



Brussels, 8 October 2019
(OR. en)

12897/19
CRS CRP 32

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
25 September 2019

I. Adoption of the agenda

12395/19 OJ CRP1 32 + ADD 1
12402/1/19 REV 1 OJ CRP2 32

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)

Agriculture and Fisheries

2. Meeting of the Council (Agriculture and Fisheries) on 14 and 15 October 2019: Agenda
(For the items in the remit of the Permanent Representatives Committee)

The Presidency presented the main items on the agenda.

Environment

3. Meeting of the Council (Environment) on 4 October 2019: Preparation

1. Clean Planet for all: EU's strategic long-term vision for a
climate neutral economy
Policy debate

12309/19

The Committee prepared this item for the Council.

2. Conclusions on the preparations for the United Nations Framework Convention on Climate Change (UNFCCC) meetings (Santiago de Chile, 2-13 December 2019)
Adoption

12308/19

The Committee prepared this item for the Council.

3. Conclusions on "More circularity - Transition to a sustainable society"
Adoption

12297/19

The Committee prepared this item for the Council.

4. Conclusions on "The 8th Environmental Action Programme - Turning the Trends Together"
Adoption

12303/1/19 REV 1

The Committee prepared this item for the Council.

COREPER (PART 2)

General Affairs

17. Meeting of the Council (General Affairs) on 15 October 2019:
Agenda

The Presidency presented the main items on the agenda.

Economic and Financial Affairs

19. Meeting of the Council (Economic and Financial Affairs) on
10 October 2019: Preparation
Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

Justice and Home Affairs

20. EPPO: Appointment of European Chief Prosecutor
State of play
Approval of a letter

12178/19

The Committee took note of the information provided by the Presidency and approved a letter to be sent by the Presidency to the EP, as amended during the meeting.

21. Meeting of the Council (Justice and Home Affairs) on
7-8 October 2019: Preparation

- a) Eurojust: Strengthening fight against cross-border crime

- i) Conclusions of Eurojust
Adoption

12285/19

- ii) Judicial counter-terrorism register
Presentation by Eurojust

The Committee prepared this item for the Council.

- b) Fundamental Rights

- i) Conclusions on the EU Charter of Fundamental
Rights after 10 Years: State of play and future work
Adoption

12357/19

- ii) Fundamental Rights challenges in 2020 and beyond
*Exchange of views with the Director of the
Fundamental Rights Agency (FRA)*

12352/19

The Committee prepared this item for the Council.

- c) EU Accession to the ECHR: supplementary negotiating directives
Adoption

12349/1/19 REV 1
R-UE

The Committee prepared this item for the Council.

- d) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

Foreign Affairs

22. Meeting of the Council (Foreign Affairs) on 14 October 2019:
Agenda

The EEAS presented the main items on the agenda.

23. Regulation establishing the Neighbourhood, Development and International Cooperation Instrument (NDICI)
Partial mandate for negotiations with the European Parliament

12278/19 + ADD 1
+ ADD 2

The Committee agreed on a partial mandate as regards EFSD+ and agreed to revert to this at a forthcoming session.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

Malta informal meeting on migration

The Committee took note of the information provided by Malta.

Hybrid Working Party

The Committee took note of the concerns raised by France.

"I" items approved

COREPER (PART 1)

Institutional Affairs

Appointments

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| 4. | Appointment of the Deputy Executive Director of the European Union Intellectual Property Office (EUIPO)
<i>Adoption</i> | 12065/19
12064/19
PI |
| 5. | Two members (ES, AT) of the Advisory Committee for the Coordination of Social Security Systems
<i>Adoption</i> | 12182/19
12358/19
SOC |
| 6. | One alternate member (AT) of the Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 12356/19
SOC |
| 7. | One member (HU) and one alternate member (HU) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Adoption</i> | 12304/19
12305/19
SOC |

Judicial Affairs

- | | | |
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| 8. | Case T-538/19 (Casino, Guichard-Perrachon v European Commission)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 12306/19
JUR |
| 9. | Case T-539/19 (Les Mousquetaires et ITM Entreprises v European Commission)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 12310/19
JUR |
| 10. | Case C-570/19 (Irish Ferries Limited v National Transport Authority)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 12311/19
JUR |
| 55. | EU submission before the Enlarged Board of Appeal of the European Patent Office in Case G 3/19
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 12441/19
PI |

EU positions for international negotiations

- | | |
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| 11. Council Decision on the EU position in view of the written procedure at the Committee of Technical Experts of the Intergovernmental Organisation for International Carriage by Rail (OTIF)
<i>Adoption</i> | 12283/19
11365/19
TRANS |
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Fisheries

- | | |
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| 12. Regulation amending Regulations (EU) 2019/124 and (EU) 2018/2025 as regards certain fishing opportunities (Third amendment)
<i>Adoption</i> | 12233/19 + ADD 1
12078/19
PECHE |
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Statement by Portugal

"The Regulation amending Regulations (EU) 2019/124 and (EU) 2018/2025 as regards certain fishing opportunities, amongst other amendments, sets the TAC for anchovy on areas 9 and 10 from July 2019 to June 2020 and amends the TAC set for red seabream on area 10 for 2020.

Portugal recognizes that the TACs established by this Regulation are of the utmost importance to the concerned sector. We particularly welcome the TAC set for anchovy, which will allow fisheries to be continued from October 2019 onwards.

However, it is our view that the 2020 TAC for red seabream should not be amended, not only considering that the ICES advice foresees a very small decrease (4% - 23 ton.) but also that the Azores government has implemented a model of direct management with fishermen, as well as other technical measures, that have proven to be positive in terms of stock management.

In light of the above, Portugal will abstain on this item."

Delegated or Implementing Acts

Employment and Social Policy

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| 13. Commission Directive (EU) .../... of XXX amending Annexes I, II and III to Council Directive 89/656/EEC as regards purely technical adjustments
<i>Decision not to oppose adoption</i> | 12249/1/19 REV 1
11229/19 + ADD 1
SOC |
| 14. Commission Directive (EU) .../... of XXX amending Annexes II and IV to Council Directive 92/29/EEC as regards purely technical adaptations
<i>Decision not to oppose adoption</i> | 12250/19
11230/19 + ADD 1
SOC |

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| 15. Commission Directive (EU) .../... of XXX establishing a fifth list of indicative occupational exposure limit values pursuant to Council Directive 98/24/EC and amending Commission Directive 2000/39/EC
<i>Decision not to oppose adoption</i> | 12251/19
11231/19 + ADD 1
SOC |
| 16. Commission Directive (EU) .../... of XXX amending Annexes I, III, V and VI to Directive 2000/54/EC of the European Parliament and of the Council as regards purely technical adjustments
<i>Decision not to oppose adoption</i> | 12252/1/19 REV 1
11232/19 + ADD 1
SOC |

COREPER (PART 2)

Judicial Affairs

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| 24. | Case T-481/19 (Portigon AG v. Single Resolution Board (SRB))
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 12247/19
JUR |
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Institutional Affairs

Appointments

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| 25. | An alternate member (HU) of the Committee of the Regions
<i>Adoption</i> | 12025/19
12024/19
CDR |
| 26. | Four members and five alternate members (NL) of the Committee of the Regions
<i>Adoption</i> | 12076/19
12067/19
CDR |
| 27. | A member and five alternate members (ES) of the Committee of the Regions
<i>Adoption</i> | 12127/19
12126/19
CDR |

Transparency

- | | | |
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| 28. | Complaint 640/2019/TE
<i>Approval of a letter</i> | 12191/19
INF
API |
| 29. | Complaint 1611/2019/KR
<i>Approval of a letter</i> | 12219/19
INF
API |

Economic and Financial Affairs

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| 30. | ECA SR No 14/2019 on Commission's public consultations
<i>Designation of a Working Party</i> | 12208/19
FIN |
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Joint statement by Austria, Germany and Luxembourg

"We share the objective to establish a credible taxonomy that will guide investors in identifying environmentally sustainable activities. We are however convinced that any taxonomy that would allow for nuclear energy to be qualified as sustainable would be inherently flawed and could give rise to severe criticism, as it would send the wrong signals and incentives to financial market participants and investors. While we would like for the taxonomy to be adopted as quickly as possible, we have strong concerns that the proposed framework would leave the door open to diverting financial resources away from environmentally sustainable activities and into technologies that cannot be considered either safe or sustainable. This would risk creating long-term "lock-in effects" into these technologies, thereby generating an undeterminable amount of additional costs, and would hence run counter the overall objective of the sustainable finance agenda."

Statement by Austria

"Timelines for the adoption of delegated and implementing acts

Regarding the timelines for adopting the delegated and implementing acts, we are concerned about the level of ambition. We prefer a sequential, 2-batch approach, where delegated and implementing acts for the climate objectives are already adopted in 2020. The work by the Technical Expert Group on the climate objectives has already been comprehensively elaborated and in our view there is no need to postpone the adoption for the climate objectives until technical criteria for all other environmental objectives are in place.

Competences and obligations of supervisory authorities

Competences, obligations and liabilities of competent supervisory authorities are too vague and should be clarified – ideally following the approach taken in Regulation 2017/1129 of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market ("Prospectus Regulation").

Competent authorities cannot and should not be obliged to perform any checks on a factual basis, i.e. perform due diligence assessments whether or not all requirements by the Taxonomy Regulation are met on a material basis at any given moment. Furthermore it would be important to clarify legal liability for disclosure documents: It has to be stipulated by Union law that the legal liability rests with the entities and not with the authorities."

Statement by Bulgaria

"Bulgaria fully supports the objectives of the Regulation to incentivise investments in environmentally sustainable activities without penalising other investments. However, we remain concerned with a number of provisions, including the level of ambition regarding the timelines for adoption of delegated acts and implementing acts and the lack of consistency with the provisions for the review clause and entry into force.

The deadline for adoption of the delegated acts and implementing acts by the Commission should be extended in order to ensure that market participants have the opportunity to "test" the application of the technical screening criteria and provide the necessary feed-back.

As regards the disclosure requirements in Article 4, we would like to underline that it is of utmost importance that these requirements are consistent with the Disclosure regulation and only financial market participants who market financial products as environmentally sustainable shall be required to provide appropriate disclosure. These requirements should not place a disproportionate burden on the relevant financial market participants otherwise they would be counterproductive to the objective of Sustainable finance package, namely to encourage financial market participants to make available more financial products as sustainable investment.

Bulgaria can accept the overall compromise text, as it includes the principle of technological neutrality, especially in the area of energy economic activities, but we would like to stress that the abovementioned issues should be addressed during the negotiations with the European Parliament."

Statement by Greece

"The Hellenic Republic would like to highlight that, based on our country's position regarding nuclear energy, and respecting the right of every Member State to define its own national energy scheme, nuclear energy should not be considered as a sustainable activity. We acknowledge the importance of adopting and implementing the Taxonomy proposal as soon as possible, in order to clarify to all market participants which activities are considered "green" and "sustainable".

We also support that the Taxonomy proposal should not include any controversial points, but rather encapsulate the widely accepted goals of sustainability, in order to produce added value as a legislative tool."

Statement by Malta

"Malta fully supports the objective of the Regulation to establish a framework aimed at facilitating investments in environmentally sustainable activities without penalising other investments. Given the importance of the file, Malta also supports the intention to commence negotiations with the European Parliament, with a view of reaching an agreement as soon as possible.

Malta welcomes the Presidency compromise solution of combining Implementing and Delegated Acts, which allows for thresholds to be established through Implementing Acts. Malta has consistently called for adequate timing and involvement for both Member States and financial market participants, in the development of the Taxonomy.

While acknowledging the Presidency's efforts in this regard, as well as the importance of adopting the Taxonomy as soon as possible, Malta would like to reiterate the importance of providing adequate time for Member States to review and provide feedback in the adoption of the Delegated Acts.

While Malta supports the overall compromise, we would appreciate the abovementioned issues to be considered moving forward during negotiations with the European Parliament and in the adoption of the final Taxonomy."

Statement by Poland

"Polska z zadowoleniem przyjmuje i popiera cele rozporządzenia w taksonomii. Może to pozytywnie przyczynić się do umożliwienia podejmowania świadomych decyzji w celu wspierania inwestycji w działalność zrównoważoną pod względem środowiskowym.

Jakkolwiek chcielibyśmy zwrócić uwagę, że zasada neutralności technologicznej powinna być podstawą rozporządzenia w sprawie taksonomii. Istnieje potrzeba utrzymania podejścia inkluzywnego, które uwzględniałoby również działania przejściowe.

Naszą główną obawą było to, że wyłączenie inwestycji związanych z gazem ziemnym w taksonomii, co w szczególności dotknie kraje uzależnione od węgla, może okazać się sprzeczne z celami polityki klimatycznej UE. Biorąc pod uwagę, że finansowanie przez UE inwestycji w sektorze gazu ziemnego nie powinno być traktowane jako rozwiązanie uniwersalne i powinno uwzględniać ogólny wpływ rozwoju infrastruktury gazu ziemnego - z gazem jako paliwem przejściowym ze źródeł wysokoemisyjnych, i jego wpływ na obniżenie emisji z gospodarek.

Uważamy, że propozycja kompromisowa nie uwzględnia różnych punktów wyjścia państw członkowskich, ani też ich miksu energetycznego czy ich indywidualnych ścieżek dojścia do zrównoważonego systemu energetycznego. Należy podkreślić potrzebę wsparcia dla państw członkowskich, które stoją w obliczu trudniejszego punktu wyjścia w procesie elektryfikacji, gazyfikacji i transformacji energetycznej. W tym kontekście należy dołożyć wszelkich starań w celu utrzymania przynajmniej tego sformułowania rozporządzenia (które dziś akceptujemy) podczas trilogów.

Proces tworzenia unijnej taksonomii powinien być przejrzysty i inkluzywny. Przyszła Platforma ds. zrównoważonego finansowania powinna składać się z ekspertów reprezentujących niefinansowe podmioty rynkowe, branże i sektory gospodarki. Zapewniłoby to dodatkową specjalistyczną wiedzę i bezstronną ocenę, której wcześniej brakowało i która naszym zdaniem byłaby naprawdę korzystna dla Platformy, ponieważ przemysł naftowy i gazowy mógłby wziąć udział w otwartej dyskusji na temat tego, w jaki sposób jego rozwiązania technologiczne mogłyby przyczynić się do osiągnięcia długoterminowych celów UE w obszarze energii i klimatu.

I wreszcie, co nie mniej ważne, popieramy wszelkie rozwiązania, które dają państwom członkowskim rzeczywisty wpływ na ostateczny kształt taksonomii w możliwie największym stopniu. Wolelibyśmy, aby wpływ państw członkowskich na takie ważne elementy, jak kryteria i DNSH (do not significant harm), był jeszcze większy. Niezależnie od powyższego, niezmiennie ważne jest utrzymanie w trakcie negocjacji z Parlamentem przynajmniej rozwiązania zaproponowanego w tekście kompromisowym, w którym konkretne progi (jakościowe i ilościowe) mają być zawarte w akcie wykonawczym.

Polska jest otwarta na dalsze konstruktywne działania na rzecz rozwiązania tych kwestii podczas rozmów trójstronnych z Parlamentem Europejskim."

Courtesy translation

"Generally, we welcome and support the idea of a sustainable investment as it may positively contribute to enabling informed decision-making in order to foster investments in environmentally sustainable activities.

However, we would like to point out that the principle of technological neutrality should be the basis of the Taxonomy Regulation. There is a need to keep an inclusive approach, that also considers transitional activities.

Our primary concern was that excluding investments related to natural gas in taxonomy, affecting in particular coal-dependent countries, may turn out to be contradictory to the EU climate policy goals. Given that EU financing of investments in natural gas sector should not be treated as "one size fits all" solution and should take into account of the overall effect of the development of natural gas infrastructure - with gas as a transition fuel from high-emission sources, and its impact on lowering the emission of economies as a whole.

We believe that the compromise proposal does not take into account the different points of departure of Member States, nor the diversity of their energy mixes and their individual paths towards a sustainable energy system. It is important to highlight the need of support for Member States that face a more difficult starting point in the electrification, gasification, and energy transition journey. In this context, every effort shall be undertaken to sustain at least this wording of the Regulation (which we accept today) during trilogue negotiations phase.

The development process of the EU taxonomy should be transparent and inclusive. The future Platform on sustainable finance should be composed of experts of non-financial market actors and business sectors, representing relevant industries. This would provide additional expertise and unbiased assessment that was previously missing and which we believe would truly benefit the Platform as the oil and gas industry could take part in an open discussion how its technological solutions could contribute to meeting the EU long-term climate and energy objectives.

And last but not least, we support any solution that gives Member States a real impact on the final shape of the Taxonomy in the maximum possible way. We would prefer that the impact of Member States on such important elements like the criteria and DNSH should be even greater. Notwithstanding the above, it is extremely important to maintain during negotiations with the Parliament at least the solution proposed in the compromise text, where specific thresholds (qualitative and quantitative) are included in the implementing act.

Poland is open to continue to work constructively towards addressing these issues during the trilogues with the European Parliament."

Statement by the Commission

"The Commission welcomes the progress made by the Council on the Taxonomy proposal and hopes that a speedy agreement can be found with the European Parliament. However, it considers that the Presidency Compromise Proposal raises very serious institutional concerns. As previously raised during Council discussions, several elements of the text do not respect Articles 290 and 291 TFEU, Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, and the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making. As the text stands, it confuses the instruments of delegated and implementing acts, the respective control mechanisms and the role of committees and expert groups, notably as regards the Member States Expert Group."

Statement by the Council Legal Service

"In relation to the Commission statement about the alleged "serious institutional concerns" in the compromise texts regarding delegated and implementing acts, as well as the role of committees and expert groups, the Council Legal Service underlined that such texts comply with the Treaties, with the applicable rules and with established case-law of the Court of Justice. The EU legislature has a wide discretion in conferring implementing or delegated powers upon Commission, in delineating those powers as well as in designating comitology committees to control implementing powers and experts to advice on delegated powers. Only manifest errors are subject to judicial review and the Presidency compromise does not contain any such manifest errors. Therefore the compromise texts are legally sound."

General Affairs

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| 32. | EP Resolutions and decisions (September 2019) | 12209/19
PE-RE |
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Justice and Home Affairs

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| 33. | EPPO - Appointment of European Prosecutors - Internal process within the Council
<i>Endorsement</i> | 12175/19
EPPO |
| 34. | Conclusions on the European Case Law Identifier (ECLI)
<i>Adoption</i> | 12090/19
12087/1/19 REV 1
JURINFO |
| 35. | Report on the implementation of the 2014-2018 e-Justice Action Plan | 12092/19
EJUSTICE |
| 36. | Conclusions on a 'Heads of Single Point of Contact (SPOC)'-network
<i>Adoption</i> | 12093/19
DAPIX |
| 37. | Prüm Decisions: Council Implementing Decision on automated vehicle registration data exchange (VRD) in Ireland
<i>Adoption</i> | 12261/19
7290/19
5309/19
DAPIX |
| 38. | Schengen evaluation Recommendation - Estonia return
<i>Adoption</i> | 12343/19
12342/19
SCH-EVAL |

Foreign Affairs

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| 39. | Commission's intervention on behalf of the EU before the ECHR in the Case Besa Nikehasani vs. Albania
<i>Approval</i> | 11658/19
COWEB |
| 40. | Barents Euro Arctic Ministerial meeting (Umeå, Sweden, 3 October 2019) - Declaration
<i>Approval</i> | 12275/19
COEST |
| 41. | 5th EU-Republic of Moldova Association Council (Brussels, 30 September 2019)
<i>Establishment of the EU position</i> | 12344/19 + COR 1
COEST |
| 42. | PSC Decision EUCAP Somalia/1/2019 - appointment of the Head of Mission of the European Union Capacity Building Mission in Somalia (EUCAP Somalia) (EUCAP Somalia/1/2019)
<i>Decision to publish in the Official Journal</i> | 11476/19
12062/19
PSC DEC |
| 43. | Council Decision on the extension of the EU military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA)
<i>Adoption</i> | 12134/19
12006/19
CORLX |
| 44. | Council Decision concerning restrictive measures in view of the situation in Libya - review
<i>Decision to use the written procedure for the adoption</i> | 12143/19
12131/19
CORLX |
| 45. | Council Decision and Implementing Regulation on Al Qaida restrictive measures - review
<i>Adoption</i> | 12156/19
12215/19
12071/19
12074/19
CORLX |
| 46. | Council Decision on Chemical Weapons restrictive measures - review
<i>Adoption</i> | 12264/19
12163/19
CORLX |

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| 47. | Council Decision and Regulation concerning restrictive measures in view of the situation in Nicaragua
<i>Adoption</i> | 12353/19
11725/19
11726/19
CORLX |
| 48. | Council Decision and Implementing Regulation concerning restrictive measures in view of the situation in Venezuela - new listings
<i>Adoption</i> | 12413/19
12289/19
12291/19
CORLX |
| 49. | Restrictive measures in view of the situation in Venezuela - pre-notifications
<i>Adoption</i> | 12423/19
CORLX |
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