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C/M(2016)5

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

22-Apr-2016

English - Or. English

COUNCIL

Council

SUMMARY RECORD OF THE 1330th SESSION

**held at the Château de la Muette, Paris,
on Wednesday, 6 April 2016.**

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68. ADOPTION OF THE AGENDA

THE COUNCIL

noted the introductory remarks by the Chair, including that document [C\(2016\)63](#) has been revised following the additional Budget Committee of 4 April and transmitted as [C\(2016\)63/REV1](#) to Council as an “a point”, and adopted the draft Agenda for its 1330th session [[C/A\(2016\)5](#)], as amended.

ITEMS 69-75 APPROVED WITHOUT DEBATE (“A POINTS”)

69. REPORT ON THE IMPLEMENTATION OF THE RECOMMENDATION OF THE COUNCIL ON COMMON APPROACHES FOR OFFICIALLY SUPPORTED EXPORT CREDITS AND ENVIRONMENTAL AND SOCIAL DUE DILIGENCE (THE “COMMON APPROACHES”) [[C\(2012\)101](#)] AND DRAFT REVISION OF THIS RECOMMENDATION

THE COUNCIL

- a) noted document [C\(2016\)38](#), in particular the Report to the Council on the Implementation of the Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence [[C\(2012\)101](#)] set out in its Appendix I;
- b) adopted the revised Recommendation as set out in Appendix II to document [C\(2016\)38](#).

70. UPDATE ON THE PREPARATIONS FOR THE MEETING OF THE HEALTH COMMITTEE AT MINISTERIAL LEVEL

THE COUNCIL

- a) noted document [C\(2016\)37](#);
- b) agreed that the Ministerial meeting of the Health Committee take place on 17 January 2017 in Paris;
- c) noted the provisional draft agenda for the Ministerial meeting and proposed documentation as outlined in document [C\(2016\)37](#);
- d) agreed to invite Argentina, Brazil, China, Colombia, Costa Rica, India, Indonesia, Kazakhstan, Latvia, Lithuania, Morocco, Peru, South Africa and Saudi Arabia to participate in the Ministerial meeting;

- e) agreed to invite the World Health Organisation, the World Bank, the International Social Security Association and the Council of Europe to participate in the Ministerial meeting as observers;
- f) agreed to return, at a future session, to the preparation of this Ministerial meeting, on the basis of an update prepared by the Health Committee.

71. IN-DEPTH EVALUATION OF THE HEALTH COMMITTEE

THE COUNCIL

- a) noted document [C\(2016\)6](#);
- b) noted that the Evaluation Committee assessment with regard to the Health Committee was “High” for the evaluation criteria of relevance and effectiveness and “Very High” for the evaluation criterion of efficiency;
- c) approved the recommendations proposed by the Evaluation Committee as set out in document [C\(2016\)6](#);
- d) invited the Health Committee to take the appropriate measures for the implementation of the recommendations, as relevant drawing on information provided in the IDE Good Practice repository and take into account the results of the evaluation during the review of its mandate;
- e) invited the Evaluation Committee to monitor the implementation of the recommendations and to submit a report on this matter to the Council before the end of April 2017.

72. IN-DEPTH EVALUATION OF THE COMMITTEE FOR AGRICULTURE

- a) noted document [C\(2016\)27](#);
- b) noted that the Evaluation Committee assessment with regard to the Committee for Agriculture (COAG) was “High to Very High” for the evaluation criteria of relevance and “Medium to High” for effectiveness and efficiency;
- c) approved the recommendations proposed by the Evaluation Committee as set out in document [C\(2016\)27](#);
- d) invited the COAG to:
 - i) take the appropriate measures for the implementation of the recommendations, as relevant drawing on information provided in the IDE Good Practice repository and take into account the results of the evaluation during the review of its mandate;
 - ii) present an action plan corresponding with the recommendations to the Evaluation Committee before the end of October 2016;

- e) invited the Evaluation Committee to monitor the implementation of the recommendations and to submit a report on this matter to the Council before the end of April 2017.

73. REQUEST BY THE INTERNATIONAL NETWORK FOR SMES (INSME) TO BE GRANTED THE STATUS OF "INSTITUTION WORKING UNDER THE AUSPICES OF THE OECD"

THE COUNCIL

- a) noted document [C\(2016\)30](#);
- b) agreed to grant, for a three-year period, the status of “Institution Working under the Auspices of the OECD” to the International Network for SMEs (INSME) Association, pursuant to the Guidelines of the Secretary-General on the use of the OECD Brand set out in document [C\(2013\)10/REV1](#).

74. DRAFT DECISION OF THE COUNCIL TO AUTHORISE A PART I SUPPLEMENTARY BUDGET IN ORDER TO FINANCE THE EARLY TERMINATION OF THE LEASE OF THE DELTA BUILDING

THE COUNCIL

- a) noted document [C\(2016\)63/REV1](#);
- b) approved the draft Decision set out in Annex I in document [C\(2016\)63/REV1](#).

75. OECD RISK MANAGEMENT SYSTEM – UPDATE

THE COUNCIL

noted document [C\(2016\)12](#).

76. PREPARATION OF THE 2016 MCM

THE COUNCIL

i) Draft MCM Annotated Agenda

- a) noted document [C\(2016\)29/REV1](#) and the introductory remarks by Chile, in its capacity as MCM Chair, the comments by Members of the Council and the replies by the Chair and Chile;
- b) noted that the MCM draft Annotated Agenda set out in the Appendix to [C\(2016\)29/REV1](#) will be finalised in the light of the discussion;

- c) noted that the Secretary-General will transmit to Ministers the final draft Annotated Agenda for the 1-2 June 2016 MCM under the reference [C/A\(2016\)10](#);

ii) Strategic Orientations of the Secretary-General

- d) noted document [C\(2016\)40/REV1](#), the introductory remarks by the Secretary-General, the comments by Members of the Council and the replies by the Secretary-General and the Secretariat;
- e) noted that the Strategic Orientations of the Secretary-General will be finalised in the light of the discussion, transmitted to Ministers under the responsibility of the Secretary-General and declassified;

iii) Key Issues Paper

- f) noted document [C\(2016\)41/REV1](#), the introductory remarks by the Secretariat, the comments by Members of the Council and the replies by the Chair, Chile and the Secretariat;
- g) agreed to return to the Key Issues Paper at its 28 April session, in the light of the discussion and the comments received in writing by 13 April;

iv) Update on the Mainstreaming of the New Approaches to Economic Challenges (NAEC) Initiative

- h) noted document [C\(2016\)44](#), the introductory remarks by OECD Chief of Staff and G20 Sherpa Ramos, the comments by Members of the Council and the replies by the Chair, Chile and the Secretariat;
- i) agreed to return to the Update on the Mainstreaming of the New Approaches to Economic Challenges (NAEC) Initiative at its 28 April session, in the light of the discussion and the comments received in writing by 13 April;

v) The Productivity-Inclusiveness Nexus

- j) noted document [C\(2016\)42](#), the introductory remarks by OECD Chief of Staff and G20 Sherpa Ramos, the comments by Members of the Council and the replies by the Chair, Chile and the Secretariat;
- k) agreed to return to the Productivity-Inclusiveness Nexus at its 28 April session, in the light of the discussion and the comments received in writing by 13 April.

* *This provisional reference is indicated in the light of the currently planned sessions, and would be adjusted should there be additional sessions taking place before the MCM.*

77. ACTIVITY REPORTS

THE COUNCIL

i) Report by the Secretary-General

- a) noted the report by the Secretary-General and the additional information provided by Members of the Council;

ii) Contributions of the Organisation to the G20

- b) noted the introductory remarks by the Secretary-General and the presentation by the Secretariat;
- c) noted the comments by Members of the Council and the replies by the Secretary-General, including on the upcoming meeting** of the Joint International Tax Shelter Information Centre (JITSIC) organised at the request of France following the recent, widely publicised, revelations of large-scale possible cases of tax evasion, avoidance and fraud;

iii) Contributions of the Organisation to the UN Habitat III – The OECD contribution to the New Urban Agenda

- d) noted the introductory remarks by the Secretary-General and the presentation by the Secretariat.

78. “KNOW YOUR OECD” PRESENTATION - OECD EVALUATION SYSTEM

THE COUNCIL

noted the introductory remarks by the Chair and the presentation by the Secretariat [for reference, see also document [CES\(2016\)2](#)].

79. ANNUAL EVALUATION REPORT

THE COUNCIL

- a) noted document [C\(2016\)20](#) and the introductory remarks by the Chair of the Evaluation Committee;
- b) noted the comments by Members of the Council.

** *The JITSIC meeting was subsequently scheduled on 13 April, as foreshadowed in the message by the Secretary-General to all Ambassadors dated 7 April.*

80. INDICATIVE WORK PROGRAMME OF THE COUNCIL AND INDICATIVE DRAFT AGENDA FOR THE NEXT SESSION

THE COUNCIL

noted the indicative work programme of the Council along with the indicative draft agenda for the next session set out in Room Document No. 4, and the introductory remarks by the Chair.

81. DIALOGUE WITH THE CHAIR OF THE LEED DIRECTING COMMITTEE

THE COUNCIL

- a) noted the presentation by the Chair of the LEED Directing Committee;
- b) noted the comments and questions from the lead participants, the Permanent Representatives of Ireland and Italy, and from other Members of the Council, including on the draft Principles for leveraging local benefits from global sporting events, as well as the responses by the Chair of the LEED Directing Committee.

82. LOW-PERFORMING STUDENTS: WHY THEY FALL BEHIND AND HOW TO HELP THEM SUCCEED

THE COUNCIL

noted the presentation by the Secretariat on *Low-Performing Students: Why they fall behind and how to help them succeed* launched on 10 February.

83. OTHER BUSINESS

THE COUNCIL

i) Final Update on the preparations for the Meeting of the Agriculture Committee at Ministerial Level on 7-8 April

- a) noted that the main outcomes of the meeting will be set out in a Ministerial Declaration and that it is expected that the invited Ministers from non-Member countries would also adopt the Declaration in the name of their governments at the Meeting of the Agriculture Committee at Ministerial level;

ii) Update on Office Space - IEA

- b) noted the letter set out in Room Document No. 8 read out by the Secretary-General (Annex I), the comments by Members of the Council and the replies by the Secretary-General;

iii) Report on Missions of the Deputy Secretaries-General

c) noted the missions of the Deputy Secretaries-General since 24 March;

iv) Next session

d) agreed to hold its next session on Thursday, 7 April for the visit of the Prime Minister of Hungary, and on Thursday, 28 April 2016.

**84. FAREWELL TO DEPUTY SECRETARY-GENERAL
KAPFERER**

THE COUNCIL

paid tribute to Deputy Secretary-General Kapferer for the manner in which he carried out his duties as Deputy Secretary-General, and offered him its best wishes for the future.

ANNEX I

**OTHER BUSINESS
UPDATE ON OFFICE SPACE - IEA****Statement / Letter by the Secretary-General**

TN/2016.183.gms

6 April 2016

“Dear Ambassador,

I would like to address some important governance issues raised by the 23 March IEA Governing Board conclusions on the short term lease for IEA premises (appearing under the caption “update to accommodation”).

As I pointed out in the last Council meeting on 24 March, the Governing Board conclusions have created an untenable situation, as they conflict with my duty of custodian of the OECD legal framework and, in particular, my legal responsibility to act in the best interest of the OECD in all circumstances, as set out in the OECD Convention and the OECD Financial Regulations.

I already explained, both orally at the Council meeting and in my letter of 25 March to the US Deputy Secretary of State Ms. Heather Higginbottom, that I do not believe that the conclusions of the Governing Board are in the best interest of the OECD family, including the IEA. Not only would the insourcing option (Boulogne) offer significant savings for the IEA compared to the alternative (Carré Suffren), at least 500K€ per year, but it would also ensure that the total costs of the IEA renting temporary space (8-9M€) would be paid to the Organisation, rather than to a third party. Moreover, it must be clear that the Governing Board views are not binding on the OECD. I have also mentioned repeatedly that any decision taken by the OECD would need to stand full public, political or audit scrutiny.

Unfortunately, this is not the first time that we face a conflict in the relationship between the IEA and the OECD, but it is certainly the most serious since the IEA was established as an autonomous body within the framework of the OECD, following the Council *Decision Establishing an International Energy Agency of the Organisation* (hereinafter “Council Decision”) adopted on 15 November 1974¹. The reason is that, on previous occasions, management has been able to arrive at workable solutions. This time, however, the involvement of the IEA Governing Board in an administrative matter has unduly exacerbated an already challenging situation and has driven us to a tipping point.

The persistent tensions between the OECD and the IEA on legal and procedural matters have damaged the quality and level of our substantive collaboration and have cost significant time and resources in management and administration. The source of these tensions has to do with a conflicting legal setting established by the 1974 Council Decision that granted the IEA governing body authority over the substantive work of the Agency, while the IEA staff and administrative matters are governed by the OECD rules and regulations, and therefore, under the OECD Secretary-General's authority. Autonomy is not tantamount to independence, which is defined in international law as the capacity to enter into legal relations with other legal persons². In particular, the Agency cannot contract or otherwise commit itself independently from the OECD. Moreover, the Agency does not enjoy privileges and immunities in its own right but as a part of the OECD, and IEA staff members are part of the OECD staff. This again brings us back to my role and responsibility, which I must continue to exercise in line with the best interests of the OECD.

./..

This conflicting framework has caused, and, if left unchanged, will continue to cause significant problems such as the one we are facing now and the ones we have experienced over decades.

Therefore, I have concluded that it is not in the best interest of the Organisation to keep the current arrangements, and that both the OECD and the IEA will be better off fully separated.

Thus, I am proposing that the OECD Council address the more fundamental question of the legal provisions that link the OECD and the IEA and proceed with full separation by abrogating the 1974 Council Decision. While the implementation of this separation may take some time, the decision on separation itself can be taken as early as the next Council on 28 April.

Once this decision is taken, I would then transfer to the IEA management the responsibility to enter into arrangements such as the signing of contracts for short term and long term accommodation of the Agency. In parallel, IEA and OECD management would start discussions to formalise and operationalise the terms and conditions of the separation. We offer our full co-operation to conclude this effort diligently and successfully.

I fully share the Members' calls for greater co-operation between the OECD and the IEA and I am persuaded that establishing a clear separation between the two institutions will benefit all and will hopefully enable an improved substantive collaboration based on a true partnership."

Sincerely,



Angel Gurría

¹ See document C(74)203(Final). The institutional and administrative links between the OECD and the Agency are disciplined exclusively by this Council Decision. These links are not governed by the Agreement on an International Energy Program to which the OECD is not a Party. As a consequence, for OECD purposes, the only relevant legal instrument for determining the degree of autonomy of the Agency vis-à-vis OECD is the Council Decision and not the Agreement on an International Energy Program.

² See the "Principles of Public International Law, 7th ed., I. Brownlie, Oxford University Press, 2008. Article 9 of the Council Decision reinforces this analysis, since it provides: "*The Agency shall cooperate with other competent bodies of the Organisation...*" (we underline). Article 8 of the Council Decision is also relevant and provides: "*The Governing Board shall report annually to the [OECD] Council on the activities of the Agency*".

ANNEX II
LIST OF ROOM DOCUMENTS

For this session the following room documents were made available:

FOR INFORMATION

- Room Document No. 1 – Draft Indicative Timetable for the MCM Documentation
- Room Document No. 2 – 2016 MCM Confirmed Ministerial Participation (by session)
- Room Document No. 3 – G20 Status Report
- Room Document No. 4 – Indicative work programme of the Council along with the indicative draft agenda for the next session
- Room Document No. 5 – Contributions of the OECD to the UN Habitat III Conference
- Room Document No. 6 – Report on the missions of the Deputy Secretaries-General since 24 March
- Room Document No. 7 – NAEC Calendar of Activities
- Room Document No. 8 – Letter from the Secretary-General to Ambassadors on the IEA dated 6 April 2016

ANNEX III

PRESENT

M./Mr. Gurría	Président / Chair
M./Mr. Hoffmann	Allemagne/Germany
M./Mr. Pontifex	Australie/Australia
Mme/Ms. Stubits-Weidinger	Autriche/Austria
Mme/Ms. Wilder	"
M./Mr. Schittecatte	Belgique/Belgium
Mme/Ms. Meert	"
Mme/Ms. d'Auray	Canada
Mme/Ms. Serrano	Chili/Chile
M./Mr. Petit Laurent	"
M./Mr. Yoon	Corée/Korea
M./Mr. Yun	"
M./Mr. Holm	Danemark/Denmark
M./Mr. Wert	Espagne/Spain
M./Mr. Kokk	Estonie/Estonia
M./Mr. Yohannes	Etats-Unis/United States
M./Mr. Salmimies	Finlande/Finland
M./Mr. Duquesne	France
M./Mr. Krimpas	Grèce/Greece
M./Mr. Cséfalvai	Hongrie/Hungary
M./Mr. Czuczai	"
M./Mr. Forbes	Irlande/Ireland
Mme/Ms. Ásgeirsdóttir	Islande/Iceland
M./Mr. Haraldsson	"
M./Mr. Shama-Hacohen	Israël/Israel
M./Mr. Sosnitsky	"
M./Mr. Checchia	Italie/Italy
M./Mr. Kodama	Japon/Japan
M./Mr. Hamada	"
M./Mr. Abe	"
Mme/Ms. Moes	Luxembourg
M./Mr. Pérez-Jácome	Mexique/Mexico
M./Mr. Hernández Basave	"
Mme/Ms. Johansen	Norvège/Norway
Mme/Ms. Ulleberg	"
M./Mr. Kember	Nouvelle-Zélande/New Zealand
Mme/Ms. Riley	"
M./Mr. van Hulst	Pays-Bas/Netherlands
M./Mr. Wiśniewski	Pologne/Poland
Mme/Ms. Leśnodorska	"
M./Mr. Pinheiro	Portugal
Mme/Ms. Alvarenga	"
M./Mr. Tomas	République slovaque/Slovak Republic
M./Mr. Rozsypal	République tchèque/Czech Republic
M./Mr. Halaxa	"
M./Mr. Sharrock	Royaume Uni/United Kingdom

M./Mr. Jarc	Slovénie/Slovenia
Mme/Ms. Markovic	Suède/Sweden
Mme/Ms. Swärd-Capra	"
M./Mr. Lov	"
M./Mr. Lehner	Suisse/Switzerland
Mme/Ms. Savas-Suca	Turquie/Turkey
M./Mr. Tuncer	"
M./Mr. Pierros	Union européenne/European Union
M./Mr. Rabe	"
M./Mr. Atherton (<i>point 81/Item 81</i>)	Président du programme d'action et de coopération concernant le développement économique et la création d'emplois au niveau local (LEED) / Chair of the Co-operative Action Programme on Local Economic and Employment Development (LEED)
Mme/Ms. Ramos	Conseillère spéciale du Secrétaire général Directrice de cabinet et sherpa du G20/Special Counsellor to the Secretary-General, OECD Chief of Staff and G20 Sherpa
M./Mr. Tamaki	Secrétaire général adjoint/ Deputy Secretary-General
Mme/Ms. Kiviniemi	Secrétaire générale adjointe/ Deputy Secretary-General
M./Mr. Kapferer	Secrétaire général adjoint/ Deputy Secretary-General
M./Mr. Frantz	Secrétaire général adjoint/ Deputy Secretary-General
M./Mr. Rottier	Directeur Exécutif/Executive Director, EXD
M./Mr. Alter	Directeur/Director, GOV
M./Mr. van Haute	Directeur/Director, SGE/CES
M./Mr. Bonucci	Directeur/Director, SGE/LEG
M./Mr. Schleicher	Directeur/Director, EDU
Mme/Ms. Elliott	Directrice de l'audit interne et évaluation/ Director of Internal Audit and Evaluation, SGE/EVIA
M./Mr. Yermo	Directeur adjoint du Cabinet/Deputy Chief of Staff, SGE
Mme/Ms. Cahill	Directrice adjointe/ Deputy Director, TAD
M./Mr. Giguere	Chef de la Division pour le Programme LEED / Head of the LEED Programme Division, CFE/LEED
M./Mr. Williams	Chef de l'évaluation en profondeur/ Head of In-depth Evaluation, SGE/EVIA
Mme./Ms. Kamal-Chaoui	Conseillère Principale / Senior Advisor, SGE
Mme./Ms. Mesnard	Co-ordinatrice NAEC / NAEC Co-ordinator, SGE