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ESPACE 128

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Competitiveness (Internal Market, Industry, Research and Space))
1 and 2 December 2022

CONTENTS

Page

1. Adoption of the agenda..... 4

INTERNAL MARKET AND INDUSTRY

Legislative deliberations

2. Directive on corporate sustainability due diligence 4
3. Regulation on geographical indication protection for craft and industrial products 4
4. Directive on empowering consumers for the green transition through better protection against unfair practices and better information..... 4
5. Regulation establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC..... 4

Non-legislative activities

6. Conclusions on European Agenda for Tourism 2030 4
7. Approval of "A" items 5
- a) Non-legislative list
- b) Legislative list

Legislative deliberations

8. Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)..... 5

Any other business

9. a) Letter of Austria and supporting Member States about IPCEI improvements 5
- b) Single Market Enforcement Taskforce report..... 5
- c) 2022 Report of the SME Envoy Network to the Competitiveness Council..... 5
- d) Work programme of the incoming Presidency 5

Non-legislative activities

RESEARCH

10. Conclusions on Research Infrastructures 6
11. Conclusions on the New European Innovation Agenda..... 6

12.	Council Recommendation on the guiding principles for knowledge valorisation	6
13.	Science as an instrument to facilitate policy making in the Member States	6

SPACE

14.	EU Space Data Exploitation	6
-----	----------------------------------	---

Any other business

Research

15.	a) Public consultation on the past, present and future of the European research & innovation framework programmes 2014-2027	7
	b) EIT Culture and Creativity Knowledge and Innovation Community (KIC).....	7
	c) Partnership for Research and Innovation in the Mediterranean Area ("PRIMA")	7
	d) Work programme of the incoming Presidency	7

Space

e)	Work programme of the incoming Presidency	7
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ANNEX - Statements for the Council minutes	8
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MEETING ON THURSDAY 1 DECEMBER 2022

1. Adoption of the agenda

The Council adopted the agenda set out in 15153/22.

INTERNAL MARKET AND INDUSTRY

Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

2. **Directive on corporate sustainability due diligence** **IC** 15024/1/22 REV 1
General approach
+ REV 1 ADD 1
+ REV 1 ADD 2
+ REV 1 ADD 3

The Council approved a general approach as set out in 15024/1/22 REV 1. Statements by the German, Irish and Estonian delegations are annexed to these minutes.

3. **Regulation on geographical indication protection for craft and industrial products** **IC** 14703/22
General approach

The Council approved a general approach as set out in document 14703/22.

4. **Directive on empowering consumers for the green transition through better protection against unfair practices and better information** **IC** 14723/22
Progress report

The Council took note of the progress report set out in 14723/22. Germany, Greece, Croatia, and Austria took the floor and showed their support for the aim of this file while highlighting the areas that require further discussion.

5. **Regulation establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC** **IC** 14540/22 + COR 1
Progress report
+ REV 1 (el)

The Council took note of the progress report set out in 14540/22 + COR 1.

Non-legislative activities

6. **Conclusions on European Agenda for Tourism 2030** 14683/22 + COR 1
Approval

7. Approval of 'A' items

- a) **Non-legislative list** 15161/22

The Council adopted the "A" items listed in 15161/22 including COR and REV documents presented for adoption. Statements to these items are set out in the Addendum.

- b) **Legislative list** ((Public deliberation in accordance with Article 16(8) of the Treaty on European Union) 15162/22

Regulation on establishing European defence industry reinforcement through common procurement act (EDIRPA) **OC** 14948/22 + COR 1
General approach + **COR 1**
REV 1 (da)
+ ADD 1
INDEF

The Council approved a general approach on this Commission's proposal for a Regulation as set out in 14948/22. (Legal basis: Article 173(3) TFEU)

Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

8. **Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)** **OC** 14668/22 + ADD 1
General approach

The Council approved a general approach as set out in 14668/22. It approved a statement by the Council that is annexed to these minutes.

Any other business

9. a) Letter of Austria and supporting Member States about IPCEI improvements 15315/22
Information from the Austrian delegation
- b) Single Market Enforcement Taskforce report 15302/1/22 REV 1
Information from the Commission
- c) 2022 Report of the SME Envoy Network to the Competitiveness Council 14689/22
Presentation by the Commission
- d) Work programme of the incoming Presidency
Information from the Swedish delegation

MEETING ON FRIDAY 2 DECEMBER 2022


Non-legislative activities

RESEARCH


- 10. Conclusions on Research Infrastructures** [2] 13921/22
Approval
- The Council approved the text of conclusions as contained in 15429/22.
- 11. Conclusions on the New European Innovation Agenda** [2] 14705/22 + ADD 1
Approval
- The Council approved the text of conclusions as contained in 15602/22, and took note of the joint statement by AT, DE and LU as annexed to this minutes.
- 12. Council Recommendation on the guiding principles for knowledge valorisation** [2] [C] 14753/22
(*) 14448/22
(Legal basis proposed by the Commission: Articles 182(5) and 292 (TFEU))
Adoption
- The Council adopted the Council Recommendation as set out in 14448/22.
- 13. Science as an instrument to facilitate policy making in the Member States** [2] 14517/22
Policy debate
- Based on a Presidency note (14517/22), the Council held a policy debate on science as an instrument to facilitate policy making in the Member States.
- SPACE
- 14. EU Space Data Exploitation** [2] 14231/1/22 REV 1
Policy debate
- Based on a Presidency note (14231/1/22 REV 1) the Council held a policy debate on EU space data exploitation.

Any other business


Research

15. a) **Public consultation on the past, present and future of the European research & innovation framework programmes 2014-2027**  15082/22
Information from the Commission

The Council took note of the information provided by the Commission.

- b) **EIT Culture and Creativity Knowledge and Innovation Community (KIC)**  15085/22
Information from the Commission

The Council took note of the information provided by the Commission.




- c) **Partnership for Research and Innovation in the Mediterranean Area ("PRIMA")**  15114/22
Information from the Spanish delegation

The Council took note of the information provided by the Spanish delegation.

- d) **Work programme of the incoming Presidency**
Information from the Swedish delegation

Space

- e) **Work programme of the incoming Presidency**
Information from the Swedish delegation

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-  First reading
-  Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
-  Item based on a Commission proposal
- (*) Item on which a vote may be requested
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Statement to the legislative "A" item set out in doc. 15162/22

Ad "A" item: **Regulation on establishing European defence industry reinforcement through common procurement act (EDIRPA)**
General approach

STATEMENT BY AUSTRIA

“It is Austria's understanding that the instrument as defined by the EDIRPA regulation will be used for common procurement of defence products required by MS and associated states, not intended for the transfer to third countries. It is further her understanding that no nuclear defence products will be procured with the instrument.”

Statements to the legislative "B" items set out in doc. 15153/22

Ad "B" item 2: **Directive on corporate sustainability due diligence**
General approach

STATEMENT BY GERMANY

"Germany supports an effective EU Directive on **Corporate Sustainability Due Diligence**, based on the UN Guiding Principles on Business and Human Rights, which will not overburden small and medium-sized enterprises. In this spirit, Germany supports the text proposed by the Presidency (14791/22) to reach a General Approach, putting aside, for the time being, its own concerns about some aspects in favour of a compromise in the Council. Germany wishes the future Presidencies every success in the trilogue negotiations.

In our opinion, the upcoming negotiations should be used to put more emphasis on some aspects of the draft Directive and/or enshrine them in the text, as we also pointed out during the negotiations:

1) In terms of the termination of business relations, Germany deems it necessary to apply the principle of ‘withdrawal as a last resort’ in view of the primacy of human rights and environmental protection. On the one hand, rash withdrawals from procurement markets must be avoided and the focus must be put on the capacity of suppliers. On the other hand, termination can ultimately become inevitable and, in extreme cases, must not be abandoned, as it may be necessary for the health of the company.

2) In principle, Germany welcomes the fact that the Directive contains provisions on access to remedies and the administration of justice. However, we believe that there is a need to provide an additional incentive to implement the provisions of the Directive. To this end, a ‘safe harbour’ provision for minor negligence in compliance with voluntary industry initiatives or the use of quality certifications is absolutely indispensable. This would provide a positive incentive to implement due diligence obligations and would reward companies’ efforts to do so. Germany will only endorse a Directive that meets these conditions.

3) In addition, access to remedies for victims of human rights violations should be further strengthened in a practical manner. In this regard, it will have to be clarified to what extent the possibility to sue on victims' behalf contained in the German Supply Chain Due Diligence Act and a right of access to the files will have to be included in the Directive.

4) Germany welcomes the fact that the CSDDD will make an important contribution to the protection of human rights listed in Part 1 of Annex I. However, the list of human rights standards needs to be further specified and the catch-all clause must be limited in order to do justice to the principle of legal certainty enshrined in the constitutions of the Member States and in the EU Charter of Fundamental Rights. Companies must be able to clearly identify the conduct required of them.

5) Germany expressly welcomes the fact that the CSDDD strengthens the environmental concerns listed in Part 2 of Annex I. However, we are in favour of clarifying that protected areas within the meaning of Article 8a of the Convention on Biological Diversity are covered and that provisions from the London Protocol to the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, as well as provisions on exploitation and exploration on the deep ocean floor under Article 153(3) of UNCLOS are included as other important concerns.

6) Germany is committed to the objective of integrating environmental and social values in a dialogue with industry in the context of sustainable finance measures. If financial services are not included in the scope of the CSDDD coherently across the EU, such obligations should in principle be addressed in the area of specific capital market regulation and financial service oversight."

STATEMENT BY IRELAND

"Ireland has been supportive of the objective of the proposed Directive which will play a significant role in promoting responsible business conduct. An EU-wide framework is best placed to both support the functioning of the single market and to influence respect for human rights and the environment beyond the EU. Ireland has been seeking to ensure that the proposal has ambition while striking the right balance of providing effective protections for stakeholders and ensuring that the measures to be implemented by companies are clear, proportionate, and enforceable. Ireland considers that the proposal should apply across all sectors of the economy, including regulated financial undertakings in the financial sector.

Ireland is disappointed that the final version of the text, which came before Council today, provides flexibility to Member States to exclude the financial sector. Ireland is keen to ensure that any approach agreed supports harmonisation, promotes policy coherence and avoids the risk of fragmentation within the single market. Accordingly, we did not support the revised Presidency approach and have abstained on the adoption of a General Approach.

Nevertheless, this is a ground-breaking proposal that will create legally binding obligations for companies in respect of adverse impacts on human rights and the environment. Ireland looks forward to a successful conclusion to the forthcoming trilogue negotiations and to a final Directive being agreed at an early date."

STATEMENT BY ESTONIA

"Estonia welcomes the general aim of the Directive on the protection of human rights and environment in the course of business activities. Companies, especially large enterprises play an important and even crucial role in regards of sustainability, as the means of production of goods and services have significant impact on the environment and human rights principles.

However, the solutions in regard to the human rights part of the Annex, civil liability and financial sector are from our perspective still neither legally clear nor feasible. The application of legally unclear provisions might create excessive administrative burden for both Member States and companies, as well as might diminish their competitiveness. Even though we see several positive amendments to the initial proposal, we still think that balance between the different interests tackled by the proposal has not been reached yet.

Regarding the implementation of the Annex (especially in the field of human rights), it would create questions on how to form legally clear and understandable obligations in the national law. This in turn might lead to insufficiently unified obligations across EU, which would not support the aim of the Directive. Furthermore, the vague obligations would make it difficult for the companies to assess their obligations in order to reasonably avoid possible civil liability and for the injured party to assess the reasonable prospects of a claim. Additionally, we still see inconsistencies with the general tort law principles, mainly in regard to attribution of liability. As to the financial sector, the sustainability in this sector is already regulated by different acts, which raises several questions on the interlinkages, coherence and legal clarity on the due diligence rules applicable to the financial sector.

In the context outlined above, Estonia cannot endorse the General Approach, especially as we would have liked to specify the human rights part of the Annex and to delete or at least specify further the civil liability provisions."

Ad "B" item 8: **Regulation establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)**
General approach

STATEMENT BY THE COUNCIL

"The Council supports the political objectives of the Chips Act and wishes to maintain the financial level of ambition of the proposal. At the same time, the Council reiterates its commitment to the Joint Declaration by the European Parliament, the Council and the Commission on the re-use of decommitted funds in relation to the research programme¹ as regards the limit of EUR 0.5 billion in the period 2021-2027 for making available again these decommitted funds to the benefit of the research programme.

To maintain the overall foreseen budget of EUR 3.3 billion, the Commission is invited to support the Council in exploring alternative solutions that could be discussed in the course of the forthcoming trilogue negotiations with the European Parliament, while respecting the prerogatives of the Budget Authority. The Council underlines that the Horizon Europe contribution to the Chips Act budget should be maintained at EUR 1.65 billion.

¹ OJ C 444 I, 22.12.2020, p. 3.

The Council also recalls the Joint Statement by the European Parliament, the Council and the Commission on the financing of the European Chips Act and the Secure Space Connectivity Programme approved on 23 November 2022²."

Ad "B" item 11: **Conclusions on the New European Innovation Agenda**
Approval

JOINT STATEMENT BY LUXEMBOURG, AUSTRIA AND GERMANY

"In the view of the German government, only hydrogen produced on the basis of renewable energies ("green" hydrogen) is sustainable in the long term."

² [OJ xxxxx]