



Brussels, 5 March 2019
(OR. en, fr)

7125/19
CRS CRP 6

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
13, 14 and 15 February 2019

I. Adoption of the agenda

6279/3/19 REV 3 OJ CRP2 6 COMIX 79
6280/19 OJ CRP1 6 + COR 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 2)

WEDNESDAY 13 FEBRUARY 2019

General Affairs

50. Regulation on establishing a European Labour Authority
State of play and guidance for further work

The Committee discussed the state of play and provided guidance for further work.

Foreign Affairs

2. Meeting of the Council (Foreign Affairs) on 18 February 2019:
Preparation
- a) Current affairs

The Committee prepared this item for the Council.

- b) Ukraine
Exchange of views

The Committee prepared this item for the Council.

- c) (poss.) Venezuela
Exchange of views

The Committee prepared this item for the Council.

- d) Horn of Africa
Exchange of views

The Committee prepared this item for the Council.

- e) Syria
Exchange of views

The Committee prepared this item for the Council.

- f) Other items in connection with the Council meeting

The EEAS provided further information regarding the Council meeting.

Justice and Home Affairs

3. Interoperability between EU information systems 5691/19
a) Interoperability Regulation (borders and visa)
b) Interoperability Regulation (police and judicial cooperation, asylum and migration)
Confirmation 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.

4. Regulation for consequential amendments of ETIAS regarding 6035/19
police and judicial cooperation
State of play and guidance for further work

The Committee discussed the state of play and provided guidance for further work.

5. Regulation amending the Community Code on Visas (Visa 6113/19
Code)
Confirmation of the final compromise text with a view to agreement

The Committee discussed the above-mentioned item and agreed to revert to it at one of its next sessions.

6. 6th Ministerial Conference of the Budapest Process
State of play and guidance for further work

The Committee discussed the above-mentioned item and agreed to revert to it at the continuation of its session.

7. Meeting of the Council (Justice and Home Affairs) on
7-8 March 2019: Agenda

The Presidency presented the main items on the agenda.

General Affairs

8. Meeting of the Council (General Affairs) on 19 February 2019:
Preparation

- a) Annotated draft agenda for the European Council on 21-22 March 2019 5154/19
Exchange of views

The Committee took note of the annotated draft agenda of the European Council on 21-22 March 2018.

- d) Values of the Union - Hungary / Article 7(1) TEU
Reasoned Proposal
State of play

The Committee prepared this item for the Council.

- e) Rule of Law in Poland / Article 7(1) TEU Reasoned
Proposal
State of play

The Committee prepared this item for the Council.

Foreign Affairs

9. EU-LAS Summit (Sharm el-Sheikh, 24-25 February 2019) 6265/19
State of play

The Committee discussed the state of play and agreed to revert to this item at the continuation of its session.

General Affairs

8. Meeting of the Council (General Affairs) on 19 February 2019:
Preparation

- b) Multiannual Financial Framework 2021-2027
Policy debate

6138/19

The Committee prepared this item for the Council.

- c) Towards a sustainable Europe by 2030
Exchange of views

The Committee prepared this item for the Council.

- f) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

Economic and Financial Affairs

10. Meeting of the Council (Economic and Financial Affairs) on 12
February 2019: Follow-up

The above-mentioned item was withdrawn.

Justice and Home Affairs

5. (poss.) Regulation amending the Community Code on Visas (Visa Code) 6113/19
Confirmation of the final compromise text with a view to agreement

The above-mentioned item was withdrawn.

11. Amending Regulation 2018/1806 to prepare for Brexit - visa 6124/19
Information from the Presidency

The Committee took note of the information provided by the Presidency.

12. Resettlement Framework Regulation 6124/19
Preparation for the trilogue

The Committee discussed the above-mentioned item.

13. Eurodac Regulation (recast) 6126/19
Preparation for the trilogue

The Committee discussed the above-mentioned item.

93. Appointment of the EPPO Chief Prosecutor 6419/19
Endorsement

The Committee endorsed the internal process that could be followed in the Council to define its position and to prepare for contacts with the European Parliament on the appointment of the European Chief Prosecutor.

Statement by Italy

"Italy has always been a staunch supporter of establishing a European Prosecutor Office and believes in the importance of EPPO as an essential benchmark in the justice sector and in the framework of the European integration process. The credibility of this important entity requires absolute transparency, as of the appointment process of the Chief Prosecutor followed by the selection panel.

For this reason, Italy questions the Panel's decision to restrict the number of candidates to the minimum possible of only three instead of the possible five, despite the applications put forward by candidates of the highest professional profile and specific experience in combating financial crimes. By doing so, the European Parliament and the Council of the European Union have been deprived of the possibility to choose the most qualified candidates among a broader selection.

Furthermore, the reasons that led the Panel to select the three names shortlisted appear to be inadequately motivated, as well as the reasons that led to the exclusion of all the others. Such lack of adequate motivations does not allow member States to express themselves in full awareness in the relevant fora.

Moreover, it is important to underline that the pursuit of consensus is an essential and primary element of the selection procedure, which might have been reached by extending the list of candidates to five, instead of proceeding by vote.

For these reasons, in this phase, Italy considers it is premature to decide on a procedure that has as a prerequisite an irregular and unclear foundation."

Foreign Affairs

9. EU-LAS Summit (Sharm el-Sheikh, 24-25 February 2019)
State of play

6265/1/19 REV 1

The Committee agreed the EU position as regards the outcome document for the summit.

General Affairs

14. Cohesion Policy Legislative Package 2021-2027
Partial Mandate for negotiations with the European Parliament

6147/19 + ADD 1
+ ADD 2

The Committee agreed on a partial mandate for negotiations with the European Parliament.

Foreign Affairs

15. European Defence Fund
Information from the Presidency

The Committee took note of the information provided by the Presidency.

COREPER (PART 1)

THURSDAY 14 FEBRUARY 2019

Transport, Telecommunications and Energy

52. Meeting of the Council (Transport, Telecommunications and Energy) on 4 March 2019:
Agenda

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Transport

53. Regulation establishing a European Maritime Single Window environment 6059/19
Presidency briefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 7 February 2019.

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.

Environment

54. Meeting of the Council (Environment) on 5 March 2019: Agenda

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Internal Market and Industry

55. Regulation on explosives precursors 6158/19
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 strongly regrets that the co-legislators' agreement does not include the possibility to restrict additional substances through delegated acts, depriving the Union of the appropriate procedure to respond swiftly to developments in the misuse of substances as explosives precursors.

The Commission also regrets that the co-legislators' agreement has not made sufficiently clear that the current Regulation leaves Article 14 of the e-Commerce Directive unaffected."

56. Directive on digital tools and processes in company law
Analysis of the final compromise text with a view to agreement

6095/19

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 Germany

"In order to ensure that the digitalisation process continues to move forward in this area, Germany accepts the compromise text and withdraws the concerns it has raised on several previous occasions regarding the extent of the company information available free of charge. The question of costs is an important issue for the *Länder* which are responsible for the registers in Germany. In Germany, the registers are financed by fees. Expanding the extent of the company information available free of charge (especially to include information about persons authorised to represent a company) interferes with the Member States' autonomy over the financing of the registers. There is no legitimate reason for this. The aim of making company information transparent is already accounted for by the fact that the fees have to be appropriate. Germany therefore regrets that the present compromise text does not contain any extensive exemption for the company information available free of charge."

Statement by Italy

"Italy supports the agreement reached with the European Parliament on the directive on digital tools. However, Italy regrets that the compromise text includes an expansion of the range of company information available free of charge through the business registers. This creates undue pressure on the financing capacity of the registers, without clear benefits. The aim of improving corporate transparency is already achieved by the fact that the fees have to be appropriate."

Statement by the Netherlands

"The Netherlands supports the objectives set by the directive. However, the Netherlands would like to point out its objections towards the extension of information available of free charge which has to be made available through the registers.

As raised during the negotiations before, the directive should allow Member States to maintain a model where registers are financed through payment by the user for information on the company, the information on the representatives of the company being an important part of this information. This would be a fair system, as the user is the prime benefactor of the information.

Moreover, a model where the user pays subjects registers to market discipline and thus ensures efficiency. In our view, it is not appropriate to put the burden of financing the register on the legal entities which register or the tax payer at large, in particular as the collection and distribution of data have an economic value for a limited and distinct group of users. In this respect, the Netherlands would like to point out that the access of information (free of charge) is already adequately covered in the BRIS regulation which does not cover company representatives.

The current proposal, dealing with digital tools, should not go beyond its stated purpose of facilitating digital formation and registration of companies and should therefore not extent the information freely accessible by users as proposed in the final compromise."

Environment

57. Regulation on CO2 standards for heavy-duty vehicles 6349/19
Presidency briefing on the outcome of the trilogue
Preparation for the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 12 February 2019. The Committee agreed on a revised mandate for the forthcoming trilogue.

58. Regulation on persistent organic pollutants (POPs) (recast) 6057/1/19 REV 1
Preparation for the trilogue

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

Agriculture

59. Regulation amending general food law 6099/19 + ADD 1
Presidency briefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 11 February 2019.

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.

Fisheries

60. Regulation laying down conservation and control measures 6233/19
applicable in the Regulatory Area of the Northwest Atlantic 6359/19
Fisheries Organisation (NAFO)
Presidency briefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 12 February 2019.

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.

61. Regulation on technical measures
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 13 February 2019.

Employment and Social Policy

62. Revision of Directive on carcinogens or mutagens at work (third batch) 6070/1/19 REV 1
+ 6070/19 ADD 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.

63. Directive on transparent and predictable working conditions 6188/19 + ADD 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

"In accordance with Article 22 of the Directive, the Commission will review the application of this Directive by entry into force plus 8 years, with a view to propose, where appropriate, the necessary amendments. The Commission undertakes in its report to pay particular attention to the application of Articles 1 and 12 by the Member States. The Commission will also verify compliance with Article 12 when assessing whether Member States have fully and correctly transposed the Directive into their national legal systems."

Statement by Germany

"The Federal Republic of Germany ('Germany') has the following declaration concerning the scope of the Directive on transparent and predictable working conditions in the European Union ('the Directive'):

The definition of an employment relationship or employment contract is crucial to the scope of the Directive.

Germany, together with a number of other Member States, advocated during the negotiations that reference be made to national law of the Member States for this purpose. The Directive affects the core area of individual labour law. In the individual Member States the basic structures in this area have historical roots, including in particular how employment relationships are defined and differentiated from other legal relationships.

A reference to national law can now be found in Article 1 (2) of the Directive. From this it follows that Member States first and foremost define an employment relationship, and thus the scope of the Directive, in accordance with their respective national rules.

From the point of view of Germany, the reference to the case law of the European Court of Justice (ECJ) in Article 1 (2) of the Directive refers to its case law on ensuring the effectiveness of directives. According to this case law, it is primarily Member States that are responsible for defining employment relationships where the directive in question refers to national law. This discretion is limited by the fact that Member States are not permitted to arbitrarily exempt certain categories of personnel. This is reviewed by the ECJ in each individual case on the basis of the purpose of the respective directive.

The reference in Article 1 (2) of the Directive does not imply that the concept of employment relationship is to be interpreted in a uniform manner across the Union. Otherwise, the reference to national law would be meaningless. This also follows from the fact that the guarantee of uniform implementation has been deleted from the corresponding recital."

64. Revision of Regulations on coordination of social security systems (883/04 and 987/09)
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 13 February 2019.

Telecommunications

65. Regulation establishing the Digital Europe programme for the period 2021-2027
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 13 February 2019.

Internal Market and Industry

66. Regulation on platform-to-business relations
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 12 and 13 February 2019.

67. Directive on Copyright in the Digital Single Market
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 11, 12 and 13 February 2019.

68. Regulation on supplementary protection certificate for medical products
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 14 February 2019.

69. Goods package: Regulation on market surveillance and compliance 6155/19
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 takes note that the text agreed replaces the triple legal basis of the commission proposal (Article 114 TFEU - internal market, Article 33 TFEU – customs cooperation, Article 207 – common commercial policy) by a double legal basis, through deletion of the common commercial policy legal basis. The Commission continues to consider that the triple legal basis is fully justified in relation to the provisions that regulate conditions for access to the EU market of products originating from third countries. Moreover, the common commercial policy legal basis is in line with the legal basis of Regulation (EC) 765/2008 of the European Parliament and of the Council of 9 July 2008 setting the requirements for accreditation and market surveillance relating to the marketing of products and repealing regulation (EEC) no 339/93. The Commission regrets the deletion of article 207 TFEU as legal basis of the Regulation."

Statement by Slovakia, Luxembourg, the United Kingdom and Bulgaria

"The signatories fully subscribe to the aim of the Regulation, which is the strengthening of market surveillance and product safety in the European Union by ensuring that products placed on the internal market comply with Union legislation. Furthermore, we recognize the need to modernize the existing legal framework for market surveillance in order to ensure effective market surveillance responding to the needs of a modern economy with rapidly evolving technologies.

However, in our view, the Regulation, as agreed with the European Parliament, fails to deliver adequately on the above-mentioned aims and demands. We have concerns about the impacts of the new rules on economic operators established in the EU, on the international trade relations of the EU with its trade partners, on consumer choice, on rapidly growing business models, such as fulfilment centres, and on the broader development of e-commerce in the internal market.

We would like to reiterate the voice of the main European business federations, representing all sectors of the EU economy, which have voiced serious concerns regarding several provisions of the Regulation, notably on Article 4 (Tasks of economic operators regarding products subject to certain Union harmonisation legislation).

We regret that the Council has not made use of its pilot project on Council Impact Assessments and has not commissioned an impact assessment on Article 4, which could have provided evidence to possible scenarios for addressing the existing gap in the enforcement system.

In addition, we express certain concerns regarding the insufficient improvement of the current legislative framework, notably in terms of defining clear procedures for market surveillance and the confusion between functions and competencies of market surveillance authorities and customs authorities in terms of cooperation and interactions between these authorities.

Finally, we reiterate our concerns with regard to the practical problems outlined above given the general nature of the Regulation, which replaces certain provisions of Regulation 765/2008 and will serve as basis for future proposals in the field of free movement of harmonized products.

We, therefore, cannot express our consent with the proposed text of the Regulation."

Energy

70. Revision of Gas Directive
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 12 February 2019.

Transport

71. Directive on the promotion of clean and energy-efficient road transport vehicles
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 February 2019.

72. Decision amending Directive 96/53/EC on weights and dimensions 6134/19
Presidency debriefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 12 February 2019.

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.

73. Regulation on road transportation sector: "Brexit" contingency 6129/19 + COR 1
Preparation for the trilogue

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

Statement by the United Kingdom

On Gibraltar in the context of provisions to ensure road freight connectivity in the event of a no deal withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

"The United Kingdom (UK):

- Welcomes the intention of this proposal which will help ensure minimal disruption to citizens and businesses across Europe and beyond in the event of a no deal scenario. It is a pragmatic solution which would help to provide certainty for citizens and business, and the UK is prepared to grant reciprocal access to EU operators as the proposal requires.
- Regrets that Gibraltar has not been included in the scope of this measure and reiterates its intention that, when it comes to the future relationship with the EU, it will negotiate on behalf of the entire UK family, including its Overseas Territories.
- Welcomes Spanish Foreign Minister Borrell's statement to Spanish Congress in October 2018 that they “don't want to complicate anyone's life, don't want [to] put up or create difficulties, [and] don't want to close the border...” We are confident that all sides are committed to putting in place the appropriate measures [at all levels/in all fora] to protect citizens on both sides of the border and avoid disruption in a no-deal scenario.
- Reiterates its certainty of its sovereignty over Gibraltar."

74. Regulation on air connectivity: "Brexit" contingency
Preparation for the trilogue

6125/19

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

Statement by the Commission

"In respect of Article [1bis] and recital [5a], the Commission recalls that the division of competences as between the Union and the Member States is exhaustively dealt with in the Treaties, both for usual and exceptional circumstances. In accordance with the jurisprudence of the Court of justice, the legislator has no power to alter that division.

The Commission considers that this Regulation does not prejudice the nature of the future relationship with the United Kingdom in the area of aviation.

The Commission furthermore recalls the European Council Guidelines of 23 March 2018 on the future relation with the United Kingdom, established with a view to the opening of negotiations on the overall understanding of the framework for the future relationship. According to point 11 of those Guidelines, in the area of aviation the aim should be to ensure continued connectivity between the United Kingdom and the EU after the former's withdrawal from the Union; this could be achieved, inter alia, through an air transport agreement, combined with aviation safety and security agreements, while ensuring a strong level playing field.

Having regard to those Guidelines, the Commission intends to submit the relevant recommendation to the Council as soon as possible in due time; it will be for the Council to establish the terms of its decision authorising the opening of negotiations in accordance with Article 218(3) and (4) TFEU and generally with Union law."

Statement by the United Kingdom

On Gibraltar in the context of provisions to ensure basic air connectivity in the event of a no deal withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

"The United Kingdom (UK):

- Welcomes the intention of this proposal which will help ensure minimal disruption to citizens and businesses across Europe and beyond in the event of a no deal scenario. It is a pragmatic solution which would help to provide certainty for citizens and business, and the UK is prepared to grant reciprocal access to EU operators as the proposal requires.
- However, is clear that it does not accept the positions set out on Gibraltar.
- Reiterates its certainty over its sovereignty over Gibraltar (including the territory in which Gibraltar Airport is situated).
- As such, is clear and puts on the record that the UK rejects recital 7b which is not consistent with the legal position of the UK.
- Is adamant that, as this measure will be adopted while the UK is still a member state, the legal position of the UK should be reflected in the recitals.
- Makes clear that, in the process of finalising the text, it would be more appropriate to use the established language within the Regulation, which states: “This regulation is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport of Gibraltar is situated”.
- Notes its regret that Gibraltar has not been included in the scope of this measure and reiterates its intention that, when it comes to the future relationship with the EU, it will negotiate on behalf of the entire UK family, including its Overseas Territories."

75. Regulation on the Connecting Europe Facility (CEF)
Preparation for the trilogue

15400/2/18 REV 2
+ ADD 1 REV 2

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

76. Directive on the minimum training of seafarers
Presidency briefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

6105/19

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 11 February 2019.

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.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

WEDNESDAY 13 FEBRUARY 2019

EPPO nomination

The Committee took note of the information provided by the Presidency and agreed to revert to this at the continuation of its session as a full item.

FRIDAY 15 FEBRUARY 2019

None raised.

"I" items approved**COREPER (PART 2)****WEDNESDAY 13 FEBRUARY 2019****Judicial Affairs**

16. Case T-35/19 (Venezuela regime) 6166/19
Information note for the Permanent Representatives Committee JUR
(Part 2)

Institutional Affairs**Appointments**

17. Two members (DK) of the European Economic and Social 6088/19
Committee 6089/19
Adoption CES

Transparency

18. Public access to documents 5169/19
Confirmatory application No 01/c/01/19 INF
Adoption API

Economic and Financial Affairs

19. ECA SR No 1/2019 on fighting fraud in EU spending 5188/19
Designation of a Working Party FIN
20. ECA SR No 2/2019 on chemical hazards in our food 6031/19
Designation of a Working Party FIN
21. New French Commemorative Coin 5943/19
UEM
22. New German Commemorative Coin 5941/19
UEM
23. Directive as regards the inclusion of Campione d'Italia and Lake 5616/19
Lugano in the customs territory of the Union 14487/18
Adoption FISC

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| 24. | Council Implementing Decision authorising Poland to introduce the split payments mechanism for the payment of VAT
<i>Adoption</i> | 6109/19
5849/19
FISC |
| 25. | Council Implementing Decision authorising Lithuania to introduce a derogation to apply the reverse charge mechanism to supplies of hard drives
<i>Adoption</i> | 6108/19
5848/19
FISC |
| 26. | Regulation on a Pan-European Pension Product (PEPP)
<i>Confirmation of the final compromise text with a view to agreement</i> | 5915/19
EF |

Statement by the Netherlands

"The Netherlands notes that certain important changes have been made to the initial proposal of the European Commission. The Netherlands notes that the agreement respects the prerogative of the Member States on taxation and that Member States decide themselves whether their Institutions for Occupational Retirement Provision (IORP's) are allowed to provide PEPP. However, we remain of the opinion that this agreement contains too many delegated acts and confers too much authority to EIOPA and the Commission. Therefore, the Netherlands will vote against the PEPP-regulation during Coreper and the Council."

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| 27. | Commission's intervention before a US Court as amicus curiae regarding the recognition and enforcement of intra-EU investment arbitration awards
<i>Approval</i> | 6146/19
ECOFIN |
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Oral intervention by the Council Legal Service

"The jurisconsulte of the Council explained that, when intervening on behalf of the Union before a US Court as amicus curiae regarding the recognition and enforcement of intra-EU investment arbitration awards, the Commission is bound by the principle of sincere cooperation and it must faithfully present the state and developments of the EU law, in particular that there are divergences among the Member States as to the interpretation and the consequences of the ACHMEA judgment and that a new case on this question is to be examined by the ECJ".

Statement by Finland, Malta, Luxembourg, Slovenia and Sweden

"Finland, Malta, Luxembourg, Slovenia and Sweden would like to recall their declaration of 16 January 2019 on the enforcement of the judgement of the ECJ in Achmea and investment protection in the EU."

Statement by Hungary

"Hungary would like to recall its declaration of 16 January 2019 on the legal consequences of the judgement of the Court of Justice in ACHMEA and on investment protection in the European Union."

General Affairs

28. Conclusions on Securing free and fair European elections
Adoption 5348/19
AG
INST
29. Regulation on the harmonisation of gross national income at market prices (GNI)
Adoption of the legislative act 6010/19
PE-CONS 74/18
ECOFIN
31. Conclusions on the Facility for Refugees in Turkey (CoA SR No27/2018)
Adoption 5449/1/19 REV 1
ELARG

Justice and Home Affairs

32. Council Decision on the UK opt-out from the recast of the Regulation on the creation of ILO network
Adoption 6083/19
5979/19
MIGR

Foreign Affairs

34. Council Decision EUCAP Sahel Mali Mission - extension
Adoption 6017/19
5634/19
CORLX
35. Council Decision on the signing and conclusion of a Framework Participation Agreement with the Hashemite Kingdom of Jordan
Adoption 5583/19
5510/19
5511/19
CORLX
36. Council Decision and Regulation Zimbabwe restrictive measures - review
Adoption 6019/19
5903/19
5905/19
CORLX
37. Syria restrictive measures - pre-notifications
Adoption 6229/19
CORLX
51. Council Implementing Decision and Regulation concerning restrictive measures in view of the situation in Afghanistan - UN transposition
Adoption 6267/19
6185/19
+ ADD 1 COR 1
6186/19
+ ADD 1 COR 1
CORLX

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| 38. | Conclusions on Climate Diplomacy
<i>Adoption</i> | 6151/19
CFSP |
| 39. | PSC Decision BiH/27/2019 - appointment of the EU Operation
Commander
<i>Decision to publish in the Official Journal</i> | 5743/19
5227/19
PSC DEC |
| 40. | Conclusions on Yemen
<i>Adoption</i> | 6176/19
MOG |
| 41. | Consultation of the Council on two Commission non-disputing
party interventions in ISDS proceedings under Member State
BITs | 6037/19
FDI |

Delegated or Implementing Acts

Foreign Affairs

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| 44. | Commission Delegated Regulation (EU) .../... of 11.1.2019
supplementing Regulation (EU) 2017/821 of the European
Parliament and of the Council as regards the methodology and
criteria for the assessment and recognition of supply chain due
diligence schemes concerning tin, tantalum, tungsten and gold
<i>Delegated act - Intention not to raise objections</i> | 6120/19
5283/19
COMER |
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Other items

- | | | |
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| 45. | Interim approval of a cryptographic product
<i>Approval</i> | 6029/19 R-UE
CSCI
CSC |
|-----|--|------------------------------------|

Economic and Financial Affairs

- | | |
|---|---------|
| 46. Banking Package | 6292/19 |
| <i>Confirmation of the final compromise text with a view to agreement</i> | EF |
| a) Capital Requirements Regulation (CRR) | 6288/19 |
| b) Capital Requirements Directive (CRD) | 6289/19 |
| c) Bank Recovery and Resolution Directive (BRRD) | 6290/19 |
| d) Single Resolution Mechanism Regulation (SRMR) | 6291/19 |

Oral intervention by the Commission

"The Commission shares the view expressed repeatedly by both Council and Parliament including most lately in their political agreement, that Pillar 2 is and should remain bank specific and that supervisory decisions have to be justified by the specifics of each individual banks in that context, while at the same time not putting undue legal risk on supervisors when exercising their discretion. The Commission believes that the performance of the current framework in achieving the correct balance in this respect could not possibly be properly addressed at the very end of the negotiation in the frame of a technical trilogue but that it could rather be usefully reviewed in the context of the 2020 review of CRD and CRR finalising the Basel 3 reforms."

Statement by Belgium, Luxembourg and Slovenia

"The Kingdom of Belgium, the Grand Duchy of Luxembourg and the Republic of Slovenia would like to confirm their support for the political agreement on a Regulation of the European Parliament and of the Council amending Regulation (EU) N° 806/2014 as regards loss-absorbing and recapitalisation capacity for credit institutions and investment firms. The Kingdom of Belgium, the Grand Duchy of Luxembourg and the Republic of Slovenia understand that, for resolution entities of resolution groups with assets below 100 billion that are considered by the national resolution authority likely to pose a systemic risk in case of failure, the Single Resolution Board should require that part of the MREL equal to the level of loss absorption and recapitalisation referred to in Article 27(7) of Regulation 806/2014 is met with subordinated liabilities and own funds, including own funds used to comply with the combined buffer requirement referred to in Directive 2013/36/EU. The Kingdom of Belgium, the Grand Duchy of Luxembourg and the Republic of Slovenia reiterate their call for the introduction of a recital clarifying the MREL calibration for entities identified by the national resolution authorities for the purpose of article 12d3b."

Joint statement by Austria, Belgium, Bulgaria, Cyprus, Czechia, Estonia, Luxembourg, Latvia, Malta, The Netherlands, Poland and United Kingdom

"The Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Cyprus, the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Malta, the Republic of Poland, the Grand Duchy of Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, wish to record their support for the proposals for a Regulation of the European Parliament of the Council amending Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 ("CRR2") and a Directive of the European Parliament and Council amending Directive 2013/36/EU ("CRD5"). However, the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Cyprus, the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Malta, the Republic of Poland, the Grand Duchy of Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland would like to highlight concerns regarding the application of the proposed Regulation and proposed Directive to MiFID investment firms, which may materialise as a result of deleting the derogation for investment firms other than systemic investment firms. The Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Cyprus, the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Malta, the Republic of Poland, the Grand Duchy of Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland support the swift conclusion of the current intra-institutional negotiations regarding the Review of the prudential framework for investment firms ("the IFR"). The IFR should introduce more proportionate and risk-sensitive rules for investment firms. However, should the IFR negotiations fail to conclude within this European Parliamentary term, national competent authorities and non-systemic investment firms could be faced with the unnecessary costs of having to prepare for, and comply with, elements of CRR2 and CRD5 before subsequently implementing the new prudential regime for investment firms. The Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Cyprus, the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Malta, the Republic of Poland, the Grand Duchy of Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland call on the Commission to monitor this double implementation risk, and to propose legislative changes for the co-legislators to address this risk if it becomes clear that the IFR will not be agreed within this Parliamentary term."

General Affairs

- | | | |
|-----|---|---------|
| | <u>Transferred from Wednesday</u> | 5886/19 |
| 30. | Conclusions on EU relations with the Swiss Confederation
<i>Adoption</i> | AELE |

Statement by Hungary

"Hungary considers that the EU-Swiss cooperation in the area of international migration does not affect the national choices and policies of the Member States in relation to migration, including their policy on cooperation in migration at global level."

Foreign Affairs

43. Transferred from Wednesday 6228/19
Conclusions on EU Priorities in UN Human Rights Fora in 2019 COHOM
Adoption

Statement by Poland (paragraph 11)

"Poland remains dedicated to respond to the challenges to achieve full equality between women and men. International agreements guide us in this respect, however not all significant issues are addressed by international instruments. As the term "sexual and reproductive health and rights" lacks any internationally recognized definition, Poland interprets its scope in line with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action."

Statement by Hungary (paragraphs 10 and 11)

"The adoption of the Programme of Action of the International Conference on Population and Development (ICPD) and the Beijing Platform for Action of the Fourth World Conference on Women marked a remarkable consensus. They placed the enjoyment of human rights at the heart of development and important gains in the fields of health, equality between men and women and education have been achieved since their adoption. These fields are at the core of the 2030 Agenda for Sustainable Development incorporating as founding principles the universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination.

Hungary remains dedicated to its human rights commitments, including the protection and promotion of women's rights and equality between men and women. Hungary is deeply committed to the implementation of the ICPD Programme of Action and Beijing Platform for Action as well as the 2030 Agenda, serving also as basic references in the fields of sexual and reproductive health and reproductive rights. Hungary notes, that the term of "sexual and reproductive health and rights (SRHR)" and related issues, like "sexual rights", "comprehensive sexuality education", "modern methods of contraception", "emergency contraception", are lacking consensual definition at international level, including within the European Union. These issues are interpreted and promoted by Hungary in the context of the 2030 Agenda, the ICPD Programme of Action and the Beijing Declaration and Platform for Action and in line with its national legislation.

Hungary strongly rejects all forms of discrimination or violence based on any ground or status, including on sexual orientation and gender identity. In the meantime Hungary reserves its sovereign right to define the personal scope and the content of family relations and of marriage in accordance with its constitution, the Fundamental Law. In this vein, Hungary reserves its right to establish its position in its national capacity - also as a member of the UN Human Rights Council - on the draft resolution related to the mandate of the UN Independent Expert on SOGI. We also underline the importance that the mandate and activities carried out by the United Nations Independent Expert on SOGI observe international law and internationally recognized human rights standards."

94. Joint Civil-Military Concept of Operations on Regionalisation of CSDP action in the Sahel
Approval

6381/19
CIVCOM/POLMIL
CSDP/PSDC

Other items

47. Interim approval of a cryptographic product
Approval

6274/19 **R-UE**
CSCI
CSC

48. Interim approval of a cryptographic product
Approval

6275/19 **R-UE**
CSCI
CSC

49. Interim approval of a cryptographic product
Approval

6276/19 **R-UE**
CSCI
CSC

COREPER (PART 1)

Institutional Affairs

Written questions

77. Replies to questions for written answer submitted to the Council by Members of the European Parliament
Adoption by silence procedure 6142/19
PE-QE
- a) Péter Niedermüller (S&D) 5499/19
'Proper organisation of the 2019 EP elections'
- b) Soraya Post (S&D), Ana Miranda (Verts/ALE), Eleonora Forenza (GUE/NGL) and Róza Gräfin von Thun und Hohenstein (PPE) 5038/19 + AMD 1
'The rise of neo-fascist violence in Europe'

Appointments

78. Two members (EL) and one alternate member (EL) in the Advisory Committee on Freedom of Movement for Workers
Adoption 5588/19
5587/19
SOC

Other

79. Council Decision extending the term of office of the Chairperson of a Board of Appeal of the European Union Intellectual Property Office (EUIPO)
Adoption 5906/19
5631/19
PI

Judicial Affairs

80. Case T-707/18 (Tilly-Sabco v. Council and Commission)
Information note for the Permanent Representatives Committee (Part 1) 6073/19
JUR

EU positions for international negotiations

81. ICAO - EU Coordination for the 216th session of the ICAO Council (Montreal, 18 February-15 March 2019)
Approval 6148/19
AVIATION

Transport

82. Council Decision on Amendment 17 to the Annex 13 to the Chicago Convention (ICAO)
Adoption 5992/19
5995/19
AVIATION

83. Council Decision on the conclusion of the Agreement between the EU and the Philippines on certain aspects of air services
Request for the consent of the European Parliament
- 5111/19
15056/18
AVIATION

Agriculture

84. Ministerial Decision to resume negotiations on a Legally Binding Agreement (LBA) on Forests in Europe
Endorsement
- 5982/19
FORETS

Fisheries

85. Regulation on a multi-annual plan for demersal stocks in the Western Mediterranean Sea
Confirmation of the final compromise text with a view to agreement
- 6100/19 + ADD 1
6101/1/19 REV 1
PECHE

Statements by the Commission

- on 'best available scientific advice'

"As regards 'best available scientific advice', the Commission underlines that the current practice is to accept only the scientific advice issued or reviewed by an independent scientific body recognised at Union or international level, such as the Scientific, Technical and Economic Committee for Fisheries (STECF), the Scientific Advisory Committee (SAC) of the General Fisheries Commission for the Mediterranean (GFCM) or the International Council for the Exploration of the Sea (ICES).

The Commission could explore the possibility to propose in the future a definition of "best available scientific advice."

- on the amendment of Annex I of the MAP (inclusion of depth intervals as a criteria for the segmentation of the fishing effort)

"In the context of the evaluation of the Plan, five years after its entry into force, different scenarios could be envisaged for its revision, including the introduction in Annex I of other criteria designing the effort segmentation, such as depth intervals for the stocks concerned stipulated in Article 7(1) and the prohibition to increase capacity stipulated in Article 9(5) of the plan. Any such revision will depend on the best available scientific advice."

- on regional cooperation

"The Commission will, on behalf of the Member States, continue its efforts in order to adopt conservation measures within the General Fisheries Commission for the Mediterranean (GFCM) in order to ensure the sustainable exploitation of shared stocks in the Mediterranean, in accordance with the MedFish4Ever Declaration of 2017."

Internal Market and Industry

86. Regulation to prolong transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (Article 278)

6123/19 + ADD 1
UD

Confirmation of the final compromise text with a view to agreement

Statement by France, supported by Cyprus and Luxembourg

"La France se réjouit du résultat des négociations avec le Parlement européen, qui ont permis de trouver une solution aussi équilibrée que possible pour le report de la date limite en vue de la mise à jour des systèmes d'information transeuropéens et nationaux d'importation prévue par le Code des douanes de l'Union.

Elle reconferme à cette occasion son engagement à faire de son mieux pour assurer, en bonne articulation avec les nouvelles échéances de déploiement des systèmes d'information douaniers, **la mise en œuvre des dispositions du paquet «TVA / commerce électronique» conformément à ses déclarations du 5 décembre 2017 et du 14 novembre 2018.**

A cet égard, **la France tient toutefois à rappeler que le rôle de soutien et de coordination de la Commission seront essentiels.** Pour engager leurs travaux informatiques, les Etats membres ont prioritairement besoin d'une stabilisation rapide du cadre réglementaire, **notamment en ce qui concerne les données relatives aux déclarations en douane, particulièrement pour l'importation**, figurant à l'annexe B des actes délégués et d'exécution.

En outre, **elle appelle à la mise en place dans les meilleurs délais d'un programme de travail détaillé pour le développement des systèmes informatiques, prenant en compte et décrivant pleinement les interconnexions entre systèmes."**

Statement by the Netherlands and Lithuania

"The Netherlands and Lithuania recognize the importance of the abovementioned file and greatly appreciates the progress achieved during the negotiations on the file. However, the Netherlands and Lithuania remain concerned regarding the deadline of 2022 for the implementation of national IT-systems.

The final compromise text that will be submitted to Coreper on 14 February 2019 for confirmation with a view to agreement states that Trans European Systems (TES) may be used on a transitional base until 31 December 2025 whereas national systems may be used until 31 December 2022 at the latest. For the Netherlands and Lithuania the distinction between TES and national systems, with different deadlines applied, will lead to unnecessary extra costs for customs authorities. Since the national systems are strongly linked to the TES, the transitional period for the TES and the national systems should have therefore been the same in the final text.

The Netherlands expressed its concerns on this matter in a declaration submitted to the minutes of Coreper (14 November 2018; agenda item I-27).

It is therefore with regret that the Netherlands and Lithuania will have to abstain."

Statement by Portugal

"Portugal appreciates the efforts made by the Romanian and Austrian Presidencies in the negotiations for the amendment of Regulation (EU) 952/2013, extending the deadline for updating the trans-European and national electronic customs systems provided for in the Union's Customs Code.

Portugal is strongly committed to the creation of a digital environment for customs and trade and has been taking significant measures in that respect. Nonetheless, the fulfillment of the deadlines prescribed in article 278(2) of the Union's Customs Code required the timely stabilization of the regulatory framework, in particular as regards the data on customs declarations, particularly for imports, contained in Annex B of the delegated and implementing acts, which has not yet been concluded.

Taking into account the interdependence between national and European systems, Portugal would like to stress the importance of the Commission's coordination role, which includes the establishment - as soon as possible - of a detailed work program for the development of IT systems, taking into account and fully describing the interconnections between the systems.

Given the complexity and scope of the work to be undertaken and the risks involved, Portugal has concerns regarding the feasibility of the 31 December 2022 deadline for the development and/or updating of the national electronic systems under consideration.

Nonetheless, Portugal reiterates its commitment to comply with its obligations under EU law and will endeavor to prepare its national systems within the prescribed timeline, provided that the technical annexes and detailed work program are timely approved. Portugal fully supports the overall objective of having all systems in place by 2025."

87. Regulation amending Union Customs Code for Campione d'Italia and Lake Lugano
Adoption of the legislative act

6012/19
PE-CONS 80/18
UD

Telecommunications

88. Regulation on .eu Top Level Domain (TLD) name
Adoption of the legislative act

6011/19
PE-CONS 84/1/18
REV 1
TELECOM

Delegated or Implementing Acts

Agriculture

89. Commission Regulation (EU) .../... of XXX amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for azoxystrobin, bicyclopyrone, chlormequat, cyprodinil, difenoconazole, fenpropimorph, fenpyroximate, fluopyram, fosetyl, isoprothiolane, isopyrazam, oxamyl, prothioconazole, spinetoram, trifloxystrobin and triflumezopyrim in or on certain products
Decision not to oppose adoption

5990/19
5379/19 + ADD 1
+ ADD 1 COR 1
AGRILEG

Health

90. Commission Regulation (EU) .../... of XXX amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards Yohimbe (*Pausinystalia yohimbe* (K. Schum) Pierre ex Beille)
Decision not to oppose adoption
91. Commission Regulation (EU) .../... of XXX refusing to authorise a health claim made on foods and referring to children's development and health
Decision not to oppose adoption
92. Commission Regulation (EU) .../... of XXX amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards trans fat, other than trans fat naturally occurring in fat of animal origin
Decision not to oppose adoption
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