



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2015) 2123 final**

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

Brussels, 6 May 2015

# TEXTE EN

## MINUTES

**of the 2123<sup>rd</sup> meeting of the Commission**

**held in Brussels**

**(Berlaymont)**

**on Wednesday 22 April 2015**

**(morning)**

—

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**Single sitting: Wednesday 22 April 2015 (morning)**

The sitting opened at 9.13 with Mr JUNCKER, President, in the chair. The discussion of item 10 was chaired in part by Mr TIMMERMANS.

**Present:**

Mr JUNCKER	President	Items 1 to 10 (in part)
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	Items 6 (in part) to 10
Ms GEORGIEVA	Vice-President	Items 1 to 10 (in part)
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr KATAINEN	Vice-President	Items 1 to 10 (in part)
Mr OETTINGER	Member	Items 1 to 10 (in part)
Ms MALMSTRÖM	Member	
Mr MIMICA	Member	
Mr VELLA	Member	
Mr AVRAMOPOULOS	Member	
Mr MOSCOVICI	Member	Items 1 to 6 (in part)
Mr STYLIANIDES	Member	
Mr HOGAN	Member	
Lord HILL	Member	
Ms BULC	Member	
Ms BIENKOWSKA	Member	
Ms JOUROVÁ	Member	Items 6 (in part) to 10
Mr NAVRACSICS	Member	Items 6 (in part) to 10
Ms CREȚU	Member	Items 1 to 10 (in part)
Ms VESTAGER	Member	
Mr MOEDAS	Member	

Absent:

Mr DOMBROVSKIS	Vice-President
Mr HAHN	Member
Mr ARIAS CAÑETE	Member
Mr ANDRIUKAITIS	Member
Ms THYSSEN	Member

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

Mr LAHTI	Chef de cabinet to Mr DOMBROVSKIS	Items 6 (in part) to 10
Ms UDWIN	Deputy Chef de cabinet to Mr HAHN	
Ms LOBILLO BORRERO	Chef de cabinet to Mr ARIAS CAÑETE	
Mr VINČIŪNAS	Chef de cabinet to Mr ANDRIUKAITIS	
Ms PASERMAN	Deputy Chef de cabinet to Ms THYSEN	

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	Items 1 to 10 (in part)
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Acting Director-General, DG Communication	
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms METTLER	Head of the European Political Strategy Centre	
Mr THOLONIAT	A member of the PRESIDENT's staff	Items 1 to 6
Mr DELVAUX	A member of the PRESIDENT's staff	Items 8 and 9
Mr MANSERVISI	Chef de cabinet to Ms MOGHERINI	
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	
Mr BAILLY	Chef de cabinet to Mr MOSCOVICI	Items 1 to 10 (in part)
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER	
Ms ANDREEVA	Commission Spokesperson's Service	

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

**1. AGENDAS**

**(OJ(2015) 2123/FINAL; SEC(2015) 172)**

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(2015) 2123)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 20 April.

**3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2121<sup>ST</sup> AND 2122<sup>ND</sup> MEETINGS OF THE COMMISSION (25 MARCH AND 15 APRIL)**

**(PV(2015) 2121; PV(2015) 2121, PART II; PV(2015) 2122; PV(2015) 2122, PART II)**

The Commission approved the minutes of its 2121<sup>st</sup> and 2122<sup>nd</sup> meetings.



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

##### **4.1. WRITTEN PROCEDURES APPROVED**

*(SEC(2015) 173 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 17 April.

##### **4.2. EMPOWERMENT**

*(SEC(2015) 174 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 17 April.

##### **4.3. DELEGATION AND SUBDELEGATION OF POWERS**

*(SEC(2015) 175 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 13 and 17 April, as archived in Decide.

##### **4.4. SENSITIVE WRITTEN PROCEDURES**

*(SEC(2015) 176)*

The Commission took note of the sensitive written procedures for which the time limit expired between 20 and 24 April.

## **5. ADMINISTRATIVE AND BUDGETARY MATTERS**

**(SEC(2015) 177/2)**

### **ADMINISTRATIVE MATTERS**

**(PERS(2015) 40/2)**

#### **5.1. DG HUMAN RESOURCES AND SECURITY – INTERNAL AND INTERINSTITUTIONAL (GRADE AD14/15) AND EXTERNAL (GRADE AD14 – EU-28) PUBLICATION OF A VACANCY NOTICE FOR A DIRECTOR POST**

**(PERS(2015) 41)**

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii), Article 29(1)(b) and Article 29(2) of the Staff Regulations, of the vacancy notice in PERS(2015) 41 for the post of Director, 'Security', in the Directorate-General for Human Resources and Security.

This decision would take effect immediately.

#### **5.2. DG FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION – CHANGES TO THE ORGANISATION CHART**

**(SEC(2015) 190/2; SEC(2015) 191)**

The Commission took note of the information in SEC(2015) 190/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Lord HILL and also Mr DOMBROVSKIS and Mr KATAINEN, decided:

- to create a new unit FISMA.02 'Interinstitutional relations, planning and

stakeholders' relations'. This decision would take effect on 1 June 2015;

- to abolish one unit, to be decided by DG Financial Stability, Financial Services and Capital Market Union. This decision would take effect at the latest on 31 December 2015;
- to adopt the new organisation chart set out in SEC(2015) 191.

As a result of the reorganisation, the total number of units in DG Financial Stability, Financial Services and Capital Market Union would remain the same.

**5.3. DG INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs – CHANGES TO THE ORGANISATION CHART**  
**(SEC(2015) 190/2; SEC (2015) 192/2)**

The Commission took note of the information in SEC(2015) 190/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and having consulted Ms BIENKOWSKA and also Mr ANSIP, Mr ŠEFČOVIČ, Mr DOMBROVSKIS and Mr KATAINEN, decided:

- to abolish the directorates GROW.DDG2.B 'Governance of the Single Market', GROW.F 'Entrepreneurship and SMEs' and GROW.DDG1.H 'Service Industries';
- to create a new directorate GROW.DDG2.H 'COSME Programme' and to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Ms Kristin SCHREIBER, currently Director of Directorate GROW.DDG2.B 'Governance of the Single Market', to the post of Director of this new Directorate;
- to transfer, in the interest of the service, under Article 7 of the Staff

Regulations, Ms Valentina SUPERTI, currently Director of Directorate GROW.DDG2.C 'Single Market for Goods', to the post of Director of Directorate GROW.R 'Resources';

- to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Ms Kerstin JORNA, currently Director of Directorate GROW.DDG1.J 'Industrial Property, Innovation and Standards', to the post of Director of Directorate GROW.B 'Single Market Policy, Regulation and Implementation';
- to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Mr Gwenole COZIGOU, currently Director of Directorate GROW.DDG1.I 'Resources Based, Manufacturing and Consumer Goods Industries', to the post of Director of Directorate GROW.DDG1.C 'Industrial Transformation and Advanced Value Chains';
- to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Mr Carlo PETTINELLI currently Director of Directorate GROW.DDG1.G 'Sustainable Growth and EU 2020', to the post of Director of Directorate GROW.DDG1.D 'Consumer, Environmental and Health Technologies';
- to create a temporary post of Principal Adviser responsible for the Task Force 'Collaborative Economy, New Business Models and SMEs' and to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Ms Joanna DRAKE, currently Director of Directorate GROW.F 'Entrepreneurship and SMEs', to this post; the Task Force was created for a period of two years and the Principal Adviser post would be abolished at the end of the Task Force's mandate;
- to create a temporary post of Principal Adviser responsible for the Task

Force 'Services and Self-Regulation' and to transfer, in the interest of the service, under Article 7 of the Staff Regulations, Mr Pedro ORTÚN, currently Director of Directorate GROW.DDG1.H 'Service Industries', to this post; the Task Force was created for a period of two years and the Principal Adviser post would be abolished at the end of the Task Force's mandate;

- to adopt the new organisation chart set out in SEC(2015) 192/2.

These decisions would take effect on 1 June 2015.

As a result of the reorganisation, the total number of directorates in DG Internal Market, Industry, Entrepreneurship and SMEs would be reduced from 13 to 11 and the total number of units would be reduced from 55 to 47.

The Commission also noted that Ms GEORGIEVA and Ms BIENKOWSKA had, in agreement with the PRESIDENT, jointly defined the objectives for synergies and efficiency gains – in terms of posts – for DG Internal Market, Industry, Entrepreneurship and SMEs. The target objectives for 2015 and 2016 would be formalised in the draft budget for 2016 and in the final human resources allocation for 2016. The objectives for the subsequent years would be formalised in the context of the report on synergies and efficiency gains which Ms GEORGIEVA would present before summer 2015 and would be reflected in the respective draft budgets and human resources allocations.

**5.4. DG HUMAN RESOURCES AND SECURITY – CREATION OF A PRINCIPAL ADVISER POST AT THE EUROPEAN POLITICAL STRATEGY CENTRE**  
(C(2015) 2664)

The Commission took note of the decision of the PRESIDENT on the mission, tasks and organisation chart of the European Political Strategy

Centre, distributed as C(2015) 2664, creating an additional Principal Adviser post with responsibility for European social policy, for the duration of the current Commission's term of office.

This decision would take effect immediately.

**5.5. *DG HUMAN RESOURCES AND SECURITY – ATTACHMENT OF THE POST OF CHIEF ECONOMIC ANALYST OF THE COMMISSION***  
***(C(2015) 2665)***

The Commission took note of the decision taken by the PRESIDENT and set out in C(2015) 2665 to attach, for administrative purposes, the post of Chief Economic Analyst of the Commission to the Commission Vice-President responsible for the Euro and Social Dialogue.

This decision would take effect immediately.

**6. *INTERINSTITUTIONAL RELATIONS***  
***(RCC(2015) 32)***

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 17 April (RCC(2015) 32).

It paid particular attention to the following points.

**6.1. *EARLY WARNING***

- i) ‘Trade mark’ Package – Amendment of Council Regulation (EC) 207/2009 of 26 February 2009 on the Community trade mark (Regulation) / Approximation of the laws of the Member States**

**relating to trade marks (Directive - recast) – WIKSTRÖM report –  
2013/0088 (COD) / 2013/0089 (COD)**

The Commission approved the line set out in SI(2015) 139 and /2.

**6.2. LEGISLATIVE MATTERS**

**ii) European Parliament dossiers**

(point 3.2 of the IRG record)

Ordinary legislative procedure – Second reading

- Amendment of Directive 98/70/EC relating to the quality of petrol and diesel fuels and amendment of Directive 2009/28/EC on the promotion of the use of energy from renewable sources (Directive) – TORVALDS report – 2012/0288 (COD)

The Commission approved the line set out in SP(2015) 215 and took note of the compromise text attached to that document.

Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Mr ARIAS CAÑETE, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr ŠEFČOVIČ and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in SP(2015) 215, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

- Type-approval requirements for the deployment of the eCall in-vehicle system and amendment of Directive 2007/46/EC (Regulation) – SEHNALOVÁ report – 2013/0165 (COD)

The Commission took note of the compromise text in SP(2015) 216, further to communication COM(2015) 126, which it had already approved on 10 March.

#### Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Ms BIENKOWSKA, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr KATAINEN and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in COM(2015) 126 as approved by the Commission on 10 March, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

- 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 took note of the compromise text in SP(2015) 217, further to communication COM(2015) 124, which it had already approved on 10 March.

#### Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Mr VELLA, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr KATAINEN and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in COM(2015) 124 as approved by the Commission on 10 March, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.



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

The Commission took note of the compromise text in SP(2015) 218, further to communication COM(2015) 128, which it had already approved on 10 March.

#### Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Mr ARIAS CAÑETE, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr ŠEFČOVIČ and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in COM(2015) 128 as approved by the Commission on 10 March, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

- Amendment of Regulation (EC) 223/2009 on European statistics (Regulation) – BAYET report – 2012/0084 (COD)

The Commission took note of the compromise text in SP(2015) 219, further to communication COM(2015) 125, which it had already approved on 10 March.

#### Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Ms THYSSEN, in agreement with the PRESIDENT, Mr TIMMERMANS and Mr DOMBROVSKIS and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in COM(2015) 125 as approved by the Commission on 10 March, once Parliament had given its opinion, and transmit them to the Council in

accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

Ordinary legislative procedure – First reading

- Amendment of Council Regulations (EC) 850/98, (EC) 2187/2005, (EC) 1967/2006, (EC) 1098/2007, (EC) 254/2002, (EC) 2347/2002 and (EC) 1224/2009 and repealing Council Regulation (EC) 1434/98 as regards the landing obligation (Regulation) – CADEC report – 2013/0436 (COD)

The Commission took note of the compromise text in SP(2015) 221, further to note SI(2015) 35, which it had already approved on 10 February.

- Money market funds (Regulation) – GILL report – 2013/0306 (COD)

The Commission approved the line set out in SP(2015) 222.

- Amendment of Council Regulation (EC) 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process and suspending its application with regard to Bosnia and Herzegovina (Regulation) – BETTINI report – 2014/0197 (COD)

The Commission approved the line set out in SP(2015) 224 and /2.

- Common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Union import rules (Regulation – recast) – WAŁĘSA report – 2014/1777 (COD)

The Commission approved the line set out in SP(2015) 225.

Approval procedure

- Establishment of the European Public Prosecutor's Office (Council Regulation) – MACOVEI report – 2013/0255 (APP)

The Commission approved the line set out in SP(2015) 226 and /2.

**iii) Council dossiers**

(point 3.3 of the IRG record)

- Establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (Decision) – BELET report – 2014/0011 (COD)

The Commission approved the line set out in SI(2015) 131/2.

- Reporting and transparency of securities financing transactions (Regulation) – SORU report – 2014/0017 (COD)

The Commission approved the line set out in SI(2015) 132/2.

**6.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL**

**iv) Programming of Council business**

(SI(2015) 130)

The Commission took note of the information in SI(2015) 130 on the Council meetings between 23 April and 6 May.

**v) Non-legislative dossiers**

(point 4.1 of the IRG record)

- Action plan on cooperation in the customs enforcement of intellectual property rights in the European Union and Hong Kong

The Commission took note of SI(2015) 134/2.

**vi) Preparation of the informal meetings of the Eurogroup and the Economic and Financial Affairs Council (Riga, 24 and 25 April 2015)**

The Commission took stock of the latest developments relating to the economic situation in Greece in the context of preparations for the forthcoming informal meetings to be held in Riga at the end of the week.

**6.4. RELATIONS WITH PARLIAMENT**

**vii) Non-legislative dossiers**

(point 5.1 of the IRG record)

- Discharge for implementation of the general budget of the European Union for the financial year 2013 (52 reports) – GRÄSSLE / CZARNECKI / PRIMDAHL VISTISEN / PARGNEAUX / DLABAJOVÁ reports

The Commission approved the line set out in SP(2015) 237.

**viii) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its March I and II part-sessions**

(point 5.6.1 of the IRG record)

The Commission approved SP(2015) 232 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its March I and II part-sessions, for transmission to Parliament.

**ix) Action to be taken on Parliament's legislative resolutions and other resolutions of a legal nature**

(SP(2015) 238)

The Commission took note of SP(2015) 238, drawn up following the April I part-session of Parliament.

**x) Results of the April I part-session of Parliament**

(SP(2015) 240)

The Commission took note of the information on Parliament's part-session held on 15 April in Brussels, set out in SP(2015) 240.

**xi) Participation by Members of Parliament in international conferences**

(point 5.7 of the IRG record)

- 68<sup>th</sup> session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) (London, 11 to 15 May 2015)

The Commission agreed to the request to the PRESIDENT from Mr Martin Schulz, the President of the European Parliament, concerning the attendance of four Members of the European Parliament at the above-mentioned meeting, for the period 11 to 13 May, as observers in the EU delegation, with a reminder about the procedure to be followed as set out in SP(2015) 231.

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

**xii) Relations with national parliaments**

(point 6.1 of the IRG record)

- Evidence given to the committees of national parliaments by officials –  
Written answer from Mr ITALIANER to committee of inquiry of the *Assembleia da República* (Portugal)

The Commission approved the line set out in SNP(2015) 18 and authorised Mr ITALIANER to provide a written answer to the committee of inquiry of the *Assembleia da República* on the basis of the draft answer attached to that document.

#### **6.6. OTHER MATTERS**

- xiii) 7<sup>th</sup> College-to-College meeting between the European Commission and the African Union Commission (Brussels, 22 April 2015) – Joint declaration**  
(point 7.1 of the IRG record)

The Commission approved the line set out in SI(2015) 137.

- 7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – REVIEWING THE DECISION-MAKING PROCESS ON GENETICALLY MODIFIED ORGANISMS (GMOs)**  
(COM(2015) 176 TO /3 ; RCC(2015) 31)
- 8. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) No 1829/2003 AS REGARDS THE POSSIBILITY FOR THE MEMBER STATES TO RESTRICT OR PROHIBIT THE USE OF GENETICALLY MODIFIED FOOD AND FEED ON THEIR TERRITORY**  
(COM(2015) 177 AND /2; RCC(2015) 31)

Mr KATAINEN presented the Communication and the proposal for a Regulation

submitted to the Commission for adoption that day. The texts had already been agreed during the preparatory work. This initiative had been announced in the PRESIDENT's policy guidelines and, while covering a sensitive issue, it was presented in a balanced way. He went on to explain that it was balanced in that it took account of the diversity of views on the use of genetically modified organisms (GMOs), making it possible to break the current deadlock as regards applications to place GMOs or products containing them on the market.

The proposals on the table that day confirmed the principle of an authorisation procedure based on science, while giving Member States the possibility of making reasoned choices that were compatible with EU law. The proposals ensured the functioning of the internal market while complying with the EU's World Trade Organisation (WTO) commitments without disrupting the markets in question. They would in particular lead to the unblocking of applications for authorisation to use GMOs that were still pending.

Mr KATAINEN turned back to the contentious question of the treatment given to GMOs, on which the opinions and concerns of stakeholders and Member States varied considerably. This treatment was of direct interest to the EU's trading partners. It was, therefore, important that communication on this initiative should be straightforward and factual.

In the ensuing discussion, the Commission raised the following main points:

- the need to inform the EU's trade partners of the content of the Commission's proposals given the importance of GMOs for agriculture and trade, in particular now that trade negotiations were in progress;
- the importance of maintaining an essentially scientific approach to GMOs while allowing Member States to assess other legitimate, relevant factors that could be invoked to restrict the use of GMOs;

- the need in addition to break the deadlock in relation to authorisations to place genetically modified food and feed on the market so that the Union complied with its WTO commitments;
- the exceptional nature of the treatment applied to GMOs with respect to internal market rules and a warning against the risk of similar treatment being requested for other products, for instance in the chemicals sector.

In reply to the PRESIDENT's invitation, the Director-General of the Legal Service pointed out that the proposal for a Regulation amending the decision-making process for GMOs complied with EU law and was compatible with the WTO rules since it simply changed the level at which certain factors were assessed. Legitimate factors other than scientific evaluations could be invoked but could not, in this specific case, be assessed by the Commission. As a result of debates, particularly ethical, on these issues, opinions were surfacing that differed radically from one Member State to another, therefore the assessment of other legitimate factors that could be taken into account could only be done by each individual State. It was also clear from the nature of these debates that problems linked to the marketing of GMOs could not be solved by labelling and should be the subject of national decisions.

The proposal to review the decision-making process for GMOs was in line with the principle of subsidiarity and with Article 2(2) of the Treaty on the Functioning of the European Union (TFEU) concerning shared competence. Member States should ensure that their decisions complied with EU law, in particular Articles 34 to 36 of the TFEU as interpreted by the Court of Justice of the European Union, and with the international agreements that were legally binding on the Union. Lastly, he pointed out that decisions by Member States on GMOs would be assessed by the Commission with reference to the principles of necessity and proportionality.

The Director-General of the Legal Service ended by repeating that the proposals



were in line with both EU law and the WTO rules, but pointed out that it would be for the Commission to assess whether the decisions taken by Member States complied with the law.

The PRESIDENT concluded by asking the Commission Members to use the information made available to them to communicate simply and consistently on the texts adopted that day, in particular with respect to non-EU countries and the press.

He announced, as an integral part of this decision, the adoption by written procedure within the following 48 hours of 19 decisions authorising the placing on the market of GMOs and/or products containing GMOs (PE/2015/2603, PE/2015/2604, PE/2015/2605, PE/2015/2607, PE/2015/2608, PE/2015/2609, PE/2015/2610, PE/2015/2611, PE/2015/2613, PE/2015/2614, PE/2015/2615, PE/2015/2616, PE/2015/2617, PE/2015/2618, PE/2015/2619, PE/2015/2620, PE/2015/2621, PE/2015/2622 and PE/2015/2623).

Following this exchange of views, the Commission:

- approved the Communication in COM(2015) 176/3 for transmission to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments;
- adopted the proposal for a Decision set out in COM(2015) 177/2, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments.

## **9. OTHER BUSINESS**

### ***GAZPROM – STATEMENT OF OBJECTIONS FOR ABUSE OF DOMINANT POSITION IN CERTAIN MARKETS***

Ms VESTAGER submitted the statement of objections that she had sent that day to Gazprom, the leading Russian gas group, a decision adopted under the normal empowerment procedure granted to the Commission Member responsible for competition, to accompany her note to Members and some procedural information circulated at the meeting.

Following a detailed investigation and on the basis of robust data, the Commission's preliminary view was that Gazprom was breaking EU antitrust rules by pursuing an overall strategy to partition Central and Eastern European gas markets, which was affecting eight Member States to differing degrees, namely: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia.

She explained the group's abusive strategy in these markets and noted in particular that Gazprom imposed territorial restrictions in its supply agreements with wholesalers and with some industrial customers in the above countries. She pointed out that these restrictions included export bans and clauses requiring the purchased gas to be used in a specific territory, adding that Gazprom had also used other measures that prevented the cross-border flow of gas, such as obliging wholesalers to obtain Gazprom's agreement to export gas and refusing under certain circumstances to change the location to which the gas should be delivered. The Commission considered that these measures prevented the free trade of gas within the European Economic Area (EEA).

Moreover, these territorial restrictions could result in higher gas prices and allow Gazprom to pursue an unfair pricing policy in Bulgaria, Estonia, Latvia, Lithuania and Poland, charging prices to wholesalers that were significantly higher than its

own costs or benchmark prices. These unfair prices resulted partly from Gazprom's price formulae that indexed gas prices in supply contracts to a basket of oil product prices and had unduly favoured Gazprom over its customers.

Furthermore, according to the Commission's investigation, Gazprom could be leveraging its dominant market position by making gas supplies to Bulgaria and Poland conditional on obtaining unrelated commitments from wholesalers concerning gas transport infrastructure.

Ms VESTAGER explained that Gazprom now had 12 weeks to reply to the statement of objections and could also request an oral hearing to present its arguments. She stressed that the Commission would fully respect Gazprom's rights of defence and carefully consider its comments before taking a decision, which would be tabled in due course. She also pointed out that sending a statement of objections did not prejudice the final outcome of the investigation. However, if the Commission's concerns were confirmed, Gazprom would have to face the legal consequences of its behaviour.

She concluded by stressing that it would be completely unjustified to attach a political dimension to this competition case, which had a sound legal basis, relating to behaviour which had resulted in unfair prices. The investigation had begun in 2012, well before the tensions between the Russian Government and the Union following the destabilisation of Ukraine.

At the end of Ms VESTAGER's presentation, the Commission raised the following points:

- the full support from all the Members of the Commission for Ms VESTAGER's action and judgment, the approach proposed and the line suggested;
- the absence of political considerations in this approach, which bore no relation to Ukraine or to the sanctions adopted in this context by the Union against

Russia; the emphasis, on the contrary, on the infringement of European competition law; the relevant precedent constituted by the statement of objections sent last week by the Commission to the American group Google;

- the excellent preparation of the procedure; the need for close cooperation between the different Members of the Commission concerned in order to address the potential political, diplomatic, energy and media consequences of the procedure; a note of caution that the case might be politically exploited in Russia because of the close links between the gas group Gazprom and the Russian State;
- the need to put this competition case into the broader geopolitical context of gas supply routes on the periphery of the Union, interconnection networks, supply of alternative energy sources and energy security issues;
- in this context, emphasis on the Russian strategy, which consisted in trying to divide the Member States among themselves, on the one hand, and the Union and its neighbourhood partner countries, on the other, in order to prevent some of them moving closer to Europe; hence the suggestion that the Union should focus on developing an energy diplomacy and that the Commission should make a proposal along those lines at the Foreign Affairs Council on 22 June.

The Commission took note of this information.

## **10. INTERINSTITUTIONAL RELATIONS (CONTINUED)**

**(RCC(2015) 32)**

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

**Preparation of the extraordinary European Council (Brussels, 23 April)**

Mr TIMMERMANS reported on the preparatory work for the extraordinary European Council convened by its President, Mr Donald Tusk, for 23 April, which was to address the migration crisis in the Mediterranean. It would conclude a series of preparatory meetings, including the Foreign Affairs Council and the joint meeting of the Foreign and Home Affairs Ministers held on 20 April. The ten-point plan presented by the Commission at these meetings, which proposed immediate measures to respond to the tragic situation in the Mediterranean, had received the full support of EU ministers and was therefore a sound basis for discussion on which the Heads of State or Government would be called to take decisions on 23 April.

Ms MOGHERINI, for her part, pointed out that, since no decision had actually been taken at the meetings of the Council on 20 April, it was the European Council meeting on 23 April that would formally adopt the Union's position and action plan. She also stressed that the decisions concerning military missions fell exclusively within the competence of the Council and that, although there was close coordination of the measures, the use of shared competences constituted an additional complexity to be managed.

In general, she highlighted the fact that the Union's main objective was to save lives and, in so doing, boost its credibility, which had been undermined by the exceptional scale of the recent tragedies. She took the view that there was no national solution to the problem of migratory pressure and that only action at Union level could be effective. This message was particularly important to respond to the criticism levelled at the Union by the most Eurosceptic and populist movements in Europe.

In her view, one of the main problems to be addressed concerned Libya and the lack of a government of national unity in the country. This deprived the Union of a

reliable and legitimate point of reference when decisions had to be taken about terrorism and human trafficking. It was therefore desirable to obtain a UN Security Council resolution in order to provide the legal framework and legitimise the Union's action at international level.

In the short term, she advocated focusing the Union's action on: (i) the fight against smugglers and people traffickers – particularly in the Sahel – before the migrants reached Libya, through the destruction of their vessels, better understanding of organised crime networks and elimination of their sources of financing; (ii) rescue at sea, particularly by strengthening the mandate of the Triton mission and extending the areas of sea operations; and (iii) drawing up an emergency distribution mechanism to take migratory pressure off the frontline Member States.

Taking the floor, Mr AVRAMOPOULOS, too, pointed out that the main aim of the extraordinary European Council was to endorse the action plan proposed by the Commission at the highest political level of the Union. Since the start of the mandate of the current Commission, the migratory pressure from the Mediterranean and elsewhere had been constant, and this looked set to continue. He stressed the role played by smugglers and human traffickers and the need for the Union to act in order to dismantle criminal networks.

He went on to list the ten main points of the Commission's proposed action plan, which had been well received by the Member States at meetings of the foreign and interior ministers. These points were: (i) to reinforce joint operations in the Mediterranean, namely Triton and Poseidon, by increasing the financial resources and number of assets allocated, while also extending their area of operations, allowing further intervention, within the mandate of the Frontex agency; (ii) to capture and destroy more systematically the vessels used by the smugglers; (iii) to foster close cooperation between Europol, Frontex, the European Asylum Support Office (EASO) and Eurojust in order to gather information on the ways in which

smugglers operated and trace their sources of funding; (iv) to deploy EASO teams in Italy and Greece for joint processing of asylum applications; (v) to take steps to make sure that Member States ensured fingerprinting of all migrants; (vi) to consider options for setting up an emergency relocation mechanism; (vii) to deploy an EU-wide voluntary pilot project on resettlement for persons in need of protection; (viii) to establish a new programme, coordinated by Frontex, for the rapid return of irregular migrants from frontline Member States; (ix) to establish closer contacts with the countries bordering Libya through a joint effort between the Commission and the EEAS; and (x) to deploy immigration liaison officers in key third countries, to gather intelligence on migration flows and strengthen the role of the EU Delegations.

Mr AVRAMOPOULOS hoped to put a stop to the fruitless debates on responsibilities and commit the Union to immediate action in order to prevent further tragedies involving migrants. Although the list of proposed actions might appear to be incomplete, a broad view must be taken of each of these actions in order to tackle the deep-rooted causes of the phenomenon in the medium and long term. Winding up his presentation, he told the meeting that he would be attending a funeral service in Malta later that day in memory of the migrants who had died in the latest shipwrecks.

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

- the urgent need to adopt and implement the Commission's action plan swiftly while encouraging an ambitious approach, in particular in order to contribute to the search and rescue operations and step up cooperation between coastguards in the different Member States;
- the importance of supporting the Member States who bore the brunt of the migration flows and to make the obligation to provide this assistance more

binding to ensure that tasks and responsibilities were shared out more fairly among the EU Member States;

- in the absence of a government of national unity in Libya, the need to have a legal framework at international level in order to implement measures throughout Libya to combat smugglers;
- the need to step up the Member States' contribution to border control and maritime rescue operations in terms of operational resources and financing;
- for some, the imbalance resulting from the fact that fewer than half the EU Member States took in refugees; the fact that most migrants were genuine refugees who could legitimately apply for asylum; for others, the argument that certain Member States already had a significant immigrant population – including refugees – who were still being integrated;
- the need to give priority in the longer term to developing a strategic plan for Africa aimed at tackling the deep-rooted causes of migration flows.

Replying to these comments, Ms MOGHERINI emphasised the need for unremitting efforts against the people traffickers in Libya, where 95% of the migrants currently came from, stressing, however, that this work was the responsibility of the Member States, under the auspices of the United Nations.

She mentioned in passing that Italy had single-handedly financed the Mare Nostrum operation to the tune of €9 million per month and at the time the operation had been criticised as encouraging irregular immigration. It had therefore been replaced by the smaller-scale Triton operation.

She trusted that the political will of the Heads of State or Government would also be maintained in the long term, beyond the implementation of emergency measures such as the provision of vessels by the Member States to participate in rescue



operations and resettlement measures. She pointed out that once the migrants were put on a Member State vessel, that Member State must take responsibility for their reception, in particular verification of their refugee status and implementation of anti-terrorist security measures.

Mr TIMMERMANS closed the discussion by referring once again to the urgency of the needs created by the current situation, while reminding the meeting of the need to bear in mind the deep-rooted causes of migration. In this context, the Commission planned to adopt a European agenda on migration in May, and he hoped that the response to the most immediate problems would not overshadow the implementation of a long-term migration policy. He pointed out that ten of the 28 Member States currently received 90% of the refugees and that these States were not always the most directly exposed to immigration. He therefore stressed the progress still to be made and the need for a more binding obligation to share tasks and responsibilities fairly.

Lastly, he asked the Commission Members to pay particular attention to how they communicated EU action on matters relating to migratory pressure, since he felt that the institutions would be the target of criticism as long as the tragedies involving migrants in the Mediterranean continued.

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 11.15.