Council of the European Union

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REV 2

LIMITE

CYBER 96

NOTE

From:	Presidency
To:	Delegations
Subject:	Establishment of a Horizontal Working Group on Cyber Issues - Terms of Reference

1. A new round of discussions dedicated to the Friends of the Presidency Group Terms of Reference took place during the last meetings of the Group on 7 October 2016 on the basis of the REV 1 version of the document.

2. Delegations expressed their views addressing matters of general, but also of organisational nature, referring in particular to the need to ensure a clear definition of the Group's scope of activities and a name that properly reflects that scope as well as to preserve the possibility of having certain meetings specifically dedicated to either capital or cyber attaches level.

3. On the basis of the views expressed during the meeting and the written contributions received within the set deadline (14 October 2016) the Presidency prepared a new revised version of the Terms of Reference. In order to ensure a sufficient visibility of those changes the new additions are **bold** and underlined whereas deleted text is ~~stricken through~~.

4. The Presidency intends to present the current version of the Terms of Reference as set out in the annex to COREPER on 26 October 2016 for a formal adoption.

ANNEX

Terms of Reference

1. A **Horizontal** Working ~~Group~~ **Party** on Cyber issues (hereinafter: the ~~Group~~ **Working Party**) is **hereby** established.

2. **The Working Party will** ensure the strategic and horizontal coordination of cyber ~~policy~~ issues in the Council **and can be involved in both legislative and non-legislative activities. It will bring issues to the attention of COREPER and Council in order for the latter to ensure coherence**.

3. **The activities of the ~~Group~~ Working Party will be without prejudice to the work carried out in other Working Parties, which shall remain responsible for the specific legislative and non-legislative files.**

4. The objectives of the ~~Group~~ **Working Party** will be to:

   - ensure a cross-cutting working platform to support a comprehensive and coherent approach on cyber policy issues by providing a horizontal overview of the cross-cutting, transversal issues, and thus avoiding fragmented policy developments and decision- and/or legislation-making;

   - **speed up the process in the cyber domain, where there is an evident need to guarantee the application of coherent cross-cutting policy approach while keeping pace with rising threats and allowing citizens to reap the opportunities offered by cyberspace;**

   - identify and further exploit synergies, **including with other Council preparatory bodies and any other relevant entities**;

   - enhance the exchange and information sharing between the various strands of work, both among Member States as well as between the EU and the national level;

- assist in setting EU cyber priorities and strategic objectives as part of a comprehensive policy framework;

- support effective external representation of the EU in conformity with strategic EU cyber policy objectives.

~~The Group is established in order to speed up the process in this particular domain, where there is an evident need to~~ **guarantee the application of coherent cross-cutting policy approach while** ~~act expeditiously to keep~~**ing** ~~pace with rising threats and to allow~~**ing** ~~citizens to reap the opportunities offered by cyberspace~~.

5. In view of the implementation of the Cyber Security Strategy of the European Union: An open, Safe and Secure Cyberspace or any other relevant policy and legislative instruments, such as the Directive (EU) 2016/1148 concerning measures for a high common level of security of network and information systems across the Union, the various aspects of cyber policy, which are related, inter alia, to cybersecurity, cybercrime, cyber defence and cyber diplomacy should be addressed by the ~~Group~~ **Working Party** in a comprehensive manner.

6. In this context, the ~~Group~~ **Working Party** will examine any relevant horizontal issues, without prejudice to the existing mandate of other Working Parties, and ~~could~~ **should** focus, *inter alia*, on policies to improve EU-wide cyber resilience, **cyber dimension of** industrial, R&D and trade developments **issues**, security and foreign policy dimension of internet governance issues, cyber capacity building, human rights online, **cybercrime** ~~intellectual property protection~~, cybersecurity, cyber defence and criminal justice in cyberspace. It could also be used as a forum to coordinate the EU cyber diplomacy and other cyber policy initiatives relating to third countries or international organisations, and to develop EU positions for international cyber fora ~~(e.g. the London process on cyberspace)~~**without prejudice to the final determination of such positions by the Council**.

7. The ~~Group~~ **Working Party** will be chaired by the rotating Presidency of the Council. **It** ~~and~~ will meet according to the ne**ed**~~cessity~~ **in order** to take stock of the state of play in the field, to identify the key challenges and priorities as well as to discuss respective solutions and ways to achieve them.

8. **The rotating Presidency may dedicate a meeting(s) of the Working Party, if deemed necessary, to senior officials and/or call meetings at cyber attaches level. This should be without prejudice to the autonomy of Member States to define the composition of their delegation taking into account the diverse nature of the horizontal and cross-cutting cyber issues dealt with by the Working Party. Member States should allow sufficient flexibility and fair involvement of the relevant competent national authorities according to the needed expertise and to the national distribution of competences and mechanisms for coordination**.

9. ~~Its~~**The** work **of the Working Party** will be planned on the basis of an overall **Trio Presidencies** programme comprising the various strands of on-going work taking into account future needs and priorities.

~~10. [Delegations' composition, without prejudice to Member States' internal distribution of competences and mechanisms for coordination, shall take into account and reflect the horizontal cross-cutting, but diverse nature of the cyber issues dealt with by the group. It shall allow sufficient flexibility in terms of representation and fair involvement of the relevant competent authorities according to the needed expertise.]~~

10. These terms of reference may be subject to review, if deemed necessary.