



Council of the
European Union

Brussels, 31 May 2016
(OR. en)

8923/16

CRS/CRP 17

SUMMARY RECORD

Subject: 2585th meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels, on 11 and 13 May 2016

I. Adoption of the provisional agenda

8682/16 OJ CRP1 17

8620/1/16 REV 1 OJ CRP2 17

The Committee adopted the provisional agenda.

II. Approval of the "I" items

The Committee approved the "I" items as set out in the Annex.

III. Discussion items

COREPER (PART 1)

10. Setting of the provisional agenda for the Council meeting (Education, Youth, Culture and Sport) on 30 and 31 May 2016

The Committee agreed on the provisional agenda for the forthcoming Council meeting as set out in 9298/16.

11. Preparation for the Council meeting (Competitiveness) (Internal Market, Industry, Research and Space) on 26 and 27 May 2016

1. Uptake of space data (*Non-legislative activity*)
= Exchange of views
8508/16 SPACE 30 COMPET 196 IND 85

The Committee agreed to submit the background note to Council as a basis for the exchange of views.

2. Draft Council conclusions on FP7 and the Future Outlook: Research and innovation investments for growth, jobs and solutions to societal challenges (*Non-legislative activity*)
= Adoption
(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure [proposed by the Presidency])
8501/16 RECH 114 ATO 30 COMPET 193

The Committee amended the draft Council conclusions and submitted them to Council for adoption.

3. Draft Council conclusions on research and innovation friendly Regulation (*Non-legislative activity*)
= Adoption
(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure [proposed by the Presidency])
8506/16 RECH 116 COMPET 195 MI 280 POLGEN 33

The Committee submitted the draft Council conclusions to Council for adoption.

4. Draft Council conclusions on the transition towards an open science system (*Non-legislative activity*)
= Policy debate
= Adoption
(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure [proposed by the Presidency])
8507/16 RECH 117 TELECOM 67
8309/16 RECH 110 TELECOM 63

The Committee forwarded the background note to Council as a basis for the policy debate and submitted the draft Council conclusions to Council for adoption.

5. Draft Council conclusions on Better Regulation to strengthen competitiveness
(*Non-legislative activity*)
= Policy debate
= Adoption
8550/16 COMPET 202 RECH 121
8551/16 COMPET 203 RECH 122

The Committee amended the draft Council conclusions and submitted them to Council for adoption.

Statement by DE

"Germany declares that the high level of protection stated in the Council conclusions includes the respect of existing protection standards."

6. Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (**First reading**) (*Legislative deliberation*)
= State of play presented by the Presidency
8664/16 SOC 224 EMPL 135 MI 298 COMPET 210 CODEC 593
JUSTCIV 86
6987/16 SOC 144 EMPL 97 MI 142 COMPET 118 CODEC 279
+ ADD 1 - ADD 2

The Committee took note that Ministers would be informed on the state of play on the basis of a Presidency note as set out in 8664/1/16 REV 1.

7. Proposal for a Regulation of the European Parliament and of the Council on ensuring the cross-border portability of online content services in the internal market (**First reading**) (*Legislative deliberation*)
= General approach
8621/16 PI 50 CODEC 589 RECH 124 EDUC 130 COMPET 207 SAN 169
AUDIO 52 CULT 34 DIGIT 44
15302/15 PI 103 CODEC 1727 RECH 309 EDUC 322 COMPET 565 SAN 438
AUDIO 36 CULT 91 DIGIT 112

The Committee reached agreement on an amended text and submitted it to Council with a view to reaching a general approach.

8. Competitiveness "check-up" - State of play of the real economy
(*Non-legislative activity*)
= Presentation by the Commission
= Exchange of views

The Committee took note of the Presidency's intentions and the information provided by the Commission.

9. Mainstreaming competitiveness: The Digital Single Market Strategy
(*Non-legislative activity*)
= Presentation by the Presidency

The Committee took note of this item and would revert to it next week.

10. Draft Council conclusions on the "Digital Single Market Technologies and Public Services Modernisation" package (*Non-legislative activity*)
= Adoption
8512/16 IND 87 RECH 119 TELECOM 69 MI 284 COMPET 198 EDUC 127
EMPL 130

The Committee amended the draft Council conclusions and submitted them to Council for adoption.

12. Preparation for the Council meeting (Transport, Telecommunications and Energy) on 26 May 2016
1. Proposal for a Decision of the European Parliament and of the Council on the use of the 470-790MHz frequency band in the Union (**First reading**) (*Legislative deliberation*)
= General approach
8207/16 TELECOM 60 AUDIO 48 MI 258 CODEC 511
+ **COR 1**

The Committee submitted the text to Council with a view to reaching a general approach.

2. Review of the Regulatory Framework (*Non-legislative activity*)
= Policy debate
8630/16 TELECOM 71 MI 297 COMPET 208 CONSOM 100 SOC 222

The Committee forwarded the background note to Council as a basis for the policy debate.

13. Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in respect of an international instrument to be elaborated by the ICAO bodies and intended to lead to the implementation from 2020 of a single global market-based measure addressing emissions from international aviation
= Preparation for the adoption
8514/16 AVIATION 89 RELEX 331 ENV 257 CLIMA 39

The Committee resolved the outstanding issue and endorsed text for future adoption by Council.

Statement by the Commission

"With respect to Article 2 of the Council Decision, the Commission confirms that it will act within the limits of the powers conferred on it by the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions must exercise their powers with due regard for the powers of the other institutions."

14. Proposal for a Regulation of the European Parliament and of the Council on medical devices, and amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 **(First reading) (Legislative deliberation)**
and
Proposal for a Regulation of the European Parliament and of the Council on in vitro diagnostic medical devices **(First reading) (Legislative deliberation)**
= Presidency debriefing on the outcome of the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 11 May 2016.

15. Management Board of the European Medicines Agency (EMA)
Appointment of four members
= Recommendation to the Council
7503/1/16 PHARM 14 SAN 109 MI 183 AGRILEG 33 REV 1
7695/16 PHARM 15 SAN 124 MI 202 AGRILEG 39

The Committee decided to recommend to Council to appoint Mr Yann LE CAM, Ms Ilaria PASSARANI, Mr Wolf-Dieter LUDWIG and Ms Nancy DE BRIYNE as members of the EMA Management Board.

COREPER (PART 2)

32. Proposal for a Council Implementing Decision setting out a recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk

= Approval of the draft text of the recommendation

8295/16 SCH-EVAL 74 FRONT 184 COMIX 313

The Committee confirmed the outcome of the Mixed Committee and reached agreement on the draft text of the recommendation, which it forwarded to the Council for adoption.

The Commission confirmed that FR could send a notification in view of the upcoming major sporting events, to prolong, the current internal border controls, linked to the security situation, within the applicable legal framework.

Statement by EL

"Greece regrets that the adoption of the Commission's proposal for Council Implementing Decision setting out a recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk, is based on the assumption that measures taken by Greece in the last three months have not been adequate to mitigate the "serious threat" identified at the external borders i.e. at the land and sea borders with Turkey and that the conditions for applying Article 29 of the Schengen Borders Code are met.

Greece, as stated in its Final Report of 29 April 2016, in close cooperation with the European Commission, European Agencies and Member States has managed to deliver within less than three months forty three (43) completed actions and to provide a realistic timeframe for the other seven (7) continued actions in order to remedy the deficiencies identified.

Greece, recalling its statement of 10.02.2016 reiterates its position, that the findings of the unannounced evaluation visit carried out from 10-13.11.2015 do not constitute "serious deficiencies" and show no evidence that "Greece is seriously neglecting its obligations. "

In the light of the above, Greece cannot agree to the proposal for a Council Implementing Decision."

Statement by SI

"The Republic of Slovenia does not support the Commission's proposal for the extension of the border control on the internal land border between Slovenia and Austria.

European Commission justifies the permission to maintain proportionate temporary border controls with the need to adequately address the serious threat to public policy and internal security related to the secondary movements of irregular migrants.

Since there are currently no objective reasons that any such threat arises from Slovenia, the Republic of Slovenia considers this measure as contrary to the principle of proportionality."

Statement by the Council Legal Service

"As regards last paragraph of paragraph 1 of the Council implementing Decision setting out a recommendation for temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk, the Council Legal Service recalls that the relevant provisions of the Schengen Borders Code are to be found in Articles 26, 27 and 29."

33. Weapons: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (**First reading**)

= Policy debate

8516/16 GENVAL 51 JAI 339 MI 285 COMPET 199 COMIX 328 CODEC 563

The Committee took note of discussions in the Mixed Committee who examined two questions submitted by the Presidency, namely the criteria for the definition of semi-automatic weapons to be prohibited and the list of grounds allowing for exemptions. Work will continue at technical level and on the basis of this guidance.

34. Draft Council Decision on the signing, on behalf of the European Union, of an Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offenses

= Approval

and

- Annex Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection and prosecution of criminal offenses, accompanying proposal for a Council Decision on the signing, on behalf of the European Union, of an Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offenses

8505/16 JAI 337 USA 21 DATAPROTECT 41 RELEX 330

8557/16 JAI 347 USA 24 DATAPROTECT 44 RELEX 343

8188/16 JAI 312 USA 16 DATAPROTECT 35 RELEX 297

The Committee reached agreement on the decision on signing as reflected in 8505/16 and forwarded it to the Council for adoption.

35. Preparation of the Council meeting (Justice and Home Affairs) on 20 May 2016

– Other items in connection with the Council meeting

The Presidency provided information on the agenda and handling of the Council session and the format of events taking place in its margins. The Commission informed on the state of play in implementation of the EU-Turkey statement. Under AOB, Slovakia will inform about the preparation of the third ministerial conference of the Prague process.

36. Preparation of the Council meeting (General Affairs) on 24 May 2016
– Other items in connection with the Council meeting

The Presidency provided information on the handling of the Council session.

37. Preparation of the Council meeting (Economic and Financial Affairs) on 25 May 2016
– Other items in connection with the Council meeting

The Presidency provided information on the agenda and handling of the Council session and the format of events taking place in its margins.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

None.

"I" items approved

COREPER (PART 1)

2. Draft minutes of the following Council meetings
= Approval
 - a) 3452nd meeting of the Council of the European Union (Environment), held in Brussels on 4 March 2016
6811/16 PV/CONS 11 ENV 143 CLIMA 23
+ COR 1 (fi)
+ COR 2
+ ADD 1
+ ADD 1 COR 1 (fi)
 - b) 3456th meeting of the Council of the European Union (Agriculture and Fisheries), held in Brussels on 14 March 2016
7091/1/16 REV 1 PV/CONS 15 AGRI 131 PECHE 84
+ REV 1 COR 1 (sv)
+ REV 1 COR 2 (fi)
+ REV 1 COR 3 (nl)
3. Commission Decision of XXX adopting a Guidance document on notification to Accreditation and Licensing Bodies by environmental verifiers active in a Member State other than that where the accreditation or license was granted under Regulation (EC) No 1221/2009 of the European Parliament and of the Council
= Decision not to oppose adoption
8632/16 ENV 268
8018/16 ENV 229
+ ADD 1
4. Commission Regulation (EU) .../...of XXX establishing a Network Code on Demand Connection
= Decision not to oppose adoption
8316/16 ENER 130
7394/16 ENER 98
+ ADD 1
+ ADD 1 REV 1 (es)
5. Commission Regulation (EU) .../...of XXX establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules
= Decision not to oppose adoption
8312/16 ENER 129
7383/16 ENER 97
+ ADD 1
+ ADD 1 REV 1 (bg)

6. Management Board of the European Food Safety Authority
Appointment of seven members
= Endorsement of the selection and voting procedure
8628/16 AGRILEG 61 MI 296 DENLEG 39 SAN 170 CONSOM 99 RECH 125
7. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures (**First reading**) (**Legislative deliberation**)
= Political agreement
8492/16 STATIS 20 COMPET 192 UD 91 CODEC 559
7105/16 STATIS 11 COMPET 125 UD 59 CODEC 303
8. Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants (**First reading**) (**Legislative deliberation**)
= Political agreement
8338/16 AGRI 209 AGRILEG 56 PHYTOSAN 9 CODEC 533
+ ADD 1

Statement by NL

"The Netherlands abstains from voting on agenda-item I-8. The Netherlands believes that the measures regarding the import system, as stated in this regulation, are disproportional (in relation to the actual risks involved)."

9. Draft Directive of the European Parliament and of the Council on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (**First reading**) (**Legislative deliberation**)
= Adoption of the legislative act
8478/16 CODEC 557 PI 48
+ ADD 1
PE-CONS 76/15 PI 107 CODEC 1766

Statement by LV

"The Republic of Latvia draws attention that the legal term '*darījumdarbība*' used in the Latvian language version of the Directive with respect to the economic activity is substantially different from the legal meaning of the term '*business*' used in the English language version of the Directive. The Republic of Latvia notes that inconsistent or incorrect usage of legal terminology leads to legal ambiguity and therefore creates the risk of disrupting legal parallelism amongst the language versions of the Directive. The Republic of Latvia notes that the term '*business*' in analogous context appears in Article 54 of the Treaty on the Functioning of the European Union, where it is being translated into Latvian as '*uzņēmējdarbība*'. The latter term '*uzņēmējdarbība*' more precisely describes the economic activity covered by the Directive, which results in the development of trade secrets.

The Republic of Latvia intends to initiate the corrigendum procedure regarding the Directive in order to ensure consistent and correct use of terminology."

COREPER (PART 2)

16. Draft minutes of the following Council meeting
 - = Approval
 - 3458th meeting of the Council of the European Union (General Affairs), held in Brussels on 15 March 2016
7093/16 PV/CONS 17
+ ADD 1
17. Draft Regulation of the European Parliament and of the Council on indices used as benchmarks in financial instruments and financial contracts (**First reading**)
 - = Adoption of the legislative act
8473/16 CODEC 556 EF 102 ECOFIN 351
PE-CONS 72/15 EF 228 ECOFIN 973 CODEC 1710
18. Transparency - Public access to documents
Complaint 916/2015/OV made to the European Ombudsman
6189/16 API 19 INF 24 INST 58 OMBUDS 4
19. Convening of a Conference of the Representatives of the Governments of the Member States
 - = Appointment of Judges to the General Court
8220/16 INST 171 JUR 171 COUR 24
20. Special report No 7/2016 "The European External Action Service's management of its buildings around the world"
 - Designation of Working Party
8623/16 FIN 284 INST 193
21. Special report No10/2016 "Further improvements needed to ensure effective implementation of the excessive deficit procedure"
 - = Designation of Working Party (°)
8275/16 FIN 251 ECOFIN 323 UEM 124
22. Commission Delegated Regulation (EU) .../... of 21.4.2016 amending Delegated Regulation (EU) No 153/2013 as regards the time horizons for the liquidation period to be considered for the different classes of financial instruments
 - = Intention not to raise objections to a delegated act
8169/16 EF 93 ECOFIN 316 DELACT 71
7651/16 EF 74 ECOFIN 271 DELACT 74
23. Draft Council Regulation amending Regulation (EU, Euratom) No 609/2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements
 - = Adoption
8375/16 RESPR 3 FIN 262 CADREFIN 22
7945/16 RESPR 2 FIN 230 CADREFIN 21

24. Actions in relation to modernisation of systems for handling and delivering European Council and Council documents
 7386/16 CIS 12 CSC 82 CSDP/PSDC 173 CSCI 19
 7385/16 CIS 13 CSC 83 CSDP/PSDC 174 CSCI 20
 5964/16 CIS 5 CSC 32 CSDP/PSDC 78 CSCI 7
 5912/16 CIS 3 CSC 26 CSDP/PSDC 75 CSCI 5
 5913/16 CIS 4 CSC 27 CSDP/PSDC 76 CSCI 6
 6888/16 CIS 9 CSC 65 SAP 2
25. The EU approach to forced displacement and development
 = Draft Council conclusions
 8528/16 DEVGEN 65 ACP 54 RELEX 335 ASIM 65 MIGR 83 COHAFA 21
 JAI 342 COAFR 119
26. Annual Report 2016 to the European Council on EU Development Aid Targets
 = Draft Council conclusions
 8530/16 DEVGEN 67 ACP 55 RELEX 337 FIN 276
27. Financing of the African peace facility (APF) for the period mid-2016 to end 2018
 8662/16 ACP 63 FIN 286 RELEX 358 COAFR 126 ONU 53 PESC 370

The above-mentioned item was withdrawn.

28. Stepping up Joint Programming
 = Draft Council conclusions
 8282/16 DEVGEN 56 ACP 51 RELEX 309
29. Council Decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations and negotiate, on behalf of the European Union, the provisions that fall within the competence of the Union, of a modernised Global Agreement between the European Union and its Member States, of the one part, and Mexico, of the other part
 and
 Decision of the Representatives of the Governments of the Member States, meeting within the Council authorising the European Commission to open negotiations on and negotiate, on behalf of the Member States, the provisions that fall within the competence of the Member States of a modernised Global Agreement between the European Union and its Member States, of the one part, and Mexico, of the other part
 = Adoption
 7344/16 COLAC 17 CFSP/PESC 247 WTO 72 RELEX 212
 7825/16 COLAC 24 CFSP/PESC 311 WTO 87 RELEX 267
 + ADD 1 REV 1 **EU RESTRICTED**
 7826/16 COLAC 25 CFSP/PESC 312 WTO 88 RELEX 269

Joint Statement by AT/FR

"Austria and France assume that the Global Agreement will be of a mixed nature and that the question of a possible publication of the negotiation mandate will be subject to separate discussions and of a separate decision. This should be put on the record of both meetings COREPER and Council."

Statement by SI

"The Republic of Slovenia would like to recall its serious concerns regarding the negotiating directives attached to the Council Decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations and negotiate, on behalf of the European Union, the provisions that fall within the competence of the Union, of a modernised Global Agreement between the European Union and its Member States, of the one part, and Mexico, of the other part, in particular as regards the agreements that are provisionally applied. While we agree that a certain degree of complementarity, consistency and coherence is necessary, the provisions modelled on those in other EU agreements in force should be introduced in the future agreement with Mexico only after being properly evaluated and discussed in the Council. What is provisionally applied has not yet been thoroughly scrutinised. We believe that this paragraph should be considered also having in mind the pending question of the scope of the exclusive competence of the Union (Opinion 2/15) and subsequently the scope of the provisional application of the agreements.

The Republic of Slovenia while recalling that the investment chapter is a highly sensitive issue, considers that the present text of the mandate does not prejudice the type of the mechanism for the resolution of investment disputes. The Republic of Slovenia expects that the final text of the investment chapter of the future agreement with Mexico including the resolution of investment disputes mechanism will be subject to prior consultation with the Member States and in accordance with the EU Treaties. At this point the Republic of Slovenia would like to reiterate that it opposes the bilateral investment court system (ICS).

The Republic of Slovenia believes that the Global Agreement will be of a mixed nature. Therefore, the Republic of Slovenia will follow with a special attention the negotiations in those fields and comment when appropriate.

The statement of the Republic of Slovenia should be put on the record of both the COREPER meeting and the FAC meeting."

Statement by the Commission

"The Commission considers that the "Decision by the Representatives of the Governments of the Member States, meeting within the Council" to authorise the Commission to start negotiations on a Modernised Agreement with Mexico in those areas that fall within Member States competences (doc. 7826/16) is unwarranted because the Commission aims to conduct negotiations with Mexico exclusively within the framework of the EU competencies as defined by the Treaty on European Union and the Treaty on the Functioning of the European Union."

30. Draft Council conclusions on Afghanistan

8526/16 COASI 74 ASIE 26 CFSP/PESC 366 CIVCOM 83 COHOM 37
JAI 345 COPS 133 COHAFA 22 DEVGEN 70

31. Council Decision concerning the accession of Croatia to the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests and to the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Second Protocol of 19 June 1997 thereto

= Adoption

8513/16 JAI 338 CATS 26 DROIPEN 76 COPEN 129 ELARG 58
7771/16 JAI 269 CATS 20 DROIPEN 67 COPEN 103 ELARG 41

