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NOTE

From: General Secretariat of the Council

To: Delegations

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Subject: Establishment of the EU-US informal expert group
- Internal EU arrangements

In connection with the establishment of the EU-US informal Expert group, delegations will find attached the Internal EU arrangements as agreed at technical level.

Internal EU arrangements for work in the EU-U.S. Informal Expert Group

These arrangements, which accompany the Working modalities for the EU-U.S. Informal Expert Group ('Expert Group'), concern the manner in which the Council and the Commission intend to deal with the preparation and handling of meetings of the Expert Group.

COMPOSITION OF EU DELEGATION AND SELECTION OF EXPERTS

In line with the prerogatives of the Commission as the external representative of the Union, the EU delegation in the Expert Group shall be headed by an official of the Commission and will be composed of other representatives from the Commission. The Commission shall also include representatives of other institutions, bodies, offices or experts in the EU delegation, such as: the current Presidency of the Council, the General Secretariat of the Council, and a number of national experts. If appropriate, depending on the topics, representatives from bodies such as Eurojust or the European Judicial Network may also be invited to participate in the EU delegation. Depending on the frequency and modalities of the meetings agreed between both sides, representatives of the incoming Presidency of the Council may also be invited to participate in the EU delegation.

The head of the EU delegation shall express the views on behalf of the European Union. Representatives of other institutions, bodies, offices or experts will be allowed to intervene, as appropriate, provided that their opinions are in line with the agreed Union position.

Each Member State shall designate two experts with substantial practical experience of the application of the EU-U.S. Agreements for a pool of experts, providing information on their areas and levels of expertise. For each meeting of the Expert Group, and taking the items on the agenda of the meeting into account, a number of national experts shall be selected from that pool, on the basis of their competence, by the current Presidency of the Council ('the Presidency'), in agreement with the Commission.

Where discussions in the Expert Group concern (a) particular Member State(s), the EU delegation for the relevant meeting of the Expert Group shall, where possible, encompass (an) expert(s) from that (those) Member State(s).

PREPARATION OF MEETINGS ¹

The EU shall prepare duly for each meeting of the Expert Group, and well in advance. Therefore, the following shall apply:

- a) **Setting the agenda:** The Commission shall inform the COPEN Working Party of the anticipated schedule and of the item(s) which it proposes to discuss at any meeting of the Expert Group.

At least eight weeks before each meeting of the Expert Group, a meeting of the COPEN Working Party shall be convened in order to discuss the items that should be proposed, by the EU side, for the agenda of that meeting of the Expert Group, and where possible to express views on the items proposed by the U.S. side.

The Commission shall take the discussions in the COPEN Working Party duly into account during its contacts with the U.S. delegation in order to establish the agenda for the meeting of the Expert Group. Once the agenda is established, it shall be sent to the COPEN Working Party.

- b) **Documentation:** The Commission or the Presidency shall share any document or information that is relevant for any meeting of the Expert Group with the COPEN Working Party, as early as possible.

¹ Cf. CJEU judgment of 16 July 2015 in Case C-425/13, Commission v. Council, points 59 to 93.

- c) **Input by the COPEN Working Party:** Prior to each meeting of the Expert Group, the COPEN Working Party shall have an opportunity to discuss the items on the agenda, and to identify the key issues, formulate opinions and provide guidance, as appropriate.

During the meeting of the Expert Group, the EU delegation shall present its views on the agenda items in light of the input thus provided by the COPEN Working Party.

REPORT ON THE OUTCOME OF MEETINGS OF THE EXPERT GROUP

The Commission and the Presidency shall report to the COPEN Working Party on the outcome of each meeting of the Expert Group, within a reasonable time after such meeting.

In this regard, the Commission shall distribute draft Minutes of the meeting to those who participated in the meeting and ensure that their comments are taken into account when the minutes are adopted.

Before reporting to the EU-US JHA Senior Officials Meeting, the Commission and the Presidency shall consult the COPEN Working Party.
