted;

- decided to withdraw its proposal for a Council Directive in COM(2011) 121 final/2 of 16 March 2011;

- adopted the proposal for a Council Directive in COM(2016) 686 for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments, and, for information, to the Committee of the Regions and the European Data Protection Supervisor, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 343 and SWD(2016) 344, the contents of which were noted;

- took note of the opinions of the Regulatory Scrutiny Board in SEC(2016) 443 and SEC(2016) 444;

- adopted the proposal for a Council Directive in COM(2016) 687 for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments, and, for information, to the Committee of the Regions, together with the staff working document SWD(2016) 345, the contents of which were noted.

*

*   *

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

*

*   *

The meeting closed at 15.28.