



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2014) 2082 final**

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

Brussels, 7 May 2014

# TEXTE EN

## MINUTES

of the 2082<sup>nd</sup> meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 9 April 2014

(morning)

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**Single sitting: Wednesday 9 April 2014 (morning)**

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

**Present:**

Mr BARROSO	Chair	
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	Item 12
Mr ŠEFČOVIČ	Vice-President	
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	
Mr BARNIER	Member	
Ms VASSILIOU	Member	Item 12
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	Item 12
Ms GEOGHEGAN-QUINN	Member	
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Ms GEORGIEVA	Member	
Mr OETTINGER	Member	
Mr FÜLE	Member	
Mr ANDOR	Member	Items 1 to 12
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	
Mr BORG	Member	
Mr MIMICA	Member	

Absent:

Baroness ASHTON	High Representative/ Vice-President
Mr KALLAS	Vice-President
Mr REHN	Vice-President
Mr HAHN	Member
Ms HEDEGAARD	Member

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

Mr BANNERMAN	Adviser in Baroness ASHTON's Office
Ms OEN	Deputy Chef de cabinet to Mr KALLAS
Ms LEIB	Member of Mr REHN's staff
Mr GAMBS	Chef de cabinet to Mr HAHN
Mr VIS	Chef de cabinet to Ms HEDEGAARD

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Ms TIVEUS	DG Communication	Items 1 to 12
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr THEBAULT	Head of the Bureau of European Policy Advisers	
Mr SOBRAL	Deputy Chef de cabinet to the PRESIDENT	Items 12 (in part) and 13
Ms VANNINI	Adviser in the PRESIDENT's Office	
Mr MARTÍNEZ MONGAY	Chef de cabinet to Mr ALMUNIA	

Secretary: Ms DAY, Secretary-General, assisted by Ms ALLOUIS-LE LOSTEC, Deputy Head of Unit in the Secretariat-General.

**1. AGENDAS**

**(OJ(2014) 2082/FINAL; SEC(2014) 238)**

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(2014) 2082)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 7 April.

**3. APPROVAL OF THE MINUTES OF THE 2080<sup>TH</sup> MEETING OF THE COMMISSION (27 MARCH) AND THE MINUTES AND SPECIAL MINUTES OF THE 2081<sup>ST</sup> MEETING (2 APRIL)**

**(PV(2014) 2080; PV(2014) 2081; PV(2014) 2081, PART II)**

The Commission approved the minutes of its 2080th and 2081st meetings.

**4. INTERINSTITUTIONAL RELATIONS**

**(RCC(2014) 36)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 4 April (RCC(2014) 36).

It paid particular attention to the following points.

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#### **4.1. LEGISLATIVE MATTERS**

##### **i) Ordinary legislative procedure**

(point 1.2 of the IRG record)

##### Dossiers at Parliament first reading

- Establishment of a framework for managing financial responsibility linked to investor-state dispute settlement tribunals established by international agreements to which the European Union is party (Regulation) – ZALEWSKI report – 2012/0163 (COD)

The Commission approved the line set out in SI(2014) 169.

##### **ii) Preparations for April II part-session of Parliament**

(point 1.3 of the IRG record)

##### Ordinary legislative procedure – First reading

- Multiannual Financial Framework 2014-2020 – European Maritime and Fisheries Fund (Regulation) – CADEC report – 2011/0380 (COD)

The Commission took note of the compromise text in SP(2014) 291/2, further to note SI(2014) 74/3, which it had already approved on 19 February by finalisation written procedure (PE/2014/1133).

- Multiannual Financial Framework 2014-2020 – Multiannual funding for the action of the European Maritime Safety Agency (EMSA) in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations (Regulation) – TAYLOR report – 2013/0092 (COD)

The Commission took note of the compromise text in SP(2014) 338, further to note SI(2014) 95, which it had already approved on 25 February.

(9 April 2014)

- Official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant reproductive material, plant protection products and amendment of Regulations (EC) 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, 1151/2012, (EU) .../2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Regulation) – PIRILLO report – 2013/0140 (COD)

The Commission approved the line set out in SP(2014) 339 and /2.

- Animal health (Regulation) – PAULSEN report – 2013/0136 (COD)

The Commission approved the line set out in SP(2014) 340 and /2.

- Protective measures against pests of plants (Regulation) – FAJMON report – 2013/0141 (COD)

The Commission approved the line set out in SP(2014) 341 and /2.

- Amendment of Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (Directive) – LEICHTFRIED report – 2013/0105 (COD)

The Commission approved the line set out in SP(2014) 342, /2 and /3.

- Technical requirements for inland waterway vessels and repeal of Directive 2006/87/EC (Directive) – WORTMANN-KOOL report – 2013/0302 (COD)

The Commission approved the line set out in SP(2014) 343/2.

- Simplifying the transfer of motor vehicles registered in another Member State within the Single Market (Regulation) – MANDERS report – 2012/0082 (COD)

The Commission approved the line set out in SP(2014) 344 and /2.

- Mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (Regulation) – CORREIA DE CAMPOS report – 2013/0410 (COD)

The Commission approved the line set out in SP(2014) 345 and /2.

- Product safety and market surveillance package – Consumer product safety and repeal of Council Directive 87/357/EEC and Directive 2001/95/EC (Regulation) – SCHALDEMOSE report – 2013/0049 (COD)

The Commission approved the line set out in SP(2014) 347 and /2.

- Product safety and market surveillance package – Market surveillance of products and amendment of Council Directives 89/686/EEC and 93/15/EEC, Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 1999/5/EC, 2000/9/EC, 2000/14/EC, 2001/95/EC, 2004/108/EC, 2006/42/EC, 2006/95/EC, 2007/23/EC, 2008/57/EC, 2009/48/EC, 2009/105/EC, 2009/142/EC and 2011/65/EU, Regulation (EU) 305/2011, Regulation (EC) 764/2008 and Regulation (EC) 765/2008 of the European Parliament and of the Council (Regulation) – PIETIKÄINEN report – 2013/0048 (COD)

The Commission approved the line set out in SP(2014) 348 and /2.

- 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 SP(2014) 50/5 and /6, further to notes SI(2014) 50/2, /3 and /4, which it had already approved on 29 January and 4 February.

- Amendment of Regulation (EU, Euratom) 966/2012 on the financial rules applicable to the general budget of the Union and repeal of Council Regulation (EC, Euratom) 1605/2002 (Regulation) – GRÄSSLE report – 2013/0313 (COD)

The Commission approved the line set out in SP(2014) 351 and /2 and took note of the compromise text attached to SP(2014) 351.

- Monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amendment of Regulation (EU) 525/2013 (Regulation) – SKYLAKAKIS report – 2013/0224 (COD)

The Commission approved the line set out in SP(2014) 352 and /2.

- Fight against fraud affecting the Union's financial interests by means of criminal law (Directive) – GRÄSSLE & LÓPEZ AGUILAR report – 2012/0193 (COD)

The Commission approved the line set out in SP(2014) 355 and /2.

- European long-term investment funds (Regulation) – KRATSA-TSAGAROPOULOU report – 2013/0214 (COD)

The Commission approved the line set out in SP(2014) 357 and /2.

- Amendment of Directive 94/62/EC on packaging and packaging waste to reduce the consumption of lightweight plastic carrier bags (Directive) – AUKEN report – 2013/0371 (COD)

The Commission approved the line set out in SP(2014) 358 and /2.

- New psychoactive substances (Regulation) – PROTASIEWICZ report – 2013/0305 (COD) / Amendment of Council Framework Decision 2004/757/JHA laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of ‘drug’ (Directive) – JIMÉNEZ-BECERRIL BARRIO report – 2013/0304 (COD)

The Commission approved the line set out in SP(2014) 359.

- Amendment of Regulation (EC) 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value (Regulation) – MARTIN report – 2013/0278 (COD)

The Commission approved the line set out in SP(2014) 361 and took note of the compromise text attached to that document.

- Deployment of the interoperable EU-wide eCall service (Decision) – DE BACKER report – 2013/0166 (COD)

The Commission approved the line set out in SP(2014) 362 and /2 and took note of the compromise text attached to SP(2014) 362.

- Amendment of Council Regulation (EC) 718/1999 of 29 March 1999 on a Community-fleet capacity policy to promote inland waterway transport (Regulation) – WORTMANN-KOOL report – 2013/0303 (COD)

The Commission approved the line set out in SP(2014) 363 and took note of the compromise text attached to that document.

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- Harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (Directive – recast) – ROITHOVÁ report – 2013/0221 (COD)

The Commission approved the line set out in SP(2014) 365 and took note of the compromise text attached to that document.

- Amendment of Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Regulation) – ZWIEFKA report – 2013/0268 (COD)

The Commission approved the line set out in SP(2014) 366 and took note of the compromise text attached to that document.

- Amendment of Council Regulation (EC) 577/98 on the organisation of a labour force sample survey in the Community (Regulation) – ŽDANOKA report – 2013/0084 (COD)

The Commission approved the line set out in SP(2014) 367 and took note of the compromise text attached to that document.

- Innovation Investment Package – Participation of the European Union in a Research and Development Programme jointly undertaken by several Member States aimed at supporting research-performing small and medium-sized enterprises (Decision) – RANSDORF report – 2013/0232 (COD) / Participation of the European Union in a European Metrology Programme for Innovation and Research jointly undertaken by several Member States (Decision) – TZAVELA report – 2013/0242 (COD) / Participation of the European Union in a second European and Developing Countries Clinical Trials Partnership Programme jointly undertaken by several Member States (Decision) – FORD report – 2013/0243 (COD) / Participation of the European Union in the Active and Assisted Living Research and Developing Programme jointly undertaken

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by several Member States (Decision) – TURMES report – 2013/0233 (COD) / Innovation Medicines Initiative 2 Joint Undertaking (Council Regulation) – RIERA MADURELL report – 2013/0240 (NLE) / Clean Sky 2 Joint Undertaking (Council Regulation) – EHLER report – 2013/0244 (NLE) / Electronic Components for European Leadership (ECSEL) Joint Undertaking (Council Regulation) – RÜBIG report – 2013/0234 (NLE) / Bio-Based Industries Joint Undertaking (Council Regulation) – VAN NISTELROOIJ report – 2013/0241 (NLE) / Fuel Cells and Hydrogen 2 Joint Undertaking (Council Regulation) – PANAYOTOV report – 2013/0245 (NLE) / Amendment of Council Regulation (EC) 219/2007 on establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2014 (Council Regulation) – THOMSEN report – 2013/0237 (NLE)

The Commission approved the line set out in SP(2014) 368.

- Enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Directive) – JAZŁOWIECKA report – 2012/0061 (COD)

The Commission approved the line set out in SP(2014) 369 and took note of the compromise text attached to that document.

- Participation of the European Union in the capital increase of the European Investment Fund (Decision) – GARDIAZÁBAL RUBIAL report – 2014/0034 (COD)

The Commission approved the line set out in SP(2014) 370 and took note of the compromise text attached to that document.

- Amendment of Decision 2005/681/JHA establishing the European Police College (CEPOL) (Regulation) – GÁL report – 2013/0812 (COD)

The Commission approved the line set out in SP(2014) 371 and /3 and took note of the compromise text attached to SP(2014) 371.

- Uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amendment of Regulation (EU) 1093/2010 (Regulation) – FERREIRA report – 2013/0253 (COD)

The Commission approved the line set out in SP(2014) 373 and took note of the compromise text attached to that document.

- Amendment of Regulation (EC) 1013/2006 on shipments of waste (Regulation) – STAES report – 2013/0239 (COD)

The Commission approved the line set out in SP(2014) 393 and took note of the compromise text attached to that document.

- Statute and funding of European political parties and European political foundations (Regulation) – GIANNAKOU report – 2012/0237 (COD)

The Commission approved the line set out in SP(2014) 349 and took note of the compromise text attached to that document.

- Amendment of Regulation (EU, Euratom) 966/2012 as regards the financing of European political parties (Regulation) – GRÄSSLE report – 2012/0336 (COD)

The Commission approved the line set out in SP(2014) 350 and took note of the compromise text attached to that document.

- Prevention and management of the introduction and spread of invasive alien species (Regulation) – POC report – 2013/0307 (COD)



The Commission approved the line set out in SP(2014) 353 and /2 and took note of the compromise text attached to SP(2014) 353.

- Amendment of Council Regulation (EC) 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean (Regulation) – ROMEVA I RUEDA report – 2013/0133 (COD)

The Commission approved the line set out in SP(2014) 354 and took note of the compromise text attached to that document.

- Amendment of Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups (Directive) – BALDASSARRE report – 2013/0110 (COD)

The Commission took note of the compromise text in SP(2014) 356/2.

- Framework for the recovery and resolution of credit institutions and investment firms and amendment of Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EU and Regulation (EU) 1093/2010 (Directive) – HÖKMARK report – 2012/0150 (COD)

The Commission took note of the compromise text in SP(2014) 374, further to note SI(2013) 641/2, which it had already approved on 4 December 2013.

- Markets in financial instruments and amendment of the EMIR Regulation on OTC derivatives, central counterparties and trade repositories (Regulation) – FERBER report – 2011/0296 (COD)

The Commission took note of the compromise text in SP(2014) 375, further to note SI(2014) 21/2, which it had already approved on 29 January.

- Markets in financial instruments and repeal of Directive 2004/39/EC (Directive – recast) – FERBER report – 2011/0298 (COD)

The Commission took note of the compromise text in SP(2014) 376, further to note SI(2014) 21/2, which it had already approved on 29 January.

- Amendment of Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions (Directive) – GIEGOLD report – 2012/0168 (COD)

The Commission took note of the compromise text in SP(2014) 377, further to note SI(2014) 83/2, which it had already approved on 25 February.

- Framework for maritime spatial planning and integrated coastal management (Directive) – MEISSNER report – 2013/0074 (COD)

The Commission took note of the compromise text in SP(2014) 378, further to note SI(2014) 75/2, which it had already approved on Wednesday 19 February by finalisation written procedure (PE/2014/1133).

- Improvement of securities settlement in the European Union, central securities depositories (CSDs) and amendment of Directive 98/26/EC – (Regulation) – SWINBURNE report – 2012/0029 (COD)

The Commission took note of the compromise text in SP(2014) 379, further to note SI(2014) 63/2, which it had already approved on Wednesday 19 February by finalisation written procedure (PE/2014/1133).

- Marine equipment and repeal of Directive 96/98/EC (Directive) – RIQUET report – 2012/0358 (COD)

The Commission took note of the compromise text in SP(2014) 380, further to note SI(2014) 77/2, which it had already approved on Wednesday 19 February by finalisation written procedure (PE/2014/1133).

- Amendment of Council Regulation (EC) 2012/2002 establishing the European Union Solidarity Fund (Regulation) – ESTARÀS FERRAGUT report – 2013/0248 (COD)

The Commission took note of the compromise text in SP(2014) 381, further to note SI(2014) 105, which it had already approved on 5 March.

- Creation of a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters (Regulation) – BALDASSARRE report – 2011/0204 (COD)

The Commission took note of the compromise text in SP(2014) 382.

- Enhanced co-operation between Public Employment Services (PES) (Decision) – DAERDEN report – 2013/0202 (COD)

The Commission took note of the compromise text in SP(2014) 383, further to notes SI(2014) 20 and SI(2014) 163, which it had approved on 4 February and 2 April respectively.

- Return of cultural objects unlawfully removed from the territory of a Member State (Directive – recast) – VERGIAT report – 2013/0162 (COD)

The Commission took note of the compromise text in SP(2014) 384, further to note SI(2014) 64/2, which it had already approved on Wednesday 19 February by finalisation written procedure (PE/2014/1133).

- Rules governing actions for damages under national law for infringements of the competition law provisions of the Member States

and of the European Union (Directive) – SCHWAB report – 2013/0185 (COD)

The Commission approved the line set out in SP(2014) 385/2 and took note of the compromise text attached to SP(2014) 385, further to note SI(2014) 91, which it had already approved on 25 February.

- Rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Regulation) – COELHO report – 2013/0106 (COD)

The Commission took note of the compromise text in SP(2014) 386, further to note SI(2014) 38/2, which it had already approved on 4 February.

- Amendment of Council Directive 2001/110/EC relating to honey (Directive) – GIRLING report – 2012/0260 (COD)

The Commission took note of the compromise text in SP(2014) 387/2, further to note SI(2014) 101, which it had already approved on 5 March.

- Fees payable to the European Medicines Agency for the conduct of pharmacovigilance activities in respect of medicinal products for human use (Regulation) – McAVAN report – 2013/0222 (COD)

The Commission took note of the compromise text in SP(2014) 388, further to note SI(2014) 60, which it had already approved on 12 February.

- Amendment of Regulation (EU) 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Regulation) – URUTCHEV report – 2013/0377 (COD)

The Commission took note of the compromise text in SP(2014) 389, further to note SI(2014) 118/2, which it had already approved on 11 March.

- Macro-financial assistance to the Republic of Tunisia (Decision) – MOREIRA report – 2013/0416 (COD)

The Commission took note of the compromise text in SP(2014) 390, further to note SI(2014) 35, which it had already approved on 4 February.

- Protection of the euro and other currencies against counterfeiting and replacement of Council Framework Decision 2000/383/JHA (Directive) – McINTYRE report – 2013/0023 (COD)

The Commission took note of the compromise text in SP(2014) 391, further to notes SI(2014) 24 and /2, which it had already approved on Tuesday 4 February.

- Conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (Directive) – IACOLINO report – 2010/0209 (COD)

The Commission took note of the compromise text in SP(2014) 392, further to notes SI(2014) 79 and /3, which it had already approved on Tuesday 25 February.

#### Ordinary legislative procedure – Second reading – Empowerment

- Deposit guarantee schemes (Directive – recast) – SIMON report – 2010/0207 (COD)

The Commission empowered Mr BARNIER, under Article 13 of its Rules of Procedure, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and any associated Members, to adopt and transmit to the Council its opinion on the amendments, in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union, once Parliament had given its opinion,

together with any amended proposal, on the basis of the Communication from the Commission concerning the Council's position (COM(2014) 140 final, adopted on 4 March 2014).

- Rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a balanced approach and repeal of Directive 2002/30/EC (Regulation) – LEICHTFRIED report – 2011/0398 (COD)

The Commission empowered Mr KALLAS, under Article 13 of its Rules of Procedure, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and any associated Members, to adopt and transmit to the Council its opinion on the amendments, in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union, once Parliament had given its opinion, together with any amended proposal, on the basis of the Communication from the Commission concerning the Council's position (COM(2014) 205 final, adopted on 28 March 2014).

- European Union action for the European Capitals of Culture for the years 2020 to 2033 (Decision) – SCURRIA report – 2012/0199 (COD)

The Commission empowered Ms VASSILIOU, under Article 13 of its Rules of Procedure, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and any associated Members, to adopt and transmit to the Council its opinion on the amendments, in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union, once Parliament had given its opinion, together with any amended proposal, on the basis of the Communication from the Commission concerning the Council's position (COM(2014) 183 final, adopted on 25 March 2014).

- Amendment of Council Regulation (EC) 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending

Regulation (EC) 88/98 (Regulation) – ROMEVA I RUEDA report – 2012/0216 (COD)

The Commission empowered Ms DAMANAKI, under Article 13 of its Rules of Procedure, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and any associated Members, to adopt and transmit to the Council its opinion on the amendments, in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union, once Parliament had given its opinion, together with any amended proposal, on the basis of the Communication from the Commission concerning the Council's position (COM(2014) 159 final, adopted on 7 March 2014).

Special non-legislative procedure

- Establishing the Shift2Rail Joint Undertaking (Council Regulation) – ANDRÉS BAREA report – 2013/0445 (NLE)

The Commission approved the line set out in SP(2014) 394/2.

Approval procedure / Special legislative procedure / Non-legislative matter

- Implementing measures for the system of own resources of the European Union (Council Regulation) – JENSEN & DEHAENE report – 2011/0184 (APP) / System of own resources of the European Union (Council Decision) – JENSEN & DEHAENE report – 2011/0183 (CNS) / Methods and procedure for making available the traditional and GNI-based own resources and on the measures to meet cash requirements (Council Regulation) – JENSEN & DEHAENE report – 2011/0185 (CNS) / Implementation of measures for the system of own resources of the European Union

The Commission approved the line set out in SP(2014) 395/2 and /3.

#### **4.2. RELATIONS WITH PARLIAMENT**

##### **iii) Preparations for April II part-session of Parliament**

(point 3.1 of the IRG record)

##### Non-legislative matter

- Revision of the Interinstitutional Agreement on the Transparency Register (European Parliament Decision) – GUALTIERI report – 2014/2010 (ACI)

The Commission approved the line set out in SP(2014) 346 and /2.

#### **4.3. RELATIONS WITH THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS, THE OMBUDSMAN AND THE NATIONAL PARLIAMENTS**

##### **iv) Follow-up to opinions of the European Economic and Social Committee – September, October and December 2013 plenary sessions**

(point 4.4 of the IRG record)

The Commission approved document SC(2014) 14/3 on the action taken by it on the opinions adopted by the European Economic and Social Committee during the September, October and December 2013 sessions, for transmission to that Committee.

##### **v) Follow-up to Committee of the Regions opinions – November 2013 plenary session**

(point 4.5 of the IRG record)

The Commission approved the replies to the opinions adopted by the Committee of the Regions during its November 2013 plenary session, as set out in SR(2014) 10, for transmission to the Committee of the Regions.



#### **4.4. *EXTERNAL RELATIONS***

- vi) **Position to be taken on behalf of the European Union as regards the extension of the entitlement to co-productions as provided for in Article 5 of the Protocol on Cultural Cooperation to the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (Council Decision) – 2014/0041 (NLE)**  
(point 5.1 of the IRG record)

The Commission approved the line set out in SI(2014) 164/2.

### **5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS**

#### **5.1. *WRITTEN PROCEDURES APPROVED*** **(*SEC(2014) 239 ET SEQ.*)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 31 March and 4 April.

#### **5.2. *EMPOWERMENT*** **(*SEC(2014) 240 ET SEQ.*)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 31 March and 4 April.

**5.3. DELEGATION AND SUBDELEGATION OF POWERS****(SEC(2014) 241 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 31 March and 4 April, as archived in e-Greffe.

**5.4. SENSITIVE WRITTEN PROCEDURES****(SEC(2014) 242 AND /2)**

The Commission took note of the sensitive written procedures for which the time limit expired between 7 and 11 April 2014.

**5.5. GENERAL EMPOWERMENT TO ADOPT DECISIONS DECLARING FORMAL INVESTIGATION PROCEDURES RELATING TO STATE AID INEFFECTIVE IN ACCORDANCE WITH ARTICLE 6A(2)(A) OF COUNCIL REGULATION 659/1999 OF 22 MARCH 1999 LAYING DOWN DETAILED RULES FOR THE APPLICATION OF ARTICLE 108 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, AND REQUIRING AN UNDERTAKING OR AN ASSOCIATION OF UNDERTAKINGS TO PROVIDE INFORMATION IN ACCORDANCE WITH ARTICLE 6A(7) OF THE SAME REGULATION (C(2014) 2370)**

The Commission granted the general empowerment as set out in C(2014) 2370 to the Member of the Commission with special responsibility for competition, the Member of the Commission responsible for state aid to fisheries and the Member of the Commission responsible for state aid to agriculture to adopt, each in his or her respective area of competence and in the name and under the authority of the Commission, in agreement with the President and in accordance with Article 6a of Council Regulation 659/99 of 2 March 1999, decisions (i) declaring that a formal investigation procedure

has been ineffective to date; or (ii) requiring an undertaking or an association of undertakings to provide information and indicating the periodic penalty payments provided for in Article 6b of the same Regulation.

**5.6. AD HOC EMPOWERMENT ON THE ROLE PLAYED BY THE COMMISSION IN EXAMINING COMPLIANCE WITH THE CONDITIONS ATTACHED TO THE FINANCIAL SUPPORT PROVIDED TO GREECE BY THE EURO-AREA MEMBER STATES (C(2014) 2463)**

The Commission decided to empower the Member of the Commission responsible for economic and monetary affairs and the euro, in agreement with the PRESIDENT, in the name and under the authority of the Commission, to prepare, negotiate with the Greek authorities and sign, after approval by the lending Member States, limited revisions to the Memorandum of Understanding setting the detailed policy conditions attached to the loan, consistent with the previous Council Decision 2011/734/EU, as amended, under the terms set out in C(2014) 2463.

**6. GREEN PAPER ON MOBILE HEALTH ('MHEALTH')  
(COM(2014) 219 AND /2; SWD(2014) 135 AND /2; RCC(2014) 40)**

On a proposal from the PRESIDENT, the Commission agreed that the Green Paper currently set out in COM(2014) 219/2 would be adopted formally by finalisation written procedure, with a time limit of 10.00 on Thursday 10 April (PE/2014/2226).

**7. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SINGLE-MEMBER PRIVATE LIMITED LIABILITY COMPANIES**

(COM(2014) 212 AND /2; SWD(2014) 124; SWD(2014) 123; SWD(2014) 125; SEC(2014) 236; RCC(2014) 38)

**8. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2007/36/EC AS REGARDS THE ENCOURAGEMENT OF LONG-TERM SHAREHOLDER ENGAGEMENT AND DIRECTIVE 2013/34/EU AS REGARDS CERTAIN ELEMENTS OF THE CORPORATE GOVERNANCE STATEMENT**

(COM(2014) 213 TO /3; SWD(2014) 127; SWD(2014) 126; SWD(2014) 128; SEC(2014) 237; RCC(2014) 38)

**9. COMMISSION RECOMMENDATION ON THE QUALITY OF CORPORATE GOVERNANCE REPORTING ('COMPLY OR EXPLAIN')**

(C(2014) 2165 AND /2; SWD(2014) 127; SWD(2014) 126; SEC(2014) 237; RCC(2014) 38)

The Commission:

- adopted the proposal for a Directive on single-member private limited liability companies set out in COM(2014) 212/2 for transmission to the European Parliament, the Council, the European Economic and Social Committee and the national parliaments, and, for information, to the European Data Protection Supervisor, together with the implementation plan, the impact assessment and the summary thereof, in staff working documents SWD(2014) 125, SWD(2014) 124 and SWD(2014) 123, the contents of which were noted;

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

**EN**

- also took note of the opinion of the Impact Assessment Board on the above proposal for a Directive, as set out in SEC(2014) 236;
- adopted the proposal for a Directive amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement, set out in COM(2014) 213/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee, the European Data Protection Supervisor and the national parliaments, together with the implementation plan, the impact assessment and the summary thereof, in staff working documents SWD(2014) 128, SWD(2014) 127 and SWD(2014) 126, the contents of which were noted;
- also took note of the opinion of the Impact Assessment Board on the above proposal for a Directive, as set out in SEC(2014) 237;
- adopted the recommendation on the quality of corporate governance reporting ('comply or explain') set out in C(2014) 2165/2, for publication in the Official Journal of the European Union, together with the impact assessment and the summary thereof, in staff working documents SWD(2014) 127 and SWD(2014) 126, the contents of which were noted;
- also took note of the opinion of the Impact Assessment Board on the above recommendation, as set out in SEC(2014) 237.

**10. PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ESTABLISHING A EUROPEAN PLATFORM TO ENHANCE COOPERATION IN THE PREVENTION AND DETERRENCE OF UNDECLARED WORK**

**(COM(2014) 221 AND /2; SWD(2014) 137; SWD(2014) 138; SEC(2014) 246; RCC(2014) 41)**

The Commission adopted the proposal for a Decision set out in COM(2014) 221/2 for transmission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions, the European Data Protection Supervisor and the national parliaments, together with the impact assessment and the summary thereof in staff working documents SWD(2014) 137 and SWD(2014) 138, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Decision, as set out in SEC(2014) 246.

**11. ADMINISTRATIVE AND BUDGETARY MATTERS**

**(SEC(2014) 243/3)**

**ADMINISTRATIVE MATTERS**

**(PERS(2014) 66/3)**

**11.1. SECRETARIAT-GENERAL / DG BUDGET / DG HUMAN RESOURCES  
AND SECURITY / DG DEVELOPMENT AND COOPERATION -  
EUROPEAID – CREATION OF A SUPPORT GROUP FOR UKRAINE,  
ADMINISTRATIVE AND BUDGETARY ARRANGEMENTS FOR  
SETTING IT UP AND FOR ITS OPERATION**

Under Article 22 of its Rules of Procedure the Commission took note of the President's decision regarding the creation, with immediate effect, of a Support Group for Ukraine, the terms of which are set out in point 1 of document PERS(2014) 66/3 (see also item 13 of these minutes).

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Baroness ASHTON, Mr PIEBALGS and Mr FÜLE, the Commission also decided:

- to create a post of Adviser hors classe to lead the Support Group for Ukraine. Mr Peter BALAS, currently Deputy Director-General in DG Trade, was transferred to the post and appointed Head of the Support Group; this decision would take effect on a date to be determined later;
- that for administrative purposes the Support Group would be attached to the Directorate-General for Development and Cooperation - EuropeAid; that the Support Group's operating procedures would be reviewed, if necessary, by the Secretariat-General and the Directorates-General for the Budget, Human Resources and Security, and Development and Cooperation - EuropeAid, on an annual basis, at least during the spring package of changes to the organisation charts; that the Head of the Support Group would receive the normal administrative support from DG Development and Cooperation - EuropeAid, and the customary services from the Secretariat-General, DG Budget and DG Human Resources and Security;

- that the composition of the Support Group, including decisions on appointments, engagements, transfers and the termination of contracts, would be decided by the competent authorities (the appointing authority and the authority authorised to conclude contracts of employment) in agreement with the Head of the Support Group and after consulting the Secretariat-General and DG Human Resources and Security; that the maximum number of officials and other staff assigned to the Support Group, and the group's organisation chart, would be authorised by the PRESIDENT, in agreement with Mr ŠEFČOVIČ, and following consultation of Baroness ASHTON, Mr PIEBALGS, Mr LEWANDOWSKI and Mr FÜLE;
- that the Support Group would consist of:
  - the Head of the Support Group;
  - up to 30 full-time AD and AST officials;
  - seconded national experts;
  - temporary staff, should other specialised external expertise be necessary within the limit of the posts made available to the Support Group;
  - contract staff, as necessary;
  - special advisers, according to need;
- that, with the exception of the Head of the Support Group, the Commission officials would be made available to the Support Group for Ukraine by their present departments, including those occupying posts in the organisation chart; in return, posts in reserve would be allocated to the contributing DGs on a temporary basis;
- that senior managers attached to the Support Group would be assigned to Principal Adviser posts in their DG of origin;



- that middle managers would be assigned to non-management posts in their DG of origin; that these posts would be created temporarily and abolished on the departure of the jobholder; that, by derogation to the Commission Decisions on middle management staff (C(2008) 5028) and on advisers (C(2008) 5029), the officials concerned would have priority, after the end of their attachment to the Support Group, to be moved without delay to another middle management position in their DG of origin that corresponded to their profile;
- that use should also be made of the opportunities offered by the recently created '*Seniors actifs*' programme, in order to mobilise the expertise of a significant number of recently retired Commission officials who would be willing to share their knowledge and experience through a series of missions to the partner countries; that the funding for these missions would be provided from the administrative support budget lines of the European Neighbourhood Instrument managed by the Directorate-General for Development and Cooperation - EuropeAid; that the Support Group would also have a coordination role;
- that use would be made of the TAIEX and twinning instruments to provide a framework for the mobilisation of additional short, medium and long-term expertise from Member States; that funding for these activities would be provided by the Comprehensive Institution Building 'envelope' under the European Neighbourhood Instrument;
- that the Head of the Support Group would be responsible for the management of the Support Group's human resources, acting as the functional superior of all its staff on a day-to-day basis and with regard to all tasks necessary for the accomplishment of its mission, including allocating the necessary staff for these tasks; that without prejudice to the established appointing authority powers, the Head of the Support Group

would be consulted by all Directorates-General which had sent staff to the Support Group on all relevant personnel and other administrative decisions, notably with regard to appraisals and promotions; that the Head of the Support Group would decide on leave, working hours and missions, without prejudice to the existing operational and financial provisions;

- that the Head of the Support Group would be able to rely on support from all the Commission's departments with regard to their respective policy areas, in particular from the Directorates-General for Trade, Economic and Financial Affairs, Home Affairs, Justice, Environment, Transport, Energy, Taxation, Enlargement, the Anti-Fraud Office, Health and Consumers, Agriculture and Rural Development, Enterprise, Development and Cooperation - EuropeAid, and from the Secretariat-General, the Legal Service, the Directorate-General for Budget, the Directorate-General for Human Resources and Security and the European External Action Service; that, if necessary, other Commission DGs could be involved in the work of the Support Group; that the Secretariat-General would provide the support needed to ensure that the contributions of the other DGs to the Support Group were coherent;
- that, to ensure the rapid creation and efficient operation of the Support Group, the Commissioner responsible for administration would be authorised – where necessary and only in relation to the Head of the Support Group and the staff assigned to it – to depart from certain provisions of Commission Decisions, notably provisions on publication, selection, justification for having recourse to temporary staff, maximum duration of employment, grading, minimum length of employment with the current employer in the case of seconded national experts, fees paid to special advisers, maximum period since retirement and restrictions with regard to assignments or tasks and remuneration in the case of retired officials, by derogation from the following applicable Commission

provisions: (1) Decision C(2008) 6866 of 12 November 2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training; (2) Decision C(2011) 1264 of 2 March 2011 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b of the said Conditions; (3) Decision C(2013) 9049 of 16 December 2013 on policies for the engagement and use of temporary agents; (4) Decision C(2004) 1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services; (5) Decision C(2013) 9037 of 16 December 2013 on outside activities and assignments; (6) Decision SEC(2006) 1702 of 13 February 2007 on organisation charts of Commission DGs and Services; and (7) C(2007) 6655 of 19 December 2007 on special advisers to the Commission;

- that the Office for Infrastructure and Logistics in Brussels, in agreement with the Secretariat-General and the Directorate-General for Human Resources and Security, would ensure adequate logistical arrangements in Brussels, in particular by making office space available to the Support Group within one building; that the Directorate-General for Informatics would provide the Support Group with the necessary computer and telephone equipment as a priority, and that the European External Action Service, in accordance with the applicable procedures in force governing relations with the Commission's departments, would assist the Support Group with any office space and other logistical arrangements in Ukraine;
- that financial needs would be covered by the available budget, making use as necessary of all the established budgetary procedures.

These decisions would take effect immediately.

**11.2. DG JUSTICE – APPOINTMENT OF AD14/15 DIRECTOR****(PERS(2014) 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 'Equality' in DG Justice (PERS(2014) 25).

It took note of the opinions of the Consultative Committee on Appointments of 27 February and 27 March 2014 (PERS(2014) 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 Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms REDING, it then decided to appoint Ms Salla SAASTAMOINEN to the post.

This decision would take effect on 1 May 2014.

**11.3. DG TRADE – APPOINTMENT OF AD14/15 DIRECTOR****(PERS(2014) 14 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 'Sustainable Development; Economic Partnership Agreements – African, Caribbean and Pacific; Agri-food and Fisheries' in DG Trade (PERS(2014) 14).

It took note of the opinions of the Consultative Committee on Appointments of 27 February and 13 March 2014 (PERS(2014) 14/2 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 Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr DE GUCHT, it then decided to appoint Mr Marc VANHEUKELEN to the post.

This decision would take effect on a date to be determined.

***11.4. DG TRADE – INTERNAL PUBLICATION OF VACANCY NOTICES  
FOR TWO AD15/16 DEPUTY DIRECTOR-GENERAL POSTS  
(PERS(2014) 67; PERS(2014) 68)***

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr DE GUCHT, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notices in PERS(2014) 67 and PERS(2014) 68 for the posts of Deputy Director-General responsible for Directorates B, C and D and Directorates E, F, G and H in DG Trade.

This decision would take effect immediately.

**12. MONITORING THE APPLICATION OF EUROPEAN UNION LAW**

***12.1. STATE AID – INDIVIDUAL CASES  
(SEC(2014) 251; RCC(2014) 39)***

The Commission adopted the decisions in SEC(2014) 251.

***12.2. STATE AID – HORIZONTAL CASES***

- i) Guidelines on State aid for environmental protection and energy  
2014-2020**  
(C(2014) 2322 to /4; SWD(2014) 139 and /2; SWD(2014) 140 and /2;  
SEC(2014) 247; RCC(2014) 39)

The PRESIDENT opened the discussion on the Guidelines on State aid for environmental protection and energy 2014-2020 by drawing attention to the long public consultation process which had led to the drafting of the proposed

document and the balance struck by it.

Mr ALMUNIA explained that the purpose of drawing up these Guidelines was to ensure that aid within the framework of energy policy was compatible with the development of a global view of environmental policy – two policies where convergence should be reinforced. He reminded that this work stemmed from three public consultations, two consultations with the Member States and two internal Commission consultations, and had given rise to numerous contacts, not forgetting the Commission's general discussion of 8 October 2013. He highlighted the new elements taken into account in the communication: firstly, the increased proportion of renewable energy in the Member States' energy mix; secondly, the maturity of certain technologies, which should be integrated into the energy network from that point on; and, thirdly, the increase in the cost of energy faced by numerous industries in recent years.

Mr ALMUNIA explained that the Guidelines took up these new elements in the provisions relating to (i) integration of renewable energy into the energy network, excluding small installations; (ii) the competitive bidding system for renewable energy, which was flexible without introducing complete technological neutrality; and (iii) the need to preserve the competitiveness of industries that consume energy, whose payments finance the development of renewable energy, justifying the application of a certain degree of exemption, without undermining the principles of free competition. A list of exempt sectors had therefore been drawn up according to two parameters: intensity of electricity consumption ('electro-intensity') greater than 10%, and exposure to trade with third-countries ('trade intensity') greater than 10%. He added that industries with very high energy consumption, i.e. electro-intensity of over 20% and trade exposure of over 4%, and those with high exposure to international trade but low electro-intensity would also be placed on the list of sectors benefiting from these exemptions.

On the basis of these criteria, he pointed that a list of 68 sectors benefiting from an exemption had been drawn up. He explained that the Guidelines do, however, allow Member States to include in the list businesses in other sectors, provided that the electro-intensity of the enterprise is over 20% and the exposure to international trade of the sector is over 4%.

Mr ALMUNIA stated that in any event, industry would have to contribute to funding support for energy from renewable sources by paying an own contribution of 15% minimum, capped at 4% of the gross value added of the undertaking concerned, or for very energy-intensive industries, by a contribution representing at most 0.5% of gross value added. He stressed that these rules would be accompanied by a four-year transition period, ending on 1 January 2019.

These rules would be applied retroactively from 2011, when the Commission declared that a support scheme for renewable energy adopted in Austria was incompatible with European law on state aid. In addition, the rules would cover state aid that was incompatible with the new rules that had been granted without the Commission being notified. However, in such cases the state aid granted would not be recovered in full, but only 20% of the amount, based on a progressive adaptation schedule from 2011. He considered that in cases where part of the state aid was recovered, the amounts in question would be limited and would compensate for the negative impact of the recovery on the competitiveness of the industry in question, without undermining the European system of state aid monitoring.

A discussion followed in which Members of the Commission raised the following main points:

- broad support for the Guidelines proposed by Mr ALMUNIA, the detailed preparation of which enabled the Commission to take several political priorities into account in a dossier of strategic importance;

- the Commission's full support for the need for better integration of renewable energy into the Union's energy mix, in order to achieve the anti-climate change and energy efficiency goals set at the European level, and also to reinforce European energy security and independence, which had become even more essential since the recent geo-political upheavals linked to the situation in Ukraine; the argument whereby the relevance of these Guidelines setting out a clear framework for development of renewable energy, the level of which currently varied from one Member State to another, would become more evident as progress was made towards a real internal energy market;
- approval of the balanced approach outlined by Mr ALMUNIA to reconcile as objectively and effectively as possible the Union's environmental and energy priorities on the one hand, and industrial development and fair competition rules on the other; the fact that the proposed framework reduced to the minimum the cost impact brought about by transition to renewable energy by sharing out as fairly as possible the efforts required from the various industrial sectors, businesses and households, and by basing itself on objective and tested criteria; a reminder, however, that such an attribution of the corresponding burden could not wholly satisfy any of the stakeholders;
- the expediency of stressing the validity of the approach taken to take account of the competitiveness issues from the point of view of European industries that were energy-intensive or subject to higher levels of trade intensity; the consequent support for the possibility of granting aid to these businesses by exempting them from a portion of the contributions that they had to pay to fund support for renewable energy; the advantages of leaving some room for political discretion within this approach;
- a reminder of the goal of greater energy efficiency in response to the challenge of the high energy prices that Europe could face in the long term



from then on; the parallel need to place even greater emphasis on the sectors of advanced technology and innovation, to enter resolutely into the transition to a green economy; hence the regret that some had expressed at the relatively high number of sectors listed in Annex 3;

- the expediency, according to others, of adding certain sectors to this list, and of examining whether the dairy sector could be eligible in the light of new data available; similarly, the suggestion of including data centres, a sector experiencing strong growth; the possibility of adapting the list of eligible sectors more systematically, according to the availability of updated data;
- similarly, the risk, raised by some, of a threshold effect and the excessive burden that even a limited level of own contributions to support renewables might constitute for the competitiveness of certain energy-intensive undertakings; the suggestion that the possibility of lowering the ceiling on these contributions, as set in the Communication, from 4% to 2.5% of gross value added should be looked into;
- for the same reasons, general support for the idea of an exceptional ceiling (a ‘super cap’) of 0.5% of the gross value added of particularly energy-intensive undertakings and the suggestion made by some of lowering from 15% to 10% the own contribution to support renewable energies;
- a reminder that one of the conclusions of the Commission’s general discussion of 8 October 2013 was to favour an equitable distribution of the costs of transition towards a green economy which would not place too much of a burden on households and consumers;
- questions, with respect to the retroactive effect of some of the provisions of the Guidelines, regarding the negative repercussions in terms of

employment and the relocation of businesses that might be caused by the recovery of unlawful aid granted to European undertakings which were not in a position to pay back such grants; the resulting risk of undermining the credibility of the proposal and of creating legal uncertainty through retroactive application;

- the need, on the other hand, to treat aid schemes on an equitable basis; the case for the principle of limiting the impact of recoveries on industry by applying them to only 20% of the grants received rather than the full amount; the unequal treatment that would result from not applying European law on state aid if the sums awarded unlawfully were not taken into account.

Responding to the various points raised, Mr ALMUNIA highlighted the difficulty of reconciling several policy priorities by emphasising that, in the case at hand, the aim was to foster an internal energy market that would enable the European Union to bolster its energy security and reduce its dependence in terms of supplies, on the one hand, while respecting the freedom enjoyed by Member States to choose their own energy mixes, on the other hand, without losing sight of the European Union's other objectives in terms of competitiveness, industrial renewal and combating climate change.

With respect to the sectors eligible for the exemption under Section 3.7.2 of the Guidelines, listed in Annex 3, he stressed the fact that the period for which Eurostat had provided objective data was one marked by a crisis, during which some agro-industrial sectors had witnessed a sharp drop in exports. This meant that there was a case for allowing the possibility of adapting the list in question. He noted that, in any event, the Commission would adapt the list of eligible sectors if there was a change in the situation.

As for the retroactive effect of the rules concerning exemption from levies aimed at funding support for energy produced from renewable sources,

Mr ALMUNIA felt that it was vital to ensure legal coherence on the issue. He pointed out that the rule on the recovery of unlawful and incompatible aid was contained in the Treaty and he argued that, since the recovery proposed in the new Guidelines did not concern the entirety of the sum but just 20% of the aid granted, the retroactive effect of the measure would actually prove beneficial for the undertakings which had been granted such aid. He explained that the retroactive effect would enable undertakings which had received state aid to benefit from the impact of the new rules, which, he noted, were less restrictive. He added that the situation of each Member State would be assessed on the basis of the specific features of each aid scheme. For that reason he suggested amending the wording to specify clearly that, from 2011, the undertakings which did not comply with rules under the new Guidelines and which benefited from an exemption from the levies for funding renewables would be obliged to draw up an adaptation plan, which would *inter alia* provide for a contribution from the industry concerned. He also pointed out that this contribution would not cause serious harm to European industry and would be calculated very carefully. He added that contributions which were not paid by industry would ultimately be passed on to consumers and small and medium-sized enterprises, without encouraging the manufacturing sector to reduce its energy consumption and take steps to enhance energy efficiency.

Assuming that the ceiling for industry's contribution was lowered from 4% to 2.5% and that the own contribution to support renewable energies is reduced from 15% to 10% to maintain competitiveness, Mr ALMUNIA took the view that any further reductions in the levels proposed would threaten the overall balance struck by the Guidelines, which were, moreover, favourable to industry as they stood.

The Director-General of the Legal Service, asked to give his opinion by the President on the validity of the choice of 2011 as the beginning of the

period of retroactive effect, explained that since the aid in question was unlawful, a date had to be fixed in order to apply the new rules. He noted that 2011 was the year when the Commission adopted its Decision characterising the above-mentioned Austrian aid scheme as incompatible, as well as the year when Member States were assigned quantified targets in terms of the share of renewables in their energy consumption as part of the ‘Europe 2020’ strategy. He therefore concluded that there were objective grounds for choosing 2011.

The President thanked the Members of the Commission for their comments and Mr ALMUNIA for the explanations he had provided. As certain suggestions had been dropped during the discussion, he noted that a majority of Commission Members supported the approach put forward by Mr ALMUNIA and agreed to the following amendments to the English-language version of the Guidelines distributed as COM(2014) 2322/3 and 4:

– **on page 58, point 249 to read as follows:**

*‘(249) Unlawful environmental aid or energy aid will be assessed in accordance with the rules in force on the date on which the aid was granted in accordance with the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid with the following exception:*

*unlawful aid in the form of reductions in funding support for energy from renewable sources will be assessed in accordance with the provisions of Sections 3.7.2 and 3.7.3.*

*As from 1 January 2011, the adjustment plan foreseen in point 195 shall also foresee a progressive application of the criteria of section 3.7.2 and of the own contribution foreseen in point 198. Prior to this date, the Commission considers that all aid granted in the form of reductions in*

*funding support for electricity from renewable sources can be declared compatible with the internal market[fn].’;*

- **on page 58, a footnote referring to point 249 was added to read as follows:**

*‘[fn] The Commission considers that such aid does not adversely affect trading conditions to an extent contrary to the common interest for the following reasons. By 5 December 2010, the Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with the RED, which introduces legally binding targets for consumption of renewable energy. On the other hand, the total costs for the support of the production of electricity from renewable sources remained rather limited until the year 2010, so that the level of charges remained relatively low. Therefore, the amount of aid granted to undertakings in the form of reductions in funding support for electricity from renewable sources remained limited at the level of the individual beneficiary. Furthermore, any aid granted from December 2008 until December 2010 that does not exceed EUR 500,000 per undertaking is likely to be compatible on the basis of the Communication from the Commission – Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis [OJ C 83 of 7.4.2009, p. 1, as amended].’.*

Following the discussion, and the changes made to the wording as indicated above, subject to legal revision, the Commission:

- adopted in principle the Guidelines set out in C(2014) 2322/3 and /4;
- took note of the impact assessment and the summary thereof in the staff working documents distributed as SWD(2014) 139/2 and SWD(2014) 140/2;

- took note of the opinion of the Impact Assessment Board on the above Guidelines, as set out in SEC(2014) 247;
- acting under Article 13 of its Rules of Procedure, empowered Mr ALMUNIA, the Commission Member responsible for competition, in agreement with the President, to adopt formally the Guidelines on State aid for environmental protection and energy 2014-2020 in all the official languages of the Union, with a view to their publication in the Official Journal of the European Union so as to bring them to the attention of Member States and stakeholders;
- authorised the publication as soon as possible on the websites of DG Competition of the Guidelines on State aid for environmental protection and energy 2014-2020, pending their publication in the Official Journal of the European Union.

The Commission's other discussions on this item are recorded in the special minutes.

**ii) Commission Regulation amending Regulation (EC) 794/2004 as regards the calculation of certain time limits, the handling of complaints and the identification and protection of confidential information**

(C(2014) 2239; RCC(2014) 39)

The Commission adopted the Commission Regulation set out in C(2014) 2239, for publication in the Official Journal of the European Union.

### **13. RELATIONS WITH NON-EU COUNTRIES**

#### ***SUPPORT FOR UKRAINE***

***(INFO(2014) 29)***

Referring to the recent campaign of destabilisation conducted simultaneously in several cities in Eastern Ukraine, the PRESIDENT concluded from this further deterioration that Russian ambitions were not limited to Crimea alone and that the military option had not been ruled out. In addition to these measures designed to intimidate Ukraine, a sharp rise in Russian gas prices had put Kiev under further pressure by increasing the already considerable arrears owed to its main supplier.

The PRESIDENT said that the European Union should pursue with renewed determination its dual objective of helping Ukraine and laying down clear red lines for Russia. Accordingly, he welcomed the adoption, on that day, of two additional measures to help Ukraine, with the creation of the Support Group for Ukraine within the Commission and the appointment of its head (cf. item 11.1 of the minutes).

In the immediate future (until end-2014), the Support Group for Ukraine would focus on stabilising the financial, economic and political situation in Ukraine, planning and implementing reforms to boost growth, identifying reform priorities and advancing the reforms necessary to ensure that Ukraine benefited as soon as possible from the Association Agreement and the Visa Liberalisation Action Plan. Mr FÜLE would coordinate the work of the Support Group, which would report to Baroness ASHTON and the PRESIDENT.

In the medium term, the goal of the Support Group would be to help Ukraine to define and implement comprehensive reform programmes. The 'European agenda for reform', a roadmap prepared in conjunction with the Ukrainian authorities, was distributed to participants (cf. INFO(2014) 29).

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

**EN**

The PRESIDENT also said that the EU would help to organise free, transparent and democratic presidential elections in Ukraine on 25 May by deploying the stability instrument and sending election observers. He referred to Mr OETTINGER's meeting on that day with the Ukrainian energy minister and the rapid introduction of reverse flows from Slovakia.

The Commission was working on possible sanctions against Russia as requested by the European Council of 20 and 21 March and should also be able to put forward measures targeted on Crimea in the near future.

The PRESIDENT ended with a new call for the European Union to be united on this matter, expressing the hope that any new measures would be prepared with the necessary care so that they could be supported in full by all the Member States, thereby avoiding division.

Mr FÜLE took the floor and began by thanking the Members for the help they had provided in identifying Ukraine's needs in terms of reform and in finalising EU support. The roadmap developed with the Ukrainian authorities on the basis of the priorities for action identified by the Prime Minister, Mr Arseniy Yatsenyuk, would now be made public. The document had been designed as an open-ended and non-exclusive instrument.

He suggested 13, 15 and 21 May as the dates of the bilateral meetings which the PRESIDENT wished to hold with the Ukrainian, Moldovan and Georgian prime ministers respectively. He proposed that each of these meetings take place at 12.30, followed by a working lunch with the Members of the Commission and of the Ukrainian, Moldovan and Georgian governments, then by a press briefing and, lastly, by bilateral meetings between certain Members of the Commission and ministers of the three governments. He asked the Members most directly concerned to make a note in their diaries.

Mr FÜLE then turned to discussions under way in various fora on the situation in



Ukraine and the possible repercussions of the events of recent days and weeks, singling out the Weimar Triangle declaration and the positions expressed at the 'Gymnich' informal meeting of EU foreign ministers in Athens on 4 and 5 April. He noted the idea of launching consultations between the European Union, Russia, Ukraine, Georgia and Moldova on the impact of the conclusion of a free trade agreement with Ukraine and reported on the work of the EU-Russia Working Group. He briefed the meeting on various initiatives, particularly by Baroness ASHTON, to reduce tension following the annexation of Crimea, and on speculation surrounding a recent face-off between pro-Russian separatists and Ukrainian loyalists in Luhansk.

Mr FÜLE ended by welcoming the Commission's decision to appoint Mr Peter BALAS, the current Deputy Director General of DG Trade, as the head of the Ukraine Support Group. The appointee's professional competence was matched by personal qualities and an excellent knowledge of the matter at hand and of the Russian language.

The PRESIDENT thanked Mr FÜLE for providing this information and confirmed that the three meetings planned with the Ukrainian, Moldovan and Georgian prime ministers would take place in May. He asked the Members to ensure that they were in Brussels on those three dates so that working meetings with the ministers of the three governments could take place.

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 11.55.