



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2019) 2286 final**

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

Brussels, 20 March 2019

# **TEXTE EN**

## **MINUTES**

**of the 2286<sup>th</sup> meeting of the Commission**

**held in Brussels**

**(Berlaymont)**

**on Wednesday 6 March 2019**

**(morning)**

—

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**EN**

## TABLE OF CONTENTS

|                                                                                                                                                                                                                                                                             |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Attendance list</b>                                                                                                                                                                                                                                                      | <b>4-7</b> |
| 1. AGENDAS (OJ(2019) 2286/FINAL; SEC(2019) 2286 FINAL) .....                                                                                                                                                                                                                | 8          |
| 2. WEEKLY MEETING OF CHEFS DE CABINET (RCC(2019) 2286) .....                                                                                                                                                                                                                | 8          |
| 3. APPROVAL OF THE MINUTES OF THE 2283 <sup>RD</sup> , 2284 <sup>TH</sup> , AND<br>2285 <sup>TH</sup> COMMISSION MEETINGS (12, 20 AND 27 FEBRUARY 2019)<br>(PV(2019) 2283; PV(2019) 2283, 2 <sup>ND</sup> PART; PV(2019) 2284,<br>PV(2019) 2284, 2 <sup>ND</sup> PART)..... | 8          |
| 4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION<br>OF POWERS.....                                                                                                                                                                                                         | 8          |
| 4.1. WRITTEN PROCEDURES APPROVED (SEC(2019) 77 ET SEQ.).....                                                                                                                                                                                                                | 8          |
| 4.2. EMPOWERMENT (SEC(2019) 78 ET SEQ.) .....                                                                                                                                                                                                                               | 9          |
| 4.3. DELEGATION / SUBDELEGATION OF POWERS (SEC(2019) 79 ET SEQ.) .....                                                                                                                                                                                                      | 9          |
| 4.4. SENSITIVE WRITTEN PROCEDURES (SEC(2019) 80 AND /2) .....                                                                                                                                                                                                               | 9          |
| 5. PROGRESS REPORT FROM THE COMMISSION TO THE<br>EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE<br>COUNCIL ON THE IMPLEMENTATION OF THE EUROPEAN<br>AGENDA ON MIGRATION (COM(2019) 126 TO /3; RCC(2019) 23).....                                                         | 9          |
| 6. OTHER BUSINESS.....                                                                                                                                                                                                                                                      | 10         |
| <i>WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION UNDER<br/>ARTICLE 50 OF THE TREATY ON EUROPEAN UNION</i> .....                                                                                                                                                           | 10         |
| 7. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2019) 81).....                                                                                                                                                                                                                 | 10         |
| <i>SECRETARIAT-GENERAL / REGULATORY SCRUTINY BOARD – APPOINTMENT OF<br/>THE AD15/16 CHAIR OF THE REGULATORY SCRUTINY BOARD (PERS(2019) 86</i>                                                                                                                               |            |

|                                                                                                                                                                                           |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| TO /4).....                                                                                                                                                                               | 11 |
| 8. POLICY DEBATE ON THE STRATEGIC REVIEW OF RELATIONS<br>BETWEEN THE EUROPEAN UNION AND CHINA (SEC(2019) 146).....                                                                        | 11 |
| 9. INTERINSTITUTIONAL RELATIONS (RCC(2019) 25) .....                                                                                                                                      | 12 |
| 9.1. HORIZONTAL MATTERS .....                                                                                                                                                             | 12 |
| 9.2. LEGISLATIVE MATTERS .....                                                                                                                                                            | 15 |
| 9.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL .....                                                                                                                            | 23 |
| 9.4. RELATIONS WITH NATIONAL PARLIAMENTS, THE OTHER INSTITUTIONS<br>AND BODIES, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND<br>THE COMMITTEE OF THE REGIONS.....                       | 27 |
| 10. JOINT PROPOSAL FOR A COUNCIL REGULATION CONCERNING<br>RESTRICTIVE MEASURES TO COUNTER CYBER-ATTACKS<br>THREATENING THE UNION OR ITS MEMBER STATES<br>(JOIN(2019) 3; HR(2019) 20)..... | 27 |

**Single sitting: Wednesday 6 March 2019 (morning)**

The sitting opened at 9.05 with Mr JUNCKER, President, in the chair.

**Present:**

|                 |                                         |                         |
|-----------------|-----------------------------------------|-------------------------|
| Mr JUNCKER      | President                               |                         |
| Mr TIMMERMANS   | First Vice-President                    | Items 6 to 10           |
| Ms MOGHERINI    | High Representative /<br>Vice-President |                         |
| Mr ANSIP        | Vice-President                          |                         |
| Mr DOMBROVSKIS  | Vice-President                          | Items 1 to 8 (in part)  |
| Mr KATAINEN     | Vice-President                          |                         |
| Mr HAHN         | Member                                  | Items 6 to 10           |
| Ms MALMSTRÖM    | Member                                  | Items 1 to 8 (in part)  |
| Mr ANDRIUKAITIS | Member                                  |                         |
| Mr AVRAMOPOULOS | Member                                  |                         |
| Mr MOSCOVICI    | Member                                  | Items 6 (in part) to 10 |
| Mr STYLIANIDES  | Member                                  |                         |
| Mr HOGAN        | Member                                  |                         |
| Ms JOUROVÁ      | Member                                  |                         |
| Mr NAVRACSICS   | Member                                  | Items 6 (in part) to 10 |
| Ms CREȚU        | Member                                  | Items 1 to 9 (in part)  |
| Ms VESTAGER     | Member                                  |                         |
| Mr MOEDAS       | Member                                  |                         |
| Sir Julian KING | Member                                  | Items 6 to 10           |
| Ms GABRIEL      | Member                                  |                         |

Absent:

|                 |                |
|-----------------|----------------|
| Mr ŠEFČOVIČ     | Vice-President |
| Mr OETTINGER    | Member         |
| Mr MIMICA       | Member         |
| Mr ARIAS CAÑETE | Member         |
| Mr VELLA        | Member         |
| Ms THYSSEN      | Member         |
| Ms BULC         | Member         |
| Ms BIENKOWSKA   | Member         |

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

|                    |                                    |
|--------------------|------------------------------------|
| Mr HAGER           | Chef de cabinet to Mr OETTINGER    |
| Mr BEHRNDT         | Chef de cabinet to Mr MIMICA       |
| Ms LOBILLO BORRERO | Chef de cabinet to Mr ARIAS CAÑETE |
| Mr MUELLER         | Chef de cabinet to Mr VELLA        |
| Ms BERNAERTS       | Chef de cabinet to Ms THYSSEN      |
| Mr ZAKONJŠEK       | Chef de cabinet to Ms BULC         |
| Mr HUSAK           | Chef de cabinet to Ms BIENKOWSKA   |

The following also sat in:

|                      |                                                                                |                         |
|----------------------|--------------------------------------------------------------------------------|-------------------------|
| Ms MARTÍNEZ ALBEROLA | Chef de cabinet to the PRESIDENT                                               |                         |
| Mr ROMERO REQUENA    | Director-General, Legal Service                                                |                         |
| Ms BOUYGUES          | Acting Director-General,<br>DG Communication                                   |                         |
| Mr SCHINAS           | Head of the Spokesperson's Service and<br>Chief Spokesperson of the Commission |                         |
| Ms METTLER           | Head of the European Political Strategy<br>Centre                              |                         |
| Ms AHRENKILDE HANSEN | Deputy Secretary-General                                                       |                         |
| Ms JUHANSONE         | Deputy Secretary-General                                                       |                         |
| Mr SZOSTAK           | Deputy Chef de cabinet to<br>the PRESIDENT                                     | Items 8 (in part) to 10 |
| Ms DEJMEK HACK       | Adviser in the PRESIDENT's Office                                              | Items 1 to 8 (in part)  |
| Ms CANENBLEY         | Adviser in the PRESIDENT's Office                                              | Item 8                  |
| Mr DELVAUX           | Adviser in the PRESIDENT's Office                                              | Item 8 (in part)        |
| Ms HILI              | Adviser in the PRESIDENT's Office                                              | Item 9 (in part)        |
| Ms ARKI              | PRESIDENT's Office                                                             |                         |
| Mr GRASSI            | Chef de cabinet to Ms MOGHERINI                                                | Items 8 to 10           |
| Mr WYNANDS           | Chef de cabinet to Mr DOMBROVSKIS                                              | Items 8 (in part) and 9 |

|                   |                                                           |                         |
|-------------------|-----------------------------------------------------------|-------------------------|
| Mr COGET          | A member of Mr KATAINEN's staff                           | Item 8                  |
| Mr CEBALLOS BARÓN | Deputy Chef de cabinet to<br>Ms MALMSTRÖM                 | Items 8 (in part) to 10 |
| Ms NIKOLAY        | Chef de cabinet to Ms JOUROVÁ                             | Items 1 to 9 (in part)  |
| Mr BARNIER        | Chief negotiator and Head of the Article 50<br>Task Force | Items 1 to 6            |
| Ms VILA NUÑEZ     | Secretariat-General                                       | Items 8 (in part) to 10 |
| Mr SNELS          | Secretariat-General                                       | Items 1 to 8 (in part)  |
| Mr CAINZOS        | Secretariat-General                                       | Items 7 to 10           |
| Ms ANDREEVA       | Commission Spokesperson's Service                         |                         |

Secretary: Mr SELMAYR, Secretary-General, for items 1 to 8 (in part), and Ms JUHANSONE, Deputy Secretary-General, for items 8 (in part) to 10, both assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

**1. AGENDAS**

**(OJ(2019) 2286/FINAL; SEC(2019) 2286 FINAL)**

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings. It also took note of the addition of item 7 (on an administrative decision) to that day's agenda.

**2. WEEKLY MEETING OF CHEFS DE CABINET**

**(RCC(2019) 2286)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 March 2019.

**3. APPROVAL OF THE MINUTES OF THE 2283<sup>RD</sup>, 2284<sup>TH</sup>, AND 2285<sup>TH</sup> COMMISSION MEETINGS (12, 20 AND 27 FEBRUARY 2019)**

**(PV(2019) 2283; PV(2019) 2283, 2<sup>ND</sup> PART; PV(2019) 2284, PV(2019) 2284, 2<sup>ND</sup> PART)**

The Commission approved the minutes of its 2283<sup>rd</sup> and 2284<sup>th</sup> meetings and decided to hold over approval of the minutes of its 2285<sup>th</sup> meeting for a later meeting.

**4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS**

**4.1. WRITTEN PROCEDURES APPROVED**

**(SEC(2019) 77 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 25 February and 1 March 2019.

**4.2. EMPOWERMENT**

**(SEC(2019) 78 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 25 February and 1 March 2019.

**4.3. DELEGATION / SUBDELEGATION OF POWERS**

**(SEC(2019) 79 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 25 February and 1 March 2019, as archived in Decide.

**4.4. SENSITIVE WRITTEN PROCEDURES**

**(SEC(2019) 80 AND /2)**

The Commission took note of the sensitive written procedures for which the time limit expired between 4 and 8 March 2019 and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 4 March 2019.

**5. PROGRESS REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL ON THE IMPLEMENTATION OF THE EUROPEAN AGENDA ON MIGRATION  
(COM(2019) 126 TO /3; RCC(2019) 23)**

The Commission approved the report in COM(2019) 126/3, for transmission to Parliament, the European Council and the Council and, for information, to the national parliaments.

**6. OTHER BUSINESS**

***WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION UNDER  
ARTICLE 50 OF THE TREATY ON EUROPEAN UNION***

The PRESIDENT asked Mr BARNIER to inform the college about the latest developments concerning the agreement with the United Kingdom setting out the arrangements for its withdrawal from the Union under Article 50 of the Treaty on European Union.

**7. ADMINISTRATIVE AND BUDGETARY MATTERS  
(SEC(2019) 81)**

**ADMINISTRATIVE MATTERS  
(PERS(2019) 11)**

At the request of the PRESIDENT, Mr TIMMERMANS presented a proposal for a decision, which he was submitting to the College for approval.

Mr TIMMERMANS explained that it was proposed to appoint Ms Veronica GAFFEY, currently Director of the Office for Administration and Payment of Individual Entitlements (*PMO*), to the post of Chair of the Regulatory Scrutiny Board, which was administratively attached to the Secretariat-General.

He congratulated Ms Veronica GAFFEY, highlighting her extensive experience and expressing his complete trust in her. Ms GAFFEY would take up her new duties on 16 March 2019 in a body which played a key role in translating into practice the Commission's desire to improve law-making.

The PRESIDENT noted the College's agreement on this proposal for a decision.

**SECRETARIAT-GENERAL / REGULATORY SCRUTINY BOARD –  
APPOINTMENT OF THE AD15/16 CHAIR OF THE REGULATORY  
SCRUTINY BOARD**

**(PERS(2019) 86 TO /4)**

The Commission had before it the list of applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Chair of the Regulatory Scrutiny Board in the Secretariat-General (PERS(2019) 86 and 2).

It took note of the opinions of the Consultative Committee on Appointments of 5 and 22 February 2019 (PERS(2019) 86/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from the PRESIDENT and after consulting Mr TIMMERMANS and Mr OETTINGER, it decided to appoint Ms Veronica GAFFEY to the post.

This decision would take effect on 16 March 2019.

**8. POLICY DEBATE ON THE STRATEGIC REVIEW OF RELATIONS  
BETWEEN THE EUROPEAN UNION AND CHINA  
(SEC(2019) 146)**

The Commission held a policy debate on the basis of the background note entitled 'European Union-China: Strategic Review', the output of which would be the preparation of a communication that would be submitted to the College for approval at its meeting on 12 March 2019.

The Commission took note of these contributions and of the background note distributed as SEC(2019) 146.

## **9. INTERINSTITUTIONAL RELATIONS**

**(RCC(2019) 25)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 1 March 2019 (RCC(2019) 25).

It paid particular attention to the following points.

### **9.1. HORIZONTAL MATTERS**

#### **i) 2021-2027 Multiannual Financial Framework – Trilogues**

(point 1.1.1 of the IRG record)

- European Defence Fund (Regulation) – KRASNODEBSKI report 2018/0254 (COD)

The Commission approved the line set out in SI(2019) 218/2.

- Space programme of the Union and the European Union Agency for the Space Programme, and repeal of Regulations (EU) 912/2010, (EU) 1285/2013, (EU) 377/2014 and Decision 541/2014/EU (Regulation) – SALINI report – 2018/0236 (COD)

At the request of the PRESIDENT, and Ms BIENKOWSKA being absent, Mr KATAINEN informed the College of the state of negotiations regarding the proposal for a Regulation of the European Parliament and of the Council establishing the space programme of the Union, which the Commission had adopted on 6 June 2018 among its sectoral or thematic proposals under the next multiannual financial framework (2021-2027).

He informed the College that following the second trilogue held on 26 February 2019 the European Parliament and the Council had agreed partially on a text which, although similar on a number of points to the one proposed by the Commission, contained institutional aspects that were unacceptable to the Commission.

According to the amended text, the Commission would grant the European Global Navigation Satellite Systems Agency (GSA), based in Prague, which was in charge of managing the European satellite navigation system programmes (Galileo and EGNOS), a delegation to execute part of the EU's general budget. The Agency could then subdelegate some tasks to the European Space Agency, an intergovernmental organisation that was independent from the Union. Mr KATAINEN specified that, to date, when the European GNSS Agency faced specific needs, it did not subdelegate any task to the European Space Agency, but established working arrangements with it on a contractual basis.

Mr KATAINEN drew the College's attention to the fact that this possibility of subdelegating, making it easier to transfer funding to an entity which was subject to different rules to those of the Union (intergovernmental in this case), and to which some third countries were parties, including the United Kingdom after its withdrawal from the Union, not only came into conflict with the Financial Regulation which applied to the European general budget but also risked jeopardising the Union's interests. Since the European Space Agency adopted its decisions unanimously, certain third countries could hinder the implementation of the Union's space programme.

Mr KATAINEN expressed his surprise at the European Parliament's and the Council's joint desire to outsource the execution of the Union's budgetary resources to a third party and stressed the need for the Commission to defend its prerogatives and explore with those two institutions the possibility of amending the text they had agreed on in order, at the very least, to make the possibility of subdelegation subject to specific conditions, so that the Commission could check, prior to any subdelegation, that the Union's interests were safeguarded, in particular in view of the withdrawal of the United Kingdom from the Union, and that the requirements of the Financial Regulation from which the subdelegation did not require derogation were complied with.

The PRESIDENT, too, reiterated the importance of having a Member of the Commission present during the trilogues.

The Commission took note of this information and approved the line set out in SI(2019) 233/2.

- ‘Customs’ programme for cooperation in the field of customs (Regulation) – GRAPINI report – 2018/0232 (COD)

The Commission approved the line set out in SI(2019) 221.

- Establishment, as part of the Integrated Border Management Fund, of the instrument for financial support for customs control equipment (Regulation) – POSPÍŠIL report – 2018/0258 (COD)

The Commission approved the line set out in SI(2019) 222/2.

- Connecting Europe Facility and repeal of Regulations (EU) 1316/2013 and (EU) 283/2014 (Regulation) – MARINESCU & VIRKKUNEN & TELIČKA report – 2018/0228 (COD)

The Commission approved the line set out in SI(2019) 237/3.

**ii) 2021-2027 Multiannual Financial Framework – European Parliament**

(point 1.1.2 of the IRG record)

- Asylum and Migration Fund (Regulation) – DALLI report – 2018/0248 (COD)

The Commission approved the line set out in SP(2019) 164/2.

- Establishment, as part of the Integrated Border Management Fund, of the instrument for financial support for border management and visa (Regulation) – FAJON report – 2018/0249 (COD)

The Commission approved the line set out in SP(2019) 165/2.

- Internal Security Fund (Regulation) – HOHLMEIER report – 2018/0250 (COD)

The Commission approved the line set out in SP(2019) 166/2.

- European Solidarity Corps programme and repeal of [European Solidarity Corps Regulation] and Regulation (EU) 375/2014 (Regulation) – ŠOJDROVÁ report – 2018/0230 (COD)

The Commission approved the line set out in SP(2019) 167 and /2.

## **9.2. LEGISLATIVE MATTERS**

### **iii) Trilogues**

(point 3.1 of the IRG Record)

- Amendment of Regulation (EC) 883/2004 on the coordination of social security systems and Regulation (EC) 987/2009 laying down the procedure for implementing Regulation (EC) 883/2004 (Regulation) – BALAS report – 2016/0397 (COD)

The Commission approved the line set out in SI(2019) 56/2.

- Protection of persons reporting on breaches of Union law (Directive) – ROZIÈRE report – 2018/0106 (COD)

The Commission approved the line set out in SI(2019) 200/2.

- Amendment of Directive 2008/96/EC on road infrastructure safety management (Directive) – AIUTO report – 2018/0129 (COD)

The Commission approved the line set out in SI(2019) 227.

- Preparation for the United Kingdom's withdrawal from the Union – Certain aspects of railway safety and connectivity with regard to the

withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (Regulation) – ERTUG report – 2019/0040 (COD)

The Commission approved the line set out in SI(2019) 247.

- Disclosures relating to sustainable investments and sustainability risks and amendment of Directive (EU) 2016/2341 (Regulation) – TANG report – 2018/0179 (COD)

The Commission approved the line set out in SI(2019) 240.

- Amendment of Regulation (EU) 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amendment of Regulation (EU) 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs (Regulation) – HÜBNER report – 2017/0136 (COD)

The Commission approved the line set out in SI(2019) 241.

**iv) European Parliament Dossiers – March I 2019 part-session**

(point 3.2 of the IRG Record)

Ordinary legislative procedure – First reading

- Preparation for the United Kingdom's withdrawal from the Union – Amendment of Regulation (EC) 391/2009 on common rules and standards for ship inspection and survey organisations with regard to the withdrawal of the United Kingdom from the Union (Regulation – recast) – DE MONTE report – 2018/0298 (COD)

The Commission approved the line set out in SP(2019) 168 and took note of the compromise text annexed thereto.

- Preparation for the United Kingdom's withdrawal from the Union – Common rules ensuring basic road freight connectivity with regard to the

(6 March 2019)

withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (Regulation) – DE MONTE report – 2018/0436 (COD)

The Commission approved the line set out in SP(2019) 170/2.

- Preparation for the United Kingdom's withdrawal from the Union – Common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (Regulation) – TELIČKA report – 2018/0433 (COD)

The Commission took note of SP(2019) 171, further to note SI(2019) 119, which it had already approved on 27 February 2019.

- Preparation for the United Kingdom's withdrawal from the Union – Certain aspects of aviation safety with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (Regulation) – ZŁOTOWSKI report – 2018/0434 (COD)

The Commission took note of SP(2019) 172, further to note SI(2019) 51/2, which it had already approved on 23 January 2019 and to document SP(2019) 122, of which it had already taken note on 12 February 2019.

- Preparation for the United Kingdom's withdrawal from the Union – Amendment of Regulation (EU) 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union (Regulation) – 2019/0009 (COD) / Amendment of Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters (Regulation) – 2019/0010 (COD)

The Commission approved the line set out in SP(2019) 173/2.

- Preparation for the United Kingdom's withdrawal from the Union – Amendment of Council Regulation (EC) 428/2009 by granting a Union

General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland (Regulation) – BUCHNER report – 2018/0435 (COD)

The Commission approved the line set out in SP(2019) 175.

- Preparation for the United Kingdom's withdrawal from the Union – Ensuring the continuation of the territorial cooperation programmes PEACE IV (Ireland - United Kingdom) and United Kingdom-Ireland (Ireland - Northern Ireland - Scotland) in the context of the withdrawal of the United Kingdom from the EU (Regulation) – MIHAYLOVA report – 2018/0432 (COD)

The Commission approved the line set out in SP(2019) 176.

- Visa Information System and visa processing – Amendment of Regulation (EC) 767/2008, Regulation (EC) 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation (EU) XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repealing Council Decision 2008/633/JHA (Regulation) – COELHO report – 2018/0152 (COD)

The Commission approved the line set out in SP(2019) 192.

- Electronic freight transport information (Regulation) – SCHMIDT report – 2018/0140 (COD)

The Commission approved the line set out in SP(2019) 177.

- Safeguarding of competition in air transport, repeal of Regulation (EC) 868/2004 (Regulation) – PIEPER report – 2017/0116 (COD)

The Commission approved the line set out in SP(2019) 178 and took note of the compromise text annexed thereto.

(6 March 2019)

- Port reception facilities for the delivery of waste from ships, repeal of Directive 2000/59/EC and amendment of Directive 2009/16/EC and Directive 2010/65/EU (Directive) – MEISSNER report – 2018/0012 (COD)

The Commission took note of SP(2019) 179, further to note SI(2018) 767, which it had already approved on 19 December 2018.

- Import of cultural goods (Regulation) – MOSCA & DALTON report – 2017/0158 (COD)

The Commission approved the line set out in SP(2019) 180 and took note of the compromise text annexed thereto.

- Amendment of Regulation (EU) 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (Regulation) – SELIMOVIC report – 2018/0040 (COD)

The Commission approved the line set out in SP(2019) 181/2 and took note of the compromise text annexed thereto.

- Definition, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs and the protection of geographical indications for spirit drinks (Regulation) – AYUSO report – 2016/0392 (COD)

The Commission approved the line set out in SP(2019) 182 and /2 and took note of the compromise text annexed to document SP(2019) 182.

- Unfair trading practices in business-to-business relationships in the food supply chain (Directive) – DE CASTRO report – 2018/0082 (COD)

The Commission took note of SP(2019) 183, further to note SI(2019) 3, which it had already approved on 9 January 2019.

- European citizens’ initiative (Regulation) – SCHÖPFLIN report – 2017/0220 (COD)

The Commission took note of SP(2019) 184, further to note SI(2019) 141, which it had already approved on 12 February 2019.

- Amendment of Regulation (EU, Euratom) 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament (Regulation) – WIELAND & BRESSO report – 2018/0336 (COD)

The Commission took note of SP(2019) 185, further to note SI(2018) 742, which it had already approved on 19 December 2018.

- EU Cybersecurity Agency (ENISA), repeal of Regulation (EU) 526/2013, and Information and Communication Technology cybersecurity certification (Regulation) – NIEBLER report – 2017/0225 (COD)

The Commission took note of SP(2019) 186, further to note SI(2018) 761, which it had already approved on 19 December 2018.

- Approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (Directive) – LØKKEGAARD report – 2015/0278 (COD)

The Commission took note of SP(2019) 187, further to note SI(2019) 36/2, of which it had already taken note on 23 January 2019.

- Amendment of Regulation (EU) 575/2013 as regards minimum loss coverage for non-performing exposures (Regulation) – DE LANGE & GUALTIERI report – 2018/0060 (COD)

The Commission took note of SP(2019) 188, further to note SI(2019) 174, which it had already approved on 20 February 2019.

Special legislative procedure

- Creation of the European Monetary Fund (Council Regulation) – SILVA PEREIRA & MAŇKA report – 2017/0333R (APP)

The Commission approved the line set out in SP(2019) 189.

- Jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, and international child abduction (Council Regulation – recast) – ZWIEFKA report – 2016/0190 (CNS)

The Commission approved the line set out in SP(2019) 190.

**v) Council dossiers**

(point 3.3 of the IRG Record)

- Quality of water intended for human consumption (Directive – recast) – DANTIN report – 2017/0332 (COD)

The Commission approved the line set out in SI(2019) 225/2.

- Amendment of Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (Council Directive) – Rapport VIEGAS – 2018/0173 (CNS)

The Commission approved the line set out in SI(2019) 226/2.

- Common system of a digital services tax on revenues resulting from the provision of certain digital services (Council Directive) – TANG report – 2018/0073 (CNS)

The Commission approved the line set out in SI(2019) 231.

- Establishing the general arrangements for excise duty (Council Directive – recast) – VIEGAS report – 2018/0176 (CNS) / Computerising the

movement and surveillance of excise goods (Decision – recast) – SWINBURNE report – 2018/0187 (COD) / Amendment of Regulation (EU) 389/2012 on administrative cooperation in the field of excise duties as regards the content of the electronic register (Council Regulation) – MALETIĆ report – 2018/0181 (CNS)

The Commission approved the line set out in SI(2019) 228/3.

- Amendment of Council Directive 2006/112/EC of 28 November 2006 as regards provisions relating to distance sales of goods and certain domestic supplies of goods (Council Directive) – 2018/0415 (CNS) / Amendment of Regulation (EU) 282/2011 as regards supplies of goods or services facilitated by electronic interfaces and the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods (Council Implementing Regulation) – 2018/0416 (NLE)

The Commission approved the line set out in SI(2019) 245.

- Action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Regulation) – ROZIÈRE report – 2018/0189 (COD) / Accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Council Decisions) – ROZIÈRE report – 2018/0214 (NLE)

The Commission approved the line set out in SI(2019) 235 and /2.

- European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres (Regulation) – REDA report – 2018/0328 (COD)

The Commission approved the line set out in SI(2019) 239.

### **9.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL**

#### **vi) Programming of Council business**

(SI(2019) 248)

The Commission took note of the information in SI(2019) 248 on the Council meetings between 7 and 20 March 2019.

#### **vii) Latest developments in the Council**

(point 4.4 of the IRG Record)

- Economic and Financial Affairs Council of 12 March 2019 – EU list of non-cooperative jurisdictions for tax purposes – Communication from the Commission on an external strategy for effective taxation (COM(2016) 24)

The Commission took note of the information in SI(2019) 230/2.

- List of high-risk third countries with strategic deficiencies in their anti-money laundering and counter-terrorist financing regimes (Commission Delegated Regulation)

The PRESIDENT asked Ms JOUROVÁ to take stock of the situation with regard to the Delegated Regulation by which the Commission had approved in principle, on 23 January 2019, and adopted on 13 February, after consulting the group of experts from the competent Member States, the list of third countries and territories with strategic deficiencies in their anti-money laundering and counter-terrorist financing regimes. These shortcomings posed a significant threat to the financial system of the Union (the ‘list of high-risk third countries’).

Ms JOUROVÁ began by referring to the fact that this list had been drawn up on the basis of a legal obligation imposed by the fourth Directive (EU) 2015/849 on combating money laundering, in compliance with the standards adopted by the Union under the fifth Directive (EU) 2018/843 in

order to draw lessons notably from the Panama Papers scandal and terrorist attacks. These standards were more stringent than those applied to the list of high-risk third countries drawn up by the Financial Action Task Force (FATF) established by the Organisation for Economic Cooperation and Development (OECD). Therefore, the Union could no longer make do with the FATF's list of high-risk third countries, but had to carry out an independent risk assessment to establish its own listing.

The Delegated Regulation was expected to enter into force provided neither the European Parliament or the Council raised objections within one month, i.e. before 13 March 2019. On 1 March, however, the Council's Financial Attachés had unanimously expressed their opposition to the Delegated Regulation. However, the competent committees of the European Parliament had not yet made known their position, which could be in favour of the Delegated Regulation.

In this context, Ms JOUROVÁ was seeking the opinion of the Members of the Commission on the best approach to adopt, given the position expressed by the Council's Financial Attachés and the list's politically and geopolitically sensitive nature.

As a first step, she proposed raising awareness among ministers of the Member States at the Justice and Home Affairs Council on 7 March of the political risks facing the EU institutions collectively if an autonomous Commission list were not adopted, beyond even the violation the legal obligation to establish it. She also suggested that, should the Council confirm its objection to the act adopted by the Commission, the Commission should step up dialogue with the Member States to increase their confidence in the exercise, develop further the consultation of third countries concerned by the list, rework the methodology used to assess third countries and present a new draft Delegated Regulation in June 2019.

In the course of the discussion that followed, the Commission raised the

following key points:

- the absolute necessity, given the political and geopolitical sensitivity of the exercise, to maintain and strengthen close dialogue with the Member States and the third countries concerned;
- recognition of the pressure exerted by certain third countries on certain Member States;
- the need to understand the reasons for the disappointment of the countries listed, in all likelihood prompted by the methodology used and the perceived insufficient cooperation from an early stage, above all in the case of countries that were, moreover, Union partners;
- encouragement to continue the efforts to achieve the adoption of an autonomous list, particularly in the light of the experience with the list of non-cooperative jurisdictions for tax purposes, which was initially rejected in 2016 before winning support thanks to the Commission's work explaining it;
- the possibility and advisability of presenting the list in another way by introducing different categories of third countries depending on the severity of the risks identified;
- a reminder that the legal obligation to draw up a list of high-risk third countries and to do so autonomously on the basis of strict criteria expressed the deliberate choices of Parliament and the Council;
- the desirability of adopting a list of high-risk third countries during the current term of office and presenting another draft Delegated Regulation in good time after having refined the methodology and ensured the trust of the Member States and third countries in the exercise, with a reminder that the sole objective was to deal effectively with the serious threats to the Union's financial system, without any punitive intention;

- the need not to repeal the act purely on the basis of the position of the Council's Financial Attachés in order, on the one hand, to generate a debate in the Council at ministerial level and, on the other, to take account of Parliament's position and thus to respect the institutional balance;
- a reminder of the obligation for each Member of the Commission to defend, under the principle of collective responsibility, any decision taken by the College, including at technical level.

Ms JOUROVÁ highlighted the reasons which had rightly led to the need for an autonomous EU list, without excluding the possibility that the list could be refined on the basis of the rating of risks and the methodology could be improved.

In conclusion, the PRESIDENT called for the institutional balance to be respected and for a political debate to be generated. This could take place at the Justice and Home Affairs Council of 7 March 2019, at which the ministers opposing the current draft Delegated Regulation would set out the reasons for their objection.

He also stressed the importance of communicating the measure with care and explaining the differences between the Commission's list and that of the Financial Action Task Force.

Lastly, the PRESIDENT said that if the Council were to object to the Delegated Regulation in question, the Commission would in any event have to re-examine this issue in June in order to examine a new draft list of high-risk third countries and decide on its adoption during the current term of office.

The Commission took note of these conclusions and of the background note distributed as SEC(2019) 148.

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

**viii) Follow-up to opinions of the Committee of the Regions – Plenary session of October 2018**

(point 6.4.1 of the IRG record)

The Commission approved document SR(2019) 2/3 on the action taken by the Commission on the opinions adopted by the Committee of the Regions at its October 2018 session, for transmission to that Committee.

**10. JOINT PROPOSAL FOR A COUNCIL REGULATION CONCERNING RESTRICTIVE MEASURES TO COUNTER CYBER-ATTACKS THREATENING THE UNION OR ITS MEMBER STATES  
(JOIN(2019) 3; HR(2019) 20)**

Ms MOGHERINI pointed out that the European Council, in its conclusions of 18 October 2018, had called for the work on the capacity to respond to and deter cyber-attacks through EU restrictive measures to be taken forward.

In response to this call, the departments under her authority had prepared a proposal for a Council Decision setting out the framework for the adoption of targeted restrictive measures to prevent and respond to large-scale cyber-attacks threatening the integrity and security of the EU, its Member States or their citizens. Natural or legal persons, groups or entities identified as responsible for or involved in cyber-attacks or attempted cyber-attacks, regardless of their location in the world, could therefore be placed, following a subsequent decision of the Council, on a list of the entities subject to restrictive measures.

However, to supplement this proposal for a Council Decision, a Council Regulation on a joint proposal from the Commission and the High Representative of the Union

(6 March 2019)

for Foreign Affairs and Security Policy was necessary under Article 215 of the Treaty on the Functioning of the European Union, and it was precisely that proposal that was being submitted to the College for approval that day.

A brief discussion ensued, during which it was suggested that it be explicitly stated that the Council decision identifying the natural or legal persons subject to restrictive measures would be put to a qualified majority vote in the Council. In that regard, Ms MOGHERINI pointed out that, although the Council's practice was to decide by consensus on matters relating to restrictive measures, Article 215 of the Treaty on the Functioning of the European Union, the legal basis of the proposal on the list of the natural or legal persons subject to restrictive measures, provided for the Council to vote by qualified majority.

After taking note of the proposal for a Council Decision in document HR(2019) 20, which Ms MOGHERINI was presenting in parallel on the same subject in her capacity as High Representative for Foreign Affairs and Security Policy, the Commission, on a proposal from the PRESIDENT, confirmed that the joint proposal for a Council Regulation set out in JOIN(2019) 3 would be adopted by finalisation written procedure, the deadline for which was set at 10.00 on Friday 8 March 2019 (PE/2019/1442).

The Commission also confirmed that the Council should adopt the implementing restrictive measures by qualified majority.

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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 11.34.