

Brussels, 16 February 2021
(OR. en)

6234/21
CRS CRP 4

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
27, 29 January and 1 February 2021

I. Adoption of the agenda

5511/21 OJ CRP1 4
5576/2/21 REV 2 OJ CRP2 4 COMIX 46 + REV 2 COR 1
+ CM 1469/1/21 REV 1

The Committee adopted the agenda.

II. Approval of the "I" items

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

III. Discussion items

COREPER (PART 1)

Environment

2. Regulation on European Climate Law 5420/21
Preparation for the trilogue

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

Research

3. Regulation on European Institute of Innovation and Technology 5409/21
(EIT) 5425/21
Decision on Strategic Innovation Agenda (SIA) of the European
Institute of Innovation and Technology (EIT)
Preparation for the trilogue

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

Transport

4. Regulation for the temporary waiver from slot requirements 5368/21
Mandate for negotiations with the European Parliament

The Committee confirmed that should the European Parliament agree with the use of the urgent procedure and approve the Commission's proposal with the agreed amendments, the Council would approve the European Parliament's position, resulting in the adoption of the Regulation. The Committee authorised the Presidency to inform the European Parliament accordingly. The Committee authorised the Presidency to request the European Parliament to use the urgent procedure.

5. Regulation on the Connecting Europe Facility (CEF)
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 22 January 2021.

Fisheries

6. Preparation of the bilateral EU-UK consultations on fishing 5450/21
opportunities for 2021 and, for deep-sea stocks, for 2021 and 5543/21
2022
Preparation for the approval
Decision to use the written procedure

The Committee prepared for the approval of the guidance proposed and decided to use the written procedure for approval.

COREPER (PART 2)

WEDNESDAY 27 JANUARY 2021

Justice and Home Affairs

19. Removal of Japan from Annex I of Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction
Approval
Decision to use the written procedure for the adoption

The Committee agreed to remove Japan from Annex I of the Council Recommendation and agreed on the use of the written procedure for its adoption.

37. Council Recommendation amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel 5612/1/21 REV 1
Presentation by the Commission
Exchange of views

The Committee took note of the Commission's presentation, held an exchange of views and agreed to revert on this issue at its meeting on Friday.

38. Council Recommendation amending Council Recommendation (EU) 2020/1475 on free movement 5473/21 +COR 1
Presentation by the Commission
Exchange of views

The Committee took note of the Commission's presentation, held an exchange of views and agreed to revert on this issue at its meeting on Friday.

General Affairs

20. COVID-19 EU coordination - vaccines
Information from the Presidency and the Commission

The Committee took note of the state of play and held an exchange of views.

Foreign Affairs

22. Meeting of the Council (Foreign Affairs) on 25 January 2021:
Follow-up

The Committee took note of the main outcomes of the Council meeting.

Economic and Financial Affairs

23. Meeting of the Council (Economic and Financial Affairs) on
16 February 2021: Agenda

The Presidency presented the main items on the agenda.

FRIDAY 29 JANUARY 2021

Justice and Home Affairs

37. Council Recommendation amending Council Recommendation 5640/21
(EU) 2020/912 on the temporary restriction on non-essential 5712/21
travel
Approval
Decision to use the written procedure for the adoption

The Committee held an exchange of views and agreed to revert on this issue at the continuation of its meeting on Monday.

38. Council Recommendation amending Council Recommendation 5473/21 + COR 1
(EU) 2020/1475 on free movement 5621/21
Approval
Decision to use the written procedure for the adoption

The Committee agreed to the text of the Council Recommendation and on the use of the written procedure for its approval.

General Affairs

39. Conference on the Future of Europe
Information from the Presidency

The Committee took note of the information provided by the Presidency and agreed to revert on this issue at its next meeting.

MONDAY 1 FEBRUARY 2021

Justice and Home Affairs

37. Council Recommendation amending Council Recommendation 5749/21
(EU) 2020/912 on the temporary restriction on non-essential 5712/2/21 REV 2
travel
Approval
Decision to use the written procedure for the adoption

The Committee agreed to the revised text of the Council Recommendation and agreed on the use of the written procedure for its adoption.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

February EUCO

The Committee took note of the information provided by PEC Cabinet.

Holocaust Remembrance Day

The Committee took note of the information provided by Poland.

"I" items approved**COREPER (PART 1)****Institutional Affairs****Written questions**

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| 7. | Replies to questions for written answer submitted to the Council by Members of the European Parliament
<i>Adoption by silence procedure</i> | 5499/21
PE-QE |
| a) | Łukasz Kohut (S&D), Petra Kammerevert (S&D), Ramona Strugariu (Renew), Katarina Barley (S&D), Birgit Sippel (S&D), Predrag Fred Matić (S&D), Klára Dobrev (S&D), Csaba Molnár (S&D), Sándor Rónai (S&D), Attila Ara-Kovács (S&D), Massimiliano Smeriglio (S&D)
"Undermining media freedom in Hungary" | 14252/20 |
| b) | Eva Kaili (S&D)
"Security protocols applying to the communications and data of the EU institutions, bodies and agencies" | 14211/20 |
| c) | Patrick Breyer (Verts/ALE)
"Regulating data tracking tools: the Digital Services Act and ePrivacy Regulation" | 14213/20 |
| d) | Emmanouil Fragkos (ECR)
"Short-term adjustment of the EU Common Foreign and Security Policy (CFSP) in response to Turkish aggression" | 14257/20 |
| e) | Sandra Pereira (GUE/NGL)
"Colombian peace process" | 14261/20 |
| f) | Marco Zanni (ID), Anna Bonfrisco (ID), Paolo Borchia (ID), Susanna Ceccardi (ID)
"Inclusion of Grey Wolves on EU terrorist list" | 14302/20 |
| g) | Filip De Man (ID)
"Repeated attacks on, and abductions of, Italian fishermen and their vessels by Libya" | 14263/20 |
| h) | Christine Anderson (ID)
"Summary of Germany's 2020 Council Presidency" | 14255/20 |

Appointments

- | | | |
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| 8. | One member (IE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Decision to use the written procedure for the adoption</i> | 5491/21
5490/21
SOC |
| 9. | One alternate member (IE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Decision to use the written procedure for the adoption</i> | 5493/21
5492/21
SOC |
| 10. | One alternate member (SE) of the Management Board of the European Agency for Safety and Health at Work
<i>Decision to use the written procedure for the adoption</i> | 5497/21
5496/21
SOC |
| 11. | One alternate member (SE) of the Advisory Committee on Safety and Health at Work
<i>Decision to use the written procedure for the adoption</i> | 5495/21
5494/21
SOC |
| 12. | One member (DK) of the Management Board of the European Centre for the Development of Vocational Training
<i>Decision to use the written procedure for the adoption</i> | 5516/21
5515/21
SOC |
| 13. | One member (FI) of the Advisory Committee on Safety and Health at Work
<i>Decision to use the written procedure for the adoption</i> | 5514/21
5513/21
SOC |

Judicial Affairs

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| 14. | Case C-620 and C-626/18
<i>Information note for the Permanent Representatives Committee (Part I)</i> | 5406/21
JUR |
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EU positions for international negotiations

15. Council Decision on the EU position in reply to ICAO as regards the Amendment 28 to Annex 9 to the Chicago Convention
Decision to use the written procedure for the adoption
- 5421/21
5386/21
AVIATION

Statement by Germany, supported by Italy and Malta

"Die Bundesrepublik Deutschland stimmt dem Kompromissvorschlag der Ratspräsidentschaft zwar zu, weil die in dem Ratsbeschluss vorgesehene Abweichung von Standard 9.34 des Kapitels 9 des Anhangs 9, Abschnitt D, des Abkommens über die internationale Zivilluftfahrt von der Bundesrepublik Deutschland inhaltlich voll unterstützt wird. Auch aus Sicht der Bundesrepublik Deutschland muss sichergestellt werden, dass die EU-Mitgliedstaaten durch die ICAO-Standards nicht gehindert werden, die Übermittlung von PNR-Daten an Drittstaaten von der uneingeschränkten Beachtung der EU-Datenschutzstandards abhängig zu machen.

Die im Anhang zum Ratsbeschluss von der Ratspräsidentschaft vorgeschlagene Position bezieht sich aber nur noch auf die Notifizierung der Abweichung im Hinblick auf Standard 9.34 des Kapitels 9 des Anhangs 9, Abschnitt D, des Abkommens über die internationale Zivilluftfahrt gemäß Artikel 38 dieses Abkommens. Die Bundesrepublik weist daher darauf hin, dass zwischen der Europäischen Kommission und dem Rat noch nicht abschließend geklärt werden konnte, ob für die Meldung von Abweichungen von „Standards and Recommended Practices“ durch die Mitgliedstaaten gegenüber der ICAO ein Ratsbeschluss erforderlich ist. Es ist der Bundesrepublik Deutschland wichtig klarzustellen, dass die Zustimmung zum Kompromissvorschlag der Ratspräsidentschaft keine Positionierung zu dieser ungeklärten Rechtsfrage enthält."

Courtesy translation

"The Federal Republic of Germany agrees to the Council Presidency's compromise proposal, because the substance of the difference in relation to Standard 9.34, Annex 9, Chapter 9, Section D to the Chicago Convention on International Civil Aviation provided for in the Council Decision is fully supported by the Federal Republic Germany. Germany also believes that it must be ensured that the ICAO standards do not hamper EU Member States in making the transfer of PNR data to third states contingent on the unrestricted observance of EU data protection standards.

However, the position proposed by the Council Presidency in the Annex to the Council Decision relates only to the notification of the difference in relation to Standard 9.34, Annex 9, Chapter 9, Section D to the Chicago Convention on International Civil Aviation pursuant to Article 38 of said convention. The Federal Republic of Germany would like to point out that the European Commission and the Council have not yet been able to finally agree on whether a Council decision is required for the notification of differences from Standards and Recommended Practices by Member States to ICAO. The Federal Republic of Germany considers it important to make clear that its agreement to the Council Presidency's compromise proposal does not imply that it has adopted any position on this unresolved legal issue."

Employment and Social Policy

16. Regulation amending Regulation (EU) No 223/2014 readdressing the COVID-19 crisis (FEAD funding) 5417/21 + COR 1
SOC
Decision to use the written procedure for the adoption of the legislative act

Research

17. Decision establishing specific programme implementing Horizon Europe 5370/21
RECH
State of play and guidance for further work

Delegated or Implementing Acts

Environment

18. Commission Delegated Regulation (EU) .../... of 27.11.2020 amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council as regards perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds 5392/21
13455/20 + ADD 1
ENV
Delegated act - Intention not to raise objections

Statement by the Netherlands

"The Netherlands recognises that the proposed delegated act to relax the unintended trace contamination (UTC) for PFOA in medical devices from 25 ppb to 2 ppm is needed as industry has indicated that for now, it is not possible to produce the relevant medical devices meeting the 25 ppb standard. Yet, there are two issues that raise concern.

First, both the EU and the EC have committed themselves to eliminating to the extent possible the use and emission of PFAS. Raising the UTC now seems contradictory to these efforts even though it is proposed as a temporary measure which is to be reviewed after 2 years.

Second, the UTC for PFOA proposed in the delegated regulation deviates from the limit value set within the Stockholm Convention (that does not have an exemption for medical devices).

To ensure consistency, the Netherlands is of the opinion that the EU should also request the proposed exemption within the framework of the Stockholm Convention.

Therefore, the Netherlands abstains from the Council's non-objection to the Delegated Regulation."

COREPER (PART 2)

WEDNESDAY 27 JANUARY 2021

Judicial Affairs

24. Case C-522/20 , OE v VY (referring Court: Oberster Gerichtshof - Austria) 5324/21
Information note for the Permanent Representatives Committee (Part 2) JUR

Institutional Affairs

25. **Minutes of Council meetings**
Approval

FAC 7.12.2020 13750/20 + ADD 1

Economic and Financial Affairs

27. Amendments to the Benchmarks Regulation 5416/21
Decision to use the written procedure for the adoption of the legislative act EF
28. Regulation establishing a Technical Support Instrument 5418/21
Decision to use the written procedure for the adoption of the legislative act ECOFIN
29. Regulation establishing the 'Customs' programme for cooperation in the field of customs 5471/21
Confirmation of the final compromise text with a view to agreement UD
30. ECA SR No 01/2021 on Single Resolution Mechanism 5470/21
Designation of a Working Party FIN

General Affairs

31. EP Resolutions and decisions (January 2021) 5369/21
PE-RE
32. Notification by the European Union made in accordance with the EU-UK Trade and Cooperation Agreement 5485/1/21 REV 1
Approval 5501/2/21 REV 2
Decision to use the written procedure UK

Justice and Home Affairs

33. Joint Declaration on Migration Cooperation between Afghanistan and the EU
Approval
Decision to use the written procedure 5287/21
5223/21 ADD 1
MIGR
34. Agreement amending the Visa Facilitation Agreement between EU and Cabo Verde 5344/21
VISA
- a) Council Decision on the signing 5033/21
Adoption 5035/21
- b) Council Decision on the conclusion 5034/21
Request for the consent of the European Parliament
35. European Ombudsman Complaint 380/2020/VB : Alleged irregularities in the selection procedure for a European Prosecutor 5504/21 + COR 1
Approval of a letter EPPO

Foreign Affairs

36. Amended Enforcement Regulation 5448/21
Decision to use the written procedure for the adoption of the legislative act COMER

Statements by the Commission

"1. Commission declaration on compliance with international law

When the Union brings a dispute under the Dispute Settlement Understanding (DSU) against another Member of the World Trade Organization (WTO), the Commission will make every reasonable effort to obtain, as early as possible, the agreement of that Member to resort to arbitration under Article 25 of the DSU as an interim appeal procedure, which preserves the essential features of appeals before the Appellate Body (the "appeal arbitration procedure"), as long as the Appellate Body is unable to fully resume its functions in accordance with Article 17 of the DSU.

When adopting implementing acts pursuant to Article 3(aa) of the Regulation, the Commission will act in accordance with the requirements of the international law on countermeasures, as codified in the Articles on the Responsibility of States for Internationally Wrongful Acts adopted by the International Law Commission.

In particular, before adopting implementing acts pursuant to Article 3(aa), the Commission will call upon the WTO Member concerned to implement the panel's findings and recommendations, notify that WTO Member of the Union's intention to take countermeasures and reiterate its openness to negotiate a mutually agreed solution in accordance with the requirements of the DSU.

When implementing acts have already been adopted pursuant to Article 3(aa), the Commission will suspend their application if the Appellate Body resumes its functions in respect to the case concerned in accordance with Article 17 of the DSU, or if an interim appeal procedure is initiated, provided that such procedure is pursued in good faith."

"2. The Commission welcomes the adoption of the Regulation of the European Parliament and of the Council amending Regulation (EU) No 654/2014.

The Commission recalls the Statement which it made upon the adoption of the original regulation, inter alia that the implementing acts which the Commission is empowered to adopt would be designed on the basis of objective criteria and subject to the control of the Member States. In exercising that empowerment, the Commission intends to act in accordance with the statement made upon the adoption of the original regulation as well as this Declaration.

When preparing draft implementing acts affecting trade in services or trade-related aspects of intellectual property rights, the Commission recalls its obligations pursuant to Article 9(1a) and confirms that it will undertake intensive prior consultations with a view to ensuring that all relevant interests and implications can be brought to the Commission's attention, shared with Member States and are duly taken into account in the possible adoption of measures. In those consultations, the Commission will seek and expects to receive input from private stakeholders affected by possible commercial policy measures to be adopted by the Union in those areas. Similarly, the Commission will seek and expects to receive input from public authorities that may be involved in or affected by the implementation of possible commercial policy measures adopted by the Union.

In the case of measures in the fields of trade in services and trade-related aspects of intellectual property rights, in particular the input from Member States' public authorities involved in the formulation or implementation of legislation regulating the affected fields will be duly taken into account in the preparation of draft implementing acts, inter alia on how possible commercial policy measures would interact with European Union and national legislation. Likewise, other stakeholders affected by such commercial policy measures will be given an opportunity to formulate their recommendations and concerns with respect to the choice and design of measures to be adopted. The observations will be shared with the Member States when measures are adopted pursuant to Article 8 of the Regulation. The regular review of any such measures imposed during their application or after their termination will likewise take into account the input from Member State authorities and private stakeholders in relation to the operation of such measures, and allow for adjustments to be made if problems have arisen.

Finally, the Commission reaffirms that it attaches great importance to ensuring that the Regulation is an effective and efficient tool for the enforcement of the Union's rights under international trade agreements, including in the field of trade in services and trade-related aspects of intellectual property rights. Therefore, the measures to be chosen in these fields must also ensure effective enforcement in line with the rights of the Union, such that they induce compliance by the third country concerned and are consistent with the applicable international rules on the type of enforcement measures allowed."

Foreign Affairs

36. Amended Enforcement Regulation
Decision to use the written procedure for the adoption of the legislative act

5448/1/21 REV 1
5448/21 ADD 1
REV 1
5448/21 ADD 2
COMER

Statement by the Commission

"Upon the adoption of the Regulation in 2014, the Commission committed to an effective communication and exchange of views with the European Parliament and the Council on trade disputes that may lead to the adoption of measures under the Regulation, and on enforcement actions in general. Mindful of the overarching objective of effective and efficient enforcement of Union's rights under the Union's international trade agreements, the Commission will continue to promote and streamline its interactions with the European Parliament and the Council to the mutual benefit.

In particular, the Commission undertakes to examine, as part of its enhanced enforcement system, alleged violations of the Union's international trade agreements when raised by the Parliament, its Members, or its Committees, or by the Council on the understanding that such requests be accompanied by supporting evidence. The Commission will keep the Parliament and the Council informed of the output of its enhanced enforcement work.

In deploying the enhanced enforcement system, the Commission will pay equal attention to alleged breaches of the trade and sustainable development provisions of EU trade agreements as to alleged breaches of market access systems. The processing of alleged breaches of trade and sustainable provisions will be fully integrated into the system. The Commission will prioritise those cases which are particularly serious in terms of their effect on workers or the environment in a trade context, which have systemic importance and which are legally sound.

The Commission will continue to fully engage in dedicated sessions with the responsible Parliamentary committee to exchange views on trade disputes and enforcement actions, including with regard to impacts on Union industries. In this context, the Commission will continue its reporting practice by providing periodically a state of play on all pending disputes and instant information for major developments in relation to disputes at the same time such information is shared with Member States. This reporting and information sharing will take place through the responsible committees in the Council and in the Parliament.

At the same time, the Commission will continue keeping the Parliament and the Council regularly informed of international developments that may lead to situations requiring the adoption of measures under the Regulation.

Finally, the Commission reaffirms its commitments under Regulation (EU) No 182/2011 of the European Parliament and of the Council to promptly transmit to the Parliament and to the Council draft implementing acts that it submits to the committee of Member States as well as final draft implementing acts following the delivery of opinions in the committee. This is managed via the comitology register."