



Brussels, 16 January 2019  
(OR. en, fr)

15778/18  
CRS CRP 43

## SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE (Part 1)

12 and 14 December 2018

### I. Adoption of the agenda

15373/18 OJ CRP1 43 + ADD 1

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 1)

#### WEDNESDAY 12 DECEMBER 2018

#### Internal Market and Industry

6. Directive on copyright in the Digital Single Market  
*Preparation for the trilogue*

15248/18

The Committee agreed on a revised mandate for the forthcoming trilogue.

## Telecommunications

7. Regulation on the Cybersecurity Act  
*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 10 December 2018.

## Internal Market and Industry

8. Regulation on explosives precursors 14613/18  
*Mandate for negotiations with the European Parliament*

The Committee agreed on a mandate for the first trilogue.

9. Regulation on fertilisers 15103/18  
*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

### Statement by the Czech Republic, Hungary and the Slovak Republic

"The Czech Republic, Hungary and the Slovak Republic support the aims of the Regulation, especially harmonising the rules for fertilising products.

Nevertheless, the Czech Republic, Hungary and the Slovak Republic regret the low ambition of the final compromise regarding the level of cadmium in phosphate fertilisers, which does not sufficiently recognize the hazards and risks cadmium carries. The limit of 60 mg cadmium/kg P<sub>2</sub>O<sub>5</sub> for phosphate fertilisers containing more than 5% P<sub>2</sub>O<sub>5</sub> cannot be deemed satisfying – especially when taking into account the need to strengthen the protection of human health and environment as it is the aim of the Regulation.

The Regulation should better address the risks for health and environment posed by the use of fertilisers containing high cadmium levels, which are apparent from the Commission's impact assessment and recent research in the field.

**Member States with current low national limits for cadmium content in fertilisers should be allowed to keep that limit also for the harmonised area until the EU limit reaches the same level. In this context the Czech Republic, Hungary and the Slovak Republic strongly believe that any Member States wishing to secure a higher level of protection of their soil will receive the opportunity provided by the Treaty.**

The cadmium content of fertilizers is to be reduced over the time and we request the Commission to do its utmost not to miss the opportunity during the revision of this Regulation.

As the Regulation fails to set a limit value for total chromium, being a highly toxic heavy metal, the Czech Republic, Hungary and the Slovak Republic still hold the view that the Commission should reconsider the labelling requirements for the total chromium content of fertilizing products. In this line, the information on the maximum quantity and on the exact source of chromium shall appear on the label of all the products concerned.

The final compromise text does not set clear guidelines for plant biostimulants considering requirements for evaluation of biological effectiveness, qualitative expectations and details of active substances that would be essential for such a heterogeneous group of products.

We maintain the opinion that adapting the Annexes to technical progress is equivalent to amending the legal content of the proposed legislation. Amendments to Annexes I and II for the purpose of adapting them to technical progress should be done by means of Implementing Acts."

#### Déclaration de la France

"La France prend acte de la demande qui est faite à la Commission de présenter dans 7 ans un rapport sur un éventuel abaissement de la teneur maximale en Cd. Elle insiste cependant sur la nécessité que la Commission reconsidère la question à une échéance plus courte si les éléments scientifiques en montraient le besoin ;

La France prend également note de la possibilité laissée aux Etats membres d'abaisser la teneur maximale en Cd dans les engrais phosphatés pour des motifs de santé publique ou de protection de l'environnement."

10. Goods package: Regulation on market surveillance and compliance

*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 10 December 2018.

#### **Environment**

11. Meeting of the Council (Environment) on 20 December 2018: Preparation

Clean Planet for all: Strategic long-term vision for a climate neutral economy

15210/18

*Presentation by the Commission and exchange of views*

The Committee prepared this item for the Council.

12. Regulation on CO2 standards for cars and vans (recast)

*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 10 December 2018.

## Agriculture and Fisheries

13. Meeting of the Council (Agriculture and Fisheries) on 17 and 18 December 2018: Preparation

Council Regulation on Atlantic and North Sea TACs and Quotas for 2019  
*Political agreement*

15118/18  
13731/18  
+ ADD 1 - 2

The Committee prepared this item for the Council.

## Agriculture

14. Regulation amending general food law  
*Preparation for a general approach*
- 15148/18 + ADD 1

The Committee slightly revised the text and agreed to forward it to Council in view of a general approach.

### Statement by the Netherlands

"The Netherlands supports the ambition for more transparency and the adjustment in the procedures in order to achieve more transparency and objectivity in the risk assessment in the Food Chain.

The proposed measures are useful to achieve these targets, such as the plan on risk communication as well as the Union register for the publication of the studies accompanying an approval for regulated products.

Nevertheless, The Netherlands wants to emphasize the importance of a level playing field for European food business operators regarding the development of innovative products. In some cases this needs additional attention, meaning that the obligation to disclose non-confidential studies immediately after having submitted a request for approval to EFSA may hinder instead of promote innovation.

Furthermore, it is important that the system to be set up with the Union register for the publication of studies, including procedures, is efficient and effective. The administrative burden should be kept to a minimum for the food business operators, for EFSA and for Member States.

The Netherlands supports the proposal of the Austrian Presidency to start the negotiation with the European Parliament and the Commission (trilogue).

The Netherlands would however like to stress that the general approach in no way pre-empt or prejudices the negotiations on the MFF.

That means that an agreement to start negotiations with the EP does not in any way imply consent on the financial impact of the proposal as stated by the Commission in the Legislative Financial Statement which accompanied the legislative proposal of 11 April 2018.

Though NL recognizes that as a result of the present proposal a limited amount of additional means are necessary for EFSA to fulfill the new tasks, the Netherlands have strong doubts if the present proposal of € 62,5 million is realistic. It is almost a doubling of the present EFSA budget. Here the lack of an impact assessment has been felt strongly.

Moreover, and even more important the financial impact of the proposal of the Commission goes beyond the present MFF framework. The indicative ceilings for the EFSA can only be agreed upon once there is a final decision about the available budget for the MFF 2021-2027 in total, heading 7, the agencies and in particular the EFSA.

If the Parliament, Council and Commission could come to an agreement in the trilogues, all parties should take the financial impact of the proposal in reconsideration and have a clear and balanced position."

### **Employment and Social Policy**

15. Directive on Work-Life Balance 15177/18  
*Preparation for the trilogue*

The Committee agreed on a revised mandate for the forthcoming trilogue.

### **Transport**

16. Regulation on safeguarding competition in air transport 15115/1/18 REV 1  
*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

#### Statement by the Commission

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 (4) recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.

While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision it regrets that such justification is not reflected in a recital."

## Statement by Greece

"Greece would like to thank the Presidency for its efforts to reach an agreement with the European Parliament, but, unfortunately, **cannot support the final compromise text and will vote against**. The outcome of the negotiations diverges significantly from the General Approach, which was already not acceptable to Greece, and does not take into account our concerns, which were consistently raised at all stages of the discussions on this file.

The reasons for Greece's position are, among others:

- The vagueness of the subject matter and the lack of clarity regarding certain important definitions (such as 'threat of injury', 'Union interest', 'irreversible damage') as well as regarding the proceedings, lead to legal uncertainty.
- The practices distorting competition are not explicitly mentioned and the operational redressive measures provided for in the proposal are not exhaustively listed, causing further ambiguity. In addition, there is no 'escalation' of these measures depending on the extent of the injury, and therefore no legal predictability, nor a link between a specific practice and the respective 'remedy'.

The Regulation may have a strong impact on bilateral relations of Member States with third parties, in the field of aviation; this is due, *inter alia*, to the apparent incompatibility of the proposed text with the dispute settlement provisions contained in bilateral air transport agreements. Thus, the implementation of the said Regulation may impede Member States from fulfilling their international obligations."

## Energy

17. Meeting of the Council (Transport, Telecommunications and Energy) on 19 December 2018: Preparation

1. Clean Energy Package

- a) Regulation on governance of the Energy Union
- b) Directive on energy efficiency
- c) Directive on renewable energy (recast)

*Oral report from the Presidency*

- d) Regulation on electricity (recast)
- e) Directive on electricity (recast)
- f) Regulation on risk-preparedness in the electricity sector
- g) Regulation on ACER (recast)

*Oral report from the Presidency on the state of play*

The Committee prepared this item for the Council.

2. Regulation on the Connecting Europe Facility (CEF)  
*Oral report from the Presidency on the state of play*

The Committee prepared this item for the Council.

3. Clean Planet for all: Strategic long-term vision for a  
climate neutral economy  
*Presentation by the Commission and exchange of views*

15140/18

The Committee prepared this item for the Council.

18. Regulation on ACER (recast)  
*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 December 2018.

## **FRIDAY 14 DECEMBER 2018**

### **Environment**

19. Directive on single-use plastics 15211/18  
*Preparation for the trilogue*

The Committee agreed on a revised mandate for the forthcoming trilogue.

20. Regulation on persistent organic pollutants (POPs) (recast) 15212/18  
*Preparation for the trilogue*

The Committee agreed on a revised mandate for the forthcoming trilogue.

12. (continuation) Regulation on CO2 standards for cars and vans (recast) 15551/18  
*Preparation for the trilogue*

The Committee agreed on a revised mandate for the forthcoming trilogue.

### **Telecommunications**

21. Directive on re-use of public sector information (PSI)  
*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 December 2018.

### **Employment and Social Policy**

22. Regulation on establishing a European Labour Authority  
*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 December 2018.

23. Directive on transparent and predictable working conditions  
*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 December 2018.



## **Culture/Audiovisual**

24. Regulation on Creative Europe 2021-2027 15153/18  
*Preparation for a partial general approach*

The Committee agreed to forward the text as set out in 15153/18 to Council to agree on a partial general approach.

### Statement by Germany, France, Belgium, Greece and Cyprus

"Germany, France, Belgium, Greece and Cyprus are expressing their concerns with regard to the use of delegated acts (foreseen in articles 17 and 19) in order to develop the provisions for a monitoring and evaluation framework, including by reviewing or supplementing the indicators of Annex II.

These evaluation indicators are crucial for the further development of the programme. That's why Germany, France, Belgium, Greece and Cyprus consider that these indicators are to listed in the basic act and thus be adopted by the European legislator, i.e. the European Parliament and the Council, rather than by the European Commission by way of delegated acts."

### Statement by Germany, Ireland and Italy

"Germany, Ireland and Italy wholeheartedly welcome the decision to maintain the European funding programme Creative Europe, with its lines of funding for culture and audiovisual media, as an independent, visible programme through the period 2021 to 2027. Following negotiations in the Council working party and the debate in the meeting of the European ministers responsible for culture and media, we now have a strong foundation for our future work.

However, Germany, Ireland and Italy can only agree to the text with reservations, given that efforts to explicitly anchor the European Union Youth Orchestra in the draft sectoral regulation failed. Germany, Ireland and Italy will therefore approve the funding programme in the hope and expectation that a long-term, stable financial basis will continue to be provided for the European Youth Orchestra in the period 2021 to 2027.

The European Youth Orchestra is an outstanding institution that serves as a showpiece of European culture and an ambassador for the European project. The orchestra also represents transnational cooperation among young musicians. Germany, Ireland and Italy therefore regret the omission of a strong political signal in support of the European Union Youth Orchestra. Germany and Ireland also made clear their desire to ensure secure future funding of the EUYO at the meeting of EU culture and media ministers on 27 November 2018. Nonetheless, Germany, Ireland and Italy acknowledge that specific inclusion in the regulation text of an entity to be funded should generally remain the exception."

## **IV. ANY OTHER BUSINESS**

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

None.

**"I" items approved**

**COREPER (PART 1)**

**WEDNESDAY 12 DECEMBER 2018**

**Institutional Affairs**

**Written questions**

25. Replies to questions for written answer submitted to the Council by Members of the European Parliament  
*Adoption by silence procedure* 15230/18  
PE-QE

Peter van Dalen (ECR) 15083/18  
'ISIS terrorists at liberty in Europe'

**Appointments**

26. Three members (BG, HR, IT) in the Governing Board of the European Centre for the Development of Vocational Training (CEDEFOP) (2018-2021) 14063/18  
14062/18  
EDUC  
*Adoption*

**Other**

27. Chairing of certain Working Parties by other delegations, at the request of the Romanian Presidency 15361/18  
POLGEN  
*Approval*

**Sport**

28. Two EU representatives and replacement of one EU representative in the WADA Foundation Board 14920/1/18 REV 1  
SPORT  
*Approval*

## Fisheries

29. Council Regulation fixing for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks  
*Adoption* 14425/18 + ADD 1  
14418/18  
PECHE
30. Council Regulation fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea  
*Adoption* 14293/18 + ADD 1  
14292/18  
PECHE
31. Regulation on a multi-annual plan for fish stocks in the Western Waters  
*Confirmation of the final compromise text with a view to agreement* 15002/18  
15120/18 + ADD 1  
PECHE

### Statements by the Commission

- on European seabass:

"Inclusion of European seabass in the list of species in Article 1(1) of the Plan does not imply that a TAC would need to be established."

- on variations in scientific advice:

"Where, on the basis of the best available scientific advice, the Commission proposes setting TACs that deviate by more than 20% from the previously established TAC level, these cases will be listed in the explanatory memorandum of the Commission Proposal, providing, where appropriate, the underlying reasons for the TAC variations."

## Internal Market and Industry

32. Trade in certain goods which could be used for capital punishment (codification)  
*Adoption of the legislative act* 15175/18  
PE-CONS 59/18  
CODIF  
COMER
33. Regulation amending Regulation (EU) No 168/2013 on the type approval of two or three-wheel vehicles and quadricycles  
*Adoption of the legislative act* 15176/18  
PE-CONS 65/18  
ENT
34. Regulation on quotas for certain agricultural and industrial products  
*Adoption* 15232/18  
13271/18  
UD
35. Regulation on European business statistics (FRIBS)  
*Mandate for negotiations with the European Parliament* 15274/18  
STATIS

36. Regulation amending Union Customs Code for Campione d'Italia and Lake Lugano  
*Confirmation of the final compromise text with a view to agreement* 15381/18  
UD

### **Foreign Affairs**

37. Council Decision in support of gender mainstreamed policies, programmes and actions in the fight against small arms trafficking and misuse  
*Adoption* 14908/18  
14645/18  
CORLX
38. Council Decision on the extension of the EU Integrated Border Management Assistance Mission (EUBAM) in Libya  
*Adoption* 14941/18  
14056/18  
CORLX
39. Council Decision and Regulation concerning restrictive measures in view of the situation in Libya  
*Adoption* 15184/18  
14809/18  
14811/18  
CORLX
40. Ukraine undermining sovereignty - pre-notifications  
*Approval* 15259/18  
CORLX
41. Egypt restrictive measures - pre-notifications  
*Approval* 15350/18  
CORLX
42. Council Decision and Implementing Regulation concerning restrictive measures in respect of Myanmar/Burma  
*Adoption* 15255/18  
15036/18  
15038/18  
CORLX

### **Justice and Home Affairs**

43. Regulation on Interoperability (borders and visa)  
*Mandate for negotiations with the European Parliament* 14691/18  
COSI

### **General Affairs**

44. (poss.) Regulation on European Citizens' Initiative  
*Mandate for negotiations with the European Parliament* 15397/18  
INST

## **Delegated or Implementing Acts**

### **Environment**

45. Commission Delegated Regulation (EU) .../... of 13.11.2018  
correcting Regulation (EU) No 63/2011 laying down detailed  
provisions for the application for a derogation from the specific  
CO2 emission targets pursuant to Article 11 of Regulation (EC)  
No 443/2009 of the European Parliament and of the Council  
*Delegated act - Intention not to raise objections*
- 15190/18  
14308/18  
CLIMA

### **Health**

46. Commission Regulation (EU) .../... of XXX providing  
derogations from Article 1(3) of Regulation (EC) No 1924/2006  
of the European Parliament and of the Council on nutrition and  
health claims made on food for the use of certain generic  
descriptors  
*Decision not to oppose adoption*
- 15087/18  
14373/18 + ADD 1  
DENLEG

## **FRIDAY 14 DECEMBER 2018**

### **Transport**

47. Council Decision on the budget 2019 to be adopted by the  
Regional Steering Committee  
*Adoption*
- 15380/18  
15204/18  
TRANS

### **Economic and Financial Affairs**

48. VAT Generalised Reverse Charge Mechanism goods and  
services  
*Adoption*
- 13023/18  
12852/18  
FISC

### **Foreign Affairs**

49. 8th Association Council with Egypt  
*Establishment of the EU position*
- 15251/18  
EG