



Brussels, 6 February 2017  
(OR. en)

5593/17

CRS/CRP 2

## **SUMMARY RECORD**

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Subject: 2612th meeting of the PERMANENT REPRESENTATIVES COMMITTEE  
held in Brussels on 19 and 20 January 2017

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### **I. Adoption of the agenda**

5324/1/17 REV 1 OJ CRP2 2  
5325/17 OJ CRP1 2 + COR 1 + COR 2

The Committee adopted the agenda.

### **II. Approval of the "I" items**

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

### **III. Discussion items**

#### **COREPER (PART 2)**

#### **2. Follow-up to the Council meeting (Foreign Affairs) on 16 January 2017**

The Committee took note of the proceedings of this Council meeting.

#### **3. Presentation of the agenda of the Council meeting (Foreign Affairs) on 6 February 2017**

The EEAS presented the main items of the agenda.

#### **4. Presentation of the agenda of the Council meeting (General Affairs) on 7 February 2017**

The Presidency presented the main items of the agenda.

5. **Preparation** of the Council meeting (**Economic and Financial Affairs**) on 27 January 2017

a) **European Semester 2017**

i) Annual Growth Survey

= Draft Council conclusions

5188/17 ECOFIN 11 UEM 6 SOC 7 EMPL 4 COMPET 10 ENV 20 EDUC 5  
RECH 6 ENER 5 JAI 17

ii) Alert Mechanism Report

= Draft Council conclusions

5171/17 ECOFIN 10 UEM 5 SOC 6 EMPL 3

iii) Draft Council Recommendation on the economic policy of the euro area

= Approval

5194/17 ECOFIN 13 UEM 8 SOC 8 EMPL 5 COMPET 11 ENV 21 EDUC 6  
RECH 7 ENER 6 JAI 19

The Committee agreed to forward the conclusions on the Annual Growth Survey and Alert Mechanism Report, as well as the draft Euro area Recommendation to the Council.

b) Other items in connection with the Council meeting

The Committee took note of the other items on the agenda and of the Presidency's intention to refer to the EIB Economic Resilience Initiative under 'Any other business'.

6. Proposal for a Council Regulation on the establishment of the **European Public Prosecutor's Office**

= Preparation of a general approach

5154/17 EPPO 3 EUROJUST 5 CATS 4 FIN 9 COPEN 7 GAF 2 CSC 4

The Committee recommended to the Council to register the absence of unanimity, within the meaning of the second subparagraph of Article 86(1) TFEU, on the draft Regulation as set out in annex to the above document.

7. Pending requests of the **PANA** Committee of Inquiry addressed to the Council and Member States

5242/17 JUR 15 INST 18 ECOFIN 15 FISC 16

The Committee took note of the information provided by the Council Secretariat and held an exchange of views.

## **COREPER (PART 1)**

34. Proposal for a Decision of the European Parliament and of the Council on the use of the **470-790 MHz frequency band** in the Union (**First reading**) (**Legislative deliberation**)  
= Analysis of the final compromise text with a view to agreement  
5078/17 TELECOM 1 AUDIO 2 MI 14 CODEC 15

The Committee endorsed the text of the final compromise.

35. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale **roaming** markets (**First reading**) (**Legislative deliberation**)  
= Presidency briefing on the outcome of the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 January 2017.

36. Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a Union framework for the **collection, management and use of data** in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (recast) (**First reading**) (**Legislative deliberation**)  
= Analysis of the final compromise text with a view to agreement  
5120/17 PECHE 8 CODEC 19  
5357/17 PECHE 18 CODEC 51

The Committee endorsed the text of the final compromise.

37. Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective **emission reductions** and low-carbon investments (**First reading**) (**Legislative deliberations**)  
= State of play and guidance for further work  
5290/17 CLIMA 3 ENV 25 ENER 7 TRANS 13 IND 7 COMPET 25 MI 35  
ECOFIN 19 CODEC 40

The Committee took note of the information by the Presidency on the state of play. Delegations discussed the interrelated triangle of the cross-sectoral correction factor in the context of free allocations, strengthening ETS and low-carbon funding mechanisms.

## **IV. Any other business**

### **COREPER (PART 2)**

None.

### **COREPER (PART 1)**

None.

**"I" items approved****COREPER (PART 2)**

8. Draft minutes of the following Council meetings  
= Approval
- a) 3488th meeting of the Council of the European Union (Economic and Financial Affairs), held in Luxembourg on 11 October 2016  
13149/16 PV CONS 47 ECOFIN 892  
+ COR 1  
+ COR 1 REV 1 (fi)  
+ ADD 1  
+ ADD 1 COR 1  
+ ADD 1 COR 1 REV 1 (fi)
- b) 3490th meeting of the Council of the European Union (Justice and Home Affairs), held in Luxembourg on 13 and 14 October 2016  
13240/16 PV CONS 49 JAI 829 COMIX 666  
+ COR 1 REV 1  
+ COR 2 (fi)  
+ COR 3  
+ ADD 1  
+ ADD 1 COR 1  
+ ADD 1 COR 2 (fi)  
+ ADD 1 COR 3
- c) 3495th meeting of the Council of the European Union (Economic and Financial Affairs), held in Brussels on 8 November 2016  
14134/16 PV CONS 54 ECOFIN 1010  
+ ADD 1  
+ ADD 1 COR 1 (fi)
- d) 3496th meeting of the Council of the European Union (Foreign Affairs/Trade), held in Brussels on 11 November 2016  
14340/16 PV CONS 55 RELEX 943  
+ COR 1  
+ COR 2 (cs)  
+ ADD 1
- e) 3498th meeting of the Council of the European Union (Foreign Affairs), held in Brussels on 14 and 15 November 2016  
14422/16 PV CONS 57 RELEX 948
- f) 3499th meeting of the Council of the European Union (General Affairs), held in Brussels on 15 and 16 November 2016  
14458/16 PV CONS 58  
+ ADD 1

9. Draft Council Decision appointing a member and twelve alternate members, proposed by the Republic of France, of the Committee of the Regions
  - = Adoption
    - 5187/17 CDR 3
    - + COR 1
    - 5186/17 CDR 2
10. Transparency - Public access to documents  
Confirmatory application No 24/c/01/16
  - 13672/16 INF 188 API 110
11. Draft Regulation of the European Parliament replacing Annexes A and B to Regulation (EU) 2015/848 on insolvency proceedings (**First reading**)
  - = Adoption of the legislative act
    - 5163/17 CODEC 25 JUSTCIV 6
    - PE-CONS 52/16 JUSTCIV 299 CODEC 1667
12. Proposal for a Council Decision on the position to be taken by the Union in the Working Party of the Participants to the OECD Arrangement on Officially Supported Export Credits with regard to Market Benchmark Pricing Rules + ANNEX
  - = Adoption
    - 15687/16 CCG 15
    - 15691/16 CCG 16
    - 15565/16 CCG 14
13. Proposal for transfer of appropriations No DEC 40/2016 within Section III - Commission - of the general budget for 2016
  - 5031/17 FIN 1 INST 1 PE-L 1
14. Submission for approval of new draft designs of Italian 2 euro commemorative coins
  - 5105/17 ECOFIN 8 UEM 3
15. Commission Delegated Regulation (EU) .../... of 11.11.2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host Member States
  - = Intention not to raise objections to a delegated act
    - 5069/17 EF 1 ECOFIN 4 DELACT 6
    - 14417/16 EF 342 ECOFIN 1045 DELACT 236
    - + ADD 1
16. Three delegated acts supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council
  - = Intention not to raise objections to delegated acts
    - 5089/17 EF 2 ECOFIN 5 DELACT 7
    - 14410/16 EF 339 ECOFIN 1042 DELACT 233
    - 14412/16 EF 340 ECOFIN 1043 DELACT 234
    - + ADD 1
    - + ADD 1 REV 1 (ro)
    - 14415/16 EF 341 ECOFIN 1044 DELACT 235
    - + ADD 1

17. Commission Delegated Regulation (EU) .../... of 1.12.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the criteria to establish when an activity is considered to be ancillary to the main business  
 = Intention not to raise objections to a delegated act  
 5094/17 EF 3 ECOFIN 6 DELACT 8  
 15164/16 EF 378 ECOFIN 1155 DELACT 250
18. Commission Delegated Regulation (EU) .../... of 1.12.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the application of position limits to commodity derivatives  
 = Intention not to raise objections to a delegated act  
 5096/17 EF 4 ECOFIN 7 DELACT 9  
 15163/16 EF 377 ECOFIN 1154 DELACT 249
19. Draft Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation on the application of the Schengen acquis in the field of data protection by Luxembourg  
 5226/17 SCH-EVAL 9 COMIX 15  
 5225/1/17 REV 1 SCH-EVAL 8 COMIX 14
20. Draft Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by Luxembourg  
 5234/17 SCH-EVAL 15 SIRIS 6 COMIX 22  
 5232/17 SCH-EVAL 14 SIRIS 4 COMIX 20 **EU RESTRICTED**
21. Draft Council Implementing Decision setting out recommendations addressing the deficiencies identified in the evaluation of Croatia in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of data protection  
 5228/17 SCH-EVAL 11 COMIX 17  
 5227/17 SCH-EVAL 10 COMIX 16
22. Draft Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Italy on the application of the Schengen acquis in the field of the Schengen Information System  
 5231/17 SCH-EVAL 13 SIRIS 3 COMIX 19  
 5230/17 SCH-EVAL 12 SIRIS 2 COMIX 18 **EU RESTRICTED**
23. Request for risk assessment on new psychoactive substance *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide (acryloylfentanyl)  
 5044/17 CORDROGUE 1 SAN 3  
 15562/16 CORDROGUE 86 SAN 433
24. EU Common Position on the post-UNGASS process  
 = Approval  
 5205/17 CORDROGUE 5 SAN 22 ENFOPOL 22 RELEX 21 JAI 21  
 5204/17 CORDROGUE 4 SAN 21 ENFOPOL 21 RELEX 20 JAI 20

25. Proposal for a Council Decision on EU accession to the International Cotton Advisory Committee (ICAC)
- = Agreement by the Council
  - = Request for the consent of the European Parliament
    - 15516/16 PROBA 22 RELEX 1065 AGRI 677 WTO 362
    - DEVGEN 281 ACP 182
    - 15540/16 PROBA 24 RELEX 1069 AGRI 680 WTO 364
    - DEVGEN 283 ACP 184
    - + ADD 1
26. Draft Council Decision on the position to be adopted, on behalf of the European Union, in the Council of Members of the International Olive Council (IOC)
- = Approval
    - 5114/17 PROBA 2 RELEX 9 MAMA 4 AGRI 11
    - 5108/17 PROBA 1 RELEX 7 MAMA 3 AGRI 10
27. Draft Council Decision updating and amending the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision 2016/1136/CFSP and
- Draft Council Implementing Regulation implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 2016/1127
- = Adoption
    - 15762/16 CORLX 506 COMET 3 COTER 139 CFSP/PESC 1044
    - RELEX 1093 FIN 893
    - + COR 1
    - + ADD 1
    - 15806/16 CORLX 521 COMET 6 COTER 142 CFSP/PESC 1059 FIN 906
    - 15807/16 CORLX 522 COMET 7 COTER 143 CFSP/PESC 1060
    - RELEX 1101 FIN 907
28. Political and Security Committee Decision extending the mandate of the Head of Mission of the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) (EUAM Ukraine/1/2017)
- = Authorisation for publication in the Official Journal
    - 5046/17 CFSP/PESC 3 CSDP/PSDC 2 COEST 2 PSC DEC 1
    - EUAM UKRAINE 1
    - 15611/16 CFSP/PESC 1028 CSDP/PSDC 716 COEST 337 PSC DEC 59
    - EUAM UKRAINE 19

29. Political and Security Committee Decision extending the mandate of the Head of the European Union Capacity Building Mission in Somalia (EUCAP Somalia/1/2017)  
 = Authorisation for publication in the Official Journal  
 5071/17 CFSP/PESC 5 CSDP/PSDC 5 COAFR 3 EUTM SOMALIA 1  
 EUCAP NESTOR 2 PSC DEC 2  
 15646/16 CFSP/PESC 1032 CSDP/PSDC 719 COAFR 324 EUTM SOMALIA 21  
 EUCAP NESTOR 14 PSC DEC 60
30. Political and Security Committee Decision appointing the EU Mission Commander for the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) (EUTM RCA/1/2017)  
 = Authorisation for publication in the Official journal  
 5079/17 CSDP/PSDC 7 CFSP/PESC 7 COAFR 4 RELEX 6 CONUN 1  
 CSC 3 EUTM RCA 2 PSC DEC 3  
 15175/16 CSDP/PSDC 692 CFSP/PESC 997 COAFR 312 RELEX 1020  
 CONUN 218 CSC 358 EUTM RCA 31 PSC DEC 55
31. Commission Delegated Regulation (EU) .../... of 5.12.2016 amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences  
 = Intention not to raise objections to a delegated act  
 5203/17 SPG 1 WTO 3 DELACT 10  
 15366/16 SPG 10 WTO 351 DELACT 254
32. Enlargement  
 Accession negotiations with Serbia  
 = Outcome of screening on Chapter 12: Food safety, veterinary and phytosanitary policy  
 5306/17 ELARG 2

#### Statement by Croatia

"Giving its consent to the Screening Report for Chapter 12, Croatia reiterates its position on the importance of establishing adequate control of movement as well as adequate system of identification and registration of equine, pigs, caprine and ovine animals. As a neighbouring country, Croatia has a direct interest that Serbia early develops an efficient and fully operational system for identification and registration of these animals in line with the acquis, in order to ensure traceability of animals and to control animal diseases. Croatia will closely follow the progress in this chapter, expecting that its concerns will be duly addressed and the situation closely monitored by the Commission throughout the pre-accession process. The issue of identification and registration of animals should therefore be addressed within one of the proposed opening benchmarks, and the assessment of the progress in this area should be included in the Opening Benchmarks Assessment Report (OBAR)."



33. Enlargement  
Accession negotiations with Serbia  
= Chapter 26: Education and culture  
5323/17 ELARG 3

Statement by Croatia

"Giving its consent to the Draft Common Position for Chapter 26, Croatia is emphasizing that, taking into account the fact that the respect for the rights of persons belonging to minorities is one of the values of the EU, explicitly mentioned in Article 2 of the Treaty on European Union, as well as the fact that the respect and protection of minorities is part of the SAA conditionality and, according to the Negotiating Framework, one of the requirements against which the progress of Serbia is measured, the issues regarding the protection and respect of rights of minorities, as one of the key political criteria, should be continuously reviewed and assessed against various negotiation chapters, including, but not limited to Chapter 23.

This consent is given on the understanding that the monitoring of progress in the alignment with and implementation of the acquis and the monitoring of the progress on the situation on minority rights in the areas covered by Chapter 26 will continue throughout the negotiations as well as on the understanding that the Council can return to any Chapter if the progress is lacking."

62. Draft Council Decision amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia  
and  
Draft Council Implementing Regulation implementing Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia  
= Extension of measures and review  
5333/17 CORLX 12 CFSP/PESC 24 RELEX 30 MAMA 13 FIN 17  
15804/16 CORLX 519 CFSP/PESC 1057 MAMA 259 FIN 904  
15805/16 CORLX 520 CFSP/PESC 1058 RELEX 1100 MAMA 260 FIN 905

## **COREPER (PART 1)**

38. Replies to written questions put to the Council by Members of the European Parliament  
= Adoption by silence procedure
- a) E-008016/2016 and E-008017/2016 - William (The Earl of) Dartmouth (EFDD)  
Access to the EU Single Market  
Access to the EU Single Market  
15631/16 PE-QE 387
- b) E-008276/2016 - Sorin Moisă (S&D)  
Average response time to written questions tabled by Parliament  
15627/16 PE-QE 385
- c) E-008604/2016 - Raymond Finch (EFDD)  
Article 50 of the Treaty on European Union  
15628/16 PE-QE 386
39. List of working parties which will be officially organised in Malta under the Maltese Presidency (First half of 2017)  
= Information note for the Permanent Representatives Committee (Part 1)  
5190/17 POLGEN 4
40. Case C-528/16 - Request for preliminary ruling  
Confédération paysanne e.a. (Jurisdiction de renvoi: Conseil d'Etat - France)  
= Information note for the Permanent Representatives Committee (Part 1)  
5008/17 JUR 1 ENV 1 MI 1
41. Case C-272/15 -Judgment of the Court of Justice of 21 December 2016  
Preliminary reference, Swiss International Air Lines (Referring court: Court of Appeal (England & Wales) (Civil Division) - United Kingdom)  
= Information note for the Permanent Representatives Committee (Part 1)  
5158/17 JUR 11 ENV 16 CLIMA 2 TRANS 6 AVIATION 7
42. European Scientific and Technical Committee  
Draft Council Decision appointing a member  
= Adoption  
5115/17 RECH 5 ATO 1  
+ COR 1  
+ COR 2  
15779/16 RECH 354 ATO 70

43. Governing Board of the European Agency for Safety and Health at Work  
Draft Council Decision appointing a member and an alternate member for Slovakia and United Kingdom  
= Adoption  
15086/16 SOC 765 EMPL 514  
15244/16 SOC 711 EMPL 519
44. Advisory Committee on Freedom of Movement for Workers  
Draft Council Decision appointing members and alternate members for Portugal  
= Adoption  
15247/16 SOC 774 EMPL 521  
15246/16 SOC 773 EMPL 520
45. Governing Board of the European Foundation for the Improvement of Living and Working Conditions  
Draft Council Decision appointing members and alternate members for Bulgaria, Italy, Lithuania, Luxembourg, Malta, Austria and Slovakia  
= Adoption  
15550/1/16 SOC 803 EMPL 543 REV 1  
15249/16 SOC 775 EMPL 522
46. Commission Delegated Regulation (EU) .../... of 30.11.2016 amending Regulation (EU) No 98/2013 of the European Parliament and of the Council, as regards adding aluminium powder to the list of explosives precursors in Annex II  
= Intention not to raise objections to a delegated act  
5023/17 COMPET 1 CHIMIE 1 ENFOPOL 3 ENV 2  
MI 4 ENT 2 UD 1 DELACT 1  
15169/16 COMPET 642 CHIMIE 73 ENFOPOL 452 ENV 761 MI 776 ENT 222  
UD 257 DELACT 251  
+ COR 1  
+ COR 1 REV 1 (nl)
47. Commission Delegated Regulation (EU) .../... of 30.11.2016 amending Regulation (EU) No 98/2013 of the European Parliament and of the Council as regards adding magnesium nitrate hexahydrate to the list of explosives precursors in Annex II  
= Intention not to raise objections to a delegated act  
5024/17 COMPET 2 CHIMIE 2 ENFOPOL 4 ENV 3 MI 5 ENT 3 UD 2  
DELACT 2  
15170/16 COMPET 643 CHIMIE 74 ENFOPOL 453 ENV 762 MI 777 ENT 223  
UD 258 DELACT 252
48. Commission Delegated Regulation (EU) .../... of 30.11.2016 amending Regulation (EU) No 98/2013 of the European Parliament and of the Council, as regards adding magnesium powder to the list of explosives precursors in Annex II  
= Intention not to raise objections to a delegated act  
5025/17 COMPET 3 CHIMIE 3 ENFOPOL 5 ENV 4  
MI 6 ENT 4 UD 3 DELACT 3  
15171/16 COMPET 644 CHIMIE 75 ENFOPOL 454 ENV 763  
MI 778 ENT 224 UD 259 DELACT 253  
+ COR 1

49. Commission Delegated Regulation (EU) .../... of 30.11.2016 amending delegated Regulations (EU) No 1059/2010, (EU) No 1060/2010, (EU) No 1061/2010, (EU) No 1062/2010, (EU) No 626/2011, (EU) No 392/2012, (EU) No 874/2012, (EU) No 665/2013, (EU) No 811/2013, (EU) No 812/2013, (EU) No 65/2014, (EU) No 1254/2014, (EU) 2015/1094, (EU) 2015/1186 and (EU) 2015/1187 with regard to the use of tolerances in verification procedures  
= Intention not to raise objections to a delegated act  
5059/17 ENER 2 ENV 8 DELACT 5  
15265/16 ENER 425 ENV 771  
+ ADD 1
50. Commission Directive (EU) .../... of XXX amending, for the purpose of adopting specific limit values for chemicals used in toys, Appendix C to Annex II to Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, as regards bisphenol A  
= Decision not to oppose adoption  
5021/17 MI 3 ENT 1 SAN 1 CONSOM 2 ECO 1  
14899/16 MI 749 ENT 217 SAN 410 CONSOM 290 ECO 76
51. Commission Directive (EU) .../... of XXX amending, for the purpose of adopting specific limit values for chemicals used in toys, Appendix C to Annex II to Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, as regards phenol  
= Decision not to oppose adoption  
5118/17 MI 17 ENT 9 CONSOM 6 SAN 9 ECO 4  
15374/16 MI 787 ENT 227 CONSOM 311 SAN 428 ECO 80  
+ REV 1 (cs)
52. Commission Regulation (EU) .../... of XXX amending Annex to Regulation (EU) No 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards specifications for basic methacrylate copolymer (E 1205)  
= Decision not to oppose adoption  
15677/16 DENLEG 94 AGRI 696 SAN 439  
15545/16 DENLEG 91 AGRI 682 SAN 432  
+ ADD 1
53. Commission Regulation (EU) .../... of XXX amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of Steviol glycosides (E 960) as a sweetener in certain energy-reduced confectionery products  
= Decision not to oppose adoption  
15681/16 DENLEG 95 AGRI 697 SAN 440  
15619/16 DENLEG 92 AGRI 689 SAN 435  
+ ADD 1

54. Commission Regulation (EU) No .../.. of XXX supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Regulation (EC) No 692/2008  
= Decision not to oppose adoption  
5099/17 ENT 8 ENV 24 MI 16  
15472/16 ENT 230 ENV 794 MI 792  
+ ADD 1–8

The above-mentioned item was withdrawn.

55. Commission Regulation (EU) .../... of XXX amending Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council as regards certain flavouring substances  
= Decision not to oppose adoption  
15682/16 DENLEG 96 AGRI 698 SAN 441  
15675/16 DENLEG 93 AGRI 695 SAN 438  
+ ADD 1
56. Commission Regulation (EU) .../.. establishing a network code on harmonised transmission tariff structures for gas  
= Decision not to oppose adoption  
15293/16 ENER 431  
14003/16 ENER 370

The above-mentioned item was withdrawn.

57. Commission Regulation (EU) .../.. establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation (EU) No 984/2013  
= Decision not to oppose adoption  
15289/16 ENER 429  
14064/16 ENER 372
58. Commission Regulation (EU) .../... amending Annex VI to Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer  
= Decision not to oppose adoption  
5164/17 ENV 18 ENT 10 MI 23  
14900/16 ENV 741 ENT 218 MI 750
59. Commission Regulation (EU) .../... of XXX amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein  
= Decision not to oppose adoption  
5165/17 ENV 19 WTO 2  
15274/16 ENV 774 WTO 349  
+ ADD 1

60. Draft Council Regulation amending Regulation (EU) 2016/1903 fixing for 2017 fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea  
= Adoption  
5116/17 PECHE 6  
5117/17 PECHE 7
61. Draft Regulation of the European Parliament and of the Council establishing a framework for the provision of port services and common rules on the financial transparency of ports  
**(First reading) (Legislative deliberation)**  
= Adoption of the legislative act  
5162/1/17 REV 1 CODEC 24 TRANS 8 MAR 7 FIN 10  
+ REV 1 ADD 1 REV 1  
PE-CONS 41/16 TRANS 369 MAR 248 FIN 621 CODEC 1368

Statement by the United Kingdom

"The United Kingdom welcomes that this Regulation is significantly less onerous than originally proposed. Nevertheless, even in its amended form, the UK regrets its adoption, considering its provisions (other than those promoting transparency of public funding) unnecessary and largely inappropriate for the promotion of investment and efficiency at European ports, and particularly those in the UK. Believing that it would have a detrimental effect on the UK's competitive and efficient ports, the United Kingdom is voting against the Regulation.

The experience of the UK's deregulated, competitive, predominantly privately owned and largely unsubsidised ports sector over recent decades demonstrates conclusively that deregulated ports operating in an environment of fair competition, can and will invest to develop in line with current and future transport requirements."

UK maintained a parliamentary scrutiny reserve.

Statement by Germany, joined by Belgium, France and Poland

"On the occasion of the Regulation of the European Parliament and the Council establishing a framework on market access to port services and financial transparency of ports,

The Federal Government supports the objectives being pursued with the Regulation. In particular, it welcomes the fact that the Regulation is designed to enhance the financial transparency of the European ports and to boost their international competitiveness.

The Federal Government gives its approval to the Regulation on the assumption that the compromises reached in the legislative procedure and the associated decisions taken by lawmakers will not be counteracted through other relevant acts, such as the revision of the General Block Exemption Regulation (GBER)."

### Statement by Italy

"On the occasion of the Regulation of the European Parliament and the Council establishing a framework on market access to port services and financial transparency of ports,

Italy, while supporting the objectives being pursued with the Regulation (in particular, it welcomes the fact that the Regulation is designed to enhance the financial transparency of European ports and boost their international competitiveness), wishes to express its concern about other possible legal basis, still under discussion, to be applied to the same subjects (ports), potentially incoherent with EU Port regulation.

Consequently, Italy gives its approval to the Regulation on the assumption that the compromises reached in the legislative procedure and the associated decisions taken by lawmakers will not be jeopardized by other relevant acts or initiatives, namely those carried out by Commission's DGs without the co-decision process – such as the revision of the General Block Exemption Regulation (GBER) or the enquiry on functioning and taxation of ports – if not previously submitted to a “coherence test” in strict coordination with all DGs involved.

In particular, Italy would like to draw the attention on the outstanding issues mentioned in the common position (see letter addressed to Commissioners Bulc and Vestager) of Germany, France, Italy, Belgium and Poland (i.e. definition of port infrastructure, dredging, concept of “single project” for all investments carried out in the same port in a 3-year period). Only the request by MSs to withdraw any reference to the duration of concessions has been explicitly accepted up to now. Further issues have been highlighted, in respect of ports, by many MS on the occasion of the second consultation on the revision of the GBER as well as of the Working Group Infrastructures which do not seem to have been taken in due consideration by the European Commission.

At the basis of this underassessment there seems to be a too wide extension of the so-called “Leipzig Halle” judgement leading, for the first time, to sectoral rules on State aid to be included in the GBER without being previously tested through the drafting and implementation of specific guidelines, as it has been the case for all other soft law measures (on SMEs, regional aid, Environment & Energy, and so on).

Therefore, Italy urges the EC to commit itself to further elaborate on their interrelated “soft law”/enabled act projects, in order to ensure their coherence, taking MSs view in close consideration and consulting them again, previously to the completion of the adoption procedure, possibly via bilateral meetings."

### Statement by the Commission supported by Spain

"The Commission considers that recital 45 should not have been included for the following reasons.

First, the recital does not relate to any of the enacting terms of the regulation and hence does not comply with the principles of the Interinstitutional Agreement on Better Law-Making. In that agreement, the European Parliament, the Council of the European Union and the European Commission confirmed that they remain fully committed to the Interinstitutional agreement on common guidelines for the quality of drafting of Community legislation, which provides that the purpose of recitals is to set out concise reasons for the chief provisions of the enacting terms, without reproducing or paraphrasing them, and that recitals should not contain normative provisions or political exhortations.

Second, the Commission recalls that the notion of State aid within the meaning of Article 107(1) TFEU is an objective one, enshrined in the Treaty and not at the disposal of the Union legislator. It can only be applied as such by the Commission or national courts in specific cases, subject to the control of the Union courts.

Third, the wording of the recital may create confusion. Having regard to the Treaty notion of State aid, it cannot be claimed that public funding of all access and defence infrastructure accessible to all users on equal and non-discriminatory terms always falls outside the scope of the State aid rules. The Commission's decisional practice shows, for instance, that public funding of certain access infrastructure located within the area of a port may constitute State aid."

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