



Brussels, 14 July 2016
(OR. en)

10493/16

CRS/CRP 24

SUMMARY RECORD

Subject: 2592nd meeting of the PERMANENT REPRESENTATIVES COMMITTEE
held in Brussels on 29 and 30 June 2016

I. Adoption of the provisional agenda

10666/16 OJ CRP1 24

10700/1/16 REV 1 OJ CRP2 24 COMIX 487 + COR 1

The Committee adopted the provisional 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)

2. Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to **port services** and financial transparency of ports

(First reading) (Legislative deliberation)

- = Presidency debriefing on the outcome of the trilogue
- = Analysis of the final compromise text with a view to agreement

10579/16 TRANS 257 MAR 179 FIN 400 CODEC 940

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 27 June 2016 and reached an agreement on the compromise text proposed by the Presidency. The Committee also took note of the parliamentary reservation of the UK.

3. Proposal for a Directive of the European Parliament and of the Council on the **reduction of national emissions** of certain atmospheric pollutants and amending Directive 2003/35/EC
(First reading) (Legislative deliberation)

= Mandate for agreement with the European Parliament

10677/16 ENV 456 ENER 266 IND 148 TRANS 264 ENT 126 SAN 281

PARLNAT 194 CODEC 965

10607/16 ENV 450 ENER 264 IND 147 TRANS 259 ENT 125 SAN 277

PARLNAT 189 CODEC 945

+ COR 1

+ ADD 1

The Committee discussed and agreed the revised compromise package, including Annex II, proposed by the Presidency and gave the mandate for agreement with the European Parliament. Questions were raised on the Presidency's approach regarding Annex II. The Hungarian delegation requested a change in pollutants in Annex II: increase by 4% for SO₂ and reduction by 6% for PM_{2.5}. The Romanian delegation indicated increased percentages that would have been voluntarily accepted for Annex II: 1% for SO₂, 2% for PM_{2.5}, 2% for NH₃, 2% for NO_x and 2% for VOC and asked for their formal request for written explanations on the methodology used to be mentioned in the meeting's summary record. The Polish delegation requested the application of the "weighted voting rules [applicable upon request]". One delegation had a scrutiny reservation. Two delegations announced their intention to abstain and five delegations announced their intention to vote against at the moment of formal adoption. In reply to several delegations the Commission confirmed that Article 4 paragraph 2 (new) on the reduction trajectory was an obligation of effort and did not imply an obligation on results.

Statements by the Commission

"DECLARATION BY THE COMMISSION ON THE REVIEW OF METHANE EMISSIONS

The Commission considers that there is a strong air quality case for keeping the developments of methane emissions in the Member States under review in order to reduce ozone concentrations in the EU and to promote methane reductions internationally.

The Commission confirms that on the basis of the reported national emissions, it intends to further assess the impact of methane emissions on achieving the objectives set out in Art. 1(1a) of the NEC Directive and will consider measures for reducing those emissions, and where appropriate, submit a legislative proposal to that purpose. In its assessment, the Commission will take into account a number of ongoing studies in this field, due to be finalised in 2017, as well as further international developments in this area.

DECLARATION BY THE COMMISSION ON THE PROCEDURE OF ADOPTION OF IMPLEMENTING ACTS

The Commission underlines that it is contrary to the letter and to the spirit of regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission *may* adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 resource to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

4. **Setting** of the provisional **agenda** for the Council meeting (**Agriculture and Fisheries**) on 18 July 2016 (for the items in the remit of the Permanent Representatives Committee)

The Committee took note that there were no items in its sphere of competence for the forthcoming Council meeting.

COREPER (PART 2)

11. Proposal for a Regulation of the European Parliament and of the Council on the **European Border and Coast Guard** and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC and amending Regulation (EU) 2016/399 (**First reading**)

= Confirmation of the final compromise text

10743/16 FRONT 274 SIRIS 105 CODEC 982 COMIX 491

The Committee confirmed the conclusions of the Mixed Committee and approved the final compromise text. The Presidency will send a letter confirming the agreement to the chair of the EP's LIBE Committee.

Statement by the Commission

"The Commission welcomes that the co-legislators maintained the appointment of the Executive Director by the Management Board on the basis of a shortlist drawn up by the Commission following an open and transparent selection procedure, as foreseen in the Common Approach on EU Decentralised Agencies. However, the Commission regrets that the agreement reached by the co-legislators deviates from the Common Approach as regards the appointment process. The Commission sees no objective reasons for this deviation, which could affect the autonomy of the agency. The modalities of appointment of the EBCG's Executive Director should therefore not be considered as a precedent for other agencies' founding acts."

Statement by the Council Legal Service

"Regarding Recital 39a, the Council Legal Service confirmed that the references to Title II of Regulation (EU) No 2016/399 as well as to the Protocol 19 on the Schengen acquis integrated into the framework of the European Union apply to Croatia".

Statement by Romania

"Concerning recital (39a), Romania emphasizes that any interpretation of the concept of “*external borders*” should cover the borders of the Member States listed in Article 52 TEU and in Article 1 of Protocol 19 on the Schengen acquis integrated into the framework of the European Union, with third countries.

The same applies for the definition included in article 2 para.1 of the proposal, in reference to article 2 point 2 of Regulation no. 399/2016 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)."

Joint Statement by Cyprus, Greece, Italy, Malta and Spain

"With regard to Article 14(1) of the Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC, Cyprus, Greece, Italy, Malta and Spain thank the Presidency for the formulation in document ST10743/16 and for the efforts deployed to make the afore mentioned paragraph in line with the basic principle of article 13, which states (paragraph 1) that “a Member State may request the Agency for assistance in implementing its obligations with regard to the control of the external borders...” and in paragraphs 2-3a lists possible measures that the Agency can take to assist the requesting Member State.

In the light of the next procedural steps for the finalization of the political agreement with the European Parliament, Cyprus, Greece, Italy, Malta and Spain deem that the current alignment of article 14(1) with article 13 remains key for the coherence and clarity of the text."

12. **Legal Aid:** Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings (**First reading**)
= Confirmation of the final compromise text with a view to agreement
10665/16 DROIPEN 120 COPEN 223 CODEC 963

The Committee approved the final compromise text.

Statement by the Council Legal Service

"The Legal Service confirms that pursuant to Article 2(1)(a) on its scope, the Legal Aid Directive applies to suspects and accused persons in criminal proceedings who are deprived of liberty. The purpose and effect of the new recital (15b) is to clarify that the situations listed therein do not constitute a deprivation of liberty within the meaning of Article 2(1)(a) of the Directive and are, as a consequence, out of the scope of the Directive."

13. **Follow-up to the European Council** on 28 June 2016

The Committee took note of the orientations set out by the European Council meeting of 28 June 2016 and of the joint statement by Hungary and Slovakia, supported by Poland, to the minutes of the European Council. The Committee will revert to this item at its next session to take stock of the implementation of the European Council conclusions.

14. **Follow-up** to the Council meeting (**General Affairs**) on 24 June 2016

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

15. **Preparation** of the Council meeting (**Economic and Financial Affairs**) on 12 July 2016

= Other items in connection with the Council meeting

The incoming SK Presidency outlined the main items on the provisional agenda which was circulated and drew attention in particular to those items which had not yet been announced at the previous session.

16. Legal remarks on the Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (**Panama papers**)

10615/16 JUR 321 INST 278 ECOFIN 652 FISC 111

The above-mentioned item was withdrawn

17. Presentation of the **agenda** of the Council meeting (**Foreign Affairs**) on 18 July 2016

The Committee took note of the main items on the agenda of this Council meeting.

43. Draft general budget of the European Union for 2017

- Presentation by the Commission

The Commission presented its proposal for the draft general budget of the European Union for 2017, as well as other related documents, adopted by the Commission the same day.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

None.

"I" items approved**COREPER (PART 1)**

5. Replies to written questions put to the Council by Members of the European Parliament
 - = Adoption by silence procedure
 - a) E-002601/2016 - Marie-Christine Arnautu (ENF)
Security of all States in the Schengen area threatened by the failures of one or several of its members
9757/16 PE-QE 211
 - b) E-002760/2016 - Raymond Finch (EFDD)
EU-Turkey migration deal
9942/16 PE-QE 215
 - c) E-002928/2016 - Elly Schlein (S&D)
Situation in the Idomeni camp
9945/16 PE-QE 216
 - d) E-003408/2016 - Siôn Simon (S&D)
Internships at the Council of the European Union
9903/16 PE-QE 213
 - e) E-003520/2016 - Rosa Estaràs Ferragut (PPE)
Council limitations on the scope of the proposed Web Accessibility Directive
9758/16 PE-QE 212
 - f) E-003567/2016 - Jozo Radoš (ALDE)
Arrangements for the seats of bodies or agencies in Member States
9946/16 PE-QE 217
 - g) E-003687/2016 - Victor Negrescu (S&D)
Sanctions against North Korea
9950/16 PE-QE 218
6. Working parties and Committees held in Slovakia under the Slovak Presidency (second half of 2016)
 - = Information note for the Permanent Representatives Committee (Part 1)
10360/16 POLGEN 60
7. Governing Board of the European Centre for the Development of Vocational Training (CEDEFOP)
Appointment of Mr Pafsanias PAPAGEORGIOU (EL), member in the category of Government representatives
 - = Adoption
10323/1/16 EDUC 242 SOC 429 REV 1
8. Draft Council conclusions on Special Report No 3/2016 from the European Court of Auditors entitled "Combating eutrophication in the Baltic Sea: further and more effective action needed"
 - = Adoption
10642/16 ENV 454 FIN 403 MAR 182 AGRI 371 COEST 176 FSTR 34
FC 28 REGIO 41

9. Preparation for the 39th ICAO Assembly (Montreal, 27 September – 7 October 2016)
First batch of European working papers
= Approval
10645/1/16 AVIATION 134 REV 1
10. Draft Regulation of the European Parliament and of the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (**First reading**)
= Decision to use the written procedure
10621/16 CODEC 949 PECHE 238
PE-CONS 15/16 PECHE 137 CODEC 453

COREPER (PART 2)

18. Case before the EU General Court:
 - Case T-244/16, Viktor Fedorovych Yanukovych v. Council
10520/16 JUR 308 CORLX 266 CFSP/PESC 530 COEST 169
19. Case before the EU General Court:
 - Case T-245/16, Oleksandr Viktorovych Yanukovych v. Council
10521/16 JUR 309 CORLX 267 CFSP/PESC 531 COEST 170
20. Amendments to the Rules of Procedure of the Court of Justice and of the General Court
= Approval by the Council
= Decision to use the written procedure
10552/16 JUR 313 COUR 34 INST 273
10563/16 JUR 314 COUR 35 INST 274
10565/16 JUR 315 COUR 36 INST 275

Statement by the United Kingdom

"The United Kingdom regrets that it is unable to vote in favour of the revised Rules of Procedure for both the EU General Court, and the European Court of Justice. While we support some of the proposals, we have concerns relating to the amendments to Article 105, and the complementary revisions proposed for the Court of Justice. In addition we have yet to complete our domestic Parliamentary scrutiny procedures on these proposals.

The United Kingdom does not disagree that where a case moves to the Court of Justice, a similar mechanism involving confidential material will be required where the confidential material considered by the General Court is relevant to the issue(s) raised on appeal. However, in the absence of established systems for securing sensitive material, we are concerned that the Rules as drafted could create unnecessary security risks. This relates in particular to the proposal for automatic retention of classified material by the General Court and transmission of such material to the Court of Justice, regardless of the circumstances.

The United Kingdom notes that individual Member States would be free to choose whether or not to use the new mechanism, and that the regrettable absence of sufficient safeguards for sensitive information in the proposed Article 105 will limit the use that the United Kingdom will make of this mechanism.

The United Kingdom suggests that the Council and Court review both mechanisms in light of practical experience."

21. Draft Council Decision appointing a member, proposed by the Portuguese Republic, of the European Economic and Social Committee
= Adoption by silence procedure
10287/16 CES 19
10286/16 CES 18
22. Appointment of the Members of the Supervisory Committee of the European Anti-fraud Office (OLAF)
10610/16 GAF 38
23. Sixteenth Report of the European Anti-Fraud Office covering the period from 1 January to 31 December 2015
= Draft outcome of proceedings
10477/16 GAF 36 FIN 392 ECOFIN 637
24. OLAF Supervisory Committee's Activity Report for the year 2015
= Draft outcome of proceedings
10478/16 GAF 37 FIN 393
25. Proposal for transfer of appropriations No DEC 11/2016 within Section III - Commission - of the general budget for 2016
10528 FIN 396 INST 272 PE-L 33
26. Proposal for a Directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast) (**First reading**)
= Political agreement
10557/16 EF 204 ECOFIN 650 SURE 23 SOC 426 CODEC 937
+ ADD 1
27. Draft Council Decision on the financial contributions to be paid by Member States to finance the European Development Fund, including the second instalment for 2016
= Decision to use the written procedure
10405/16 ACP 97 FIN 387 PTOM 25
10398/16 ACP 95 FIN 385 PTOM 23
28. Enlargement
- Accession negotiations with Montenegro
= Chapter 12: Food safety, veterinary and phytosanitary policy
10071/16 ELARG 75

29. Enlargement
 - Accession negotiations with Montenegro
 - = Chapter 13: Fisheries

9498/16 ELARG 68
30. (poss.) Enlargement
 - Accession negotiations with Serbia
 - = Chapter 23: Judiciary and fundamental rights

10074/16 ELARG 78

The above-mentioned item was withdrawn

31. (poss.) Enlargement
 - Accession negotiations with Serbia
 - = Chapter 24: Justice, freedom and security

10075/16 ELARG 79

The above-mentioned item was withdrawn

32. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (**First reading**)
 - = Confirmation of the final compromise text with a view to agreement

10562/16 COMER 83 WTO 173 UD 144 COHOM 83 CODEC 938
33. Political and Security Committee Decision on the appointment of the EU Force Commander for the European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation Sophia) (EUNAVFOR MED operation Sophia/2/2016)
 - = Authorisation for publication in the Official Journal

10457/16 CSDP/PSDC 369 CFSP/PESC 522 MAMA 128 RELEX 547
CONUN 122 CSC 198 EUNAVFOR MED 24 PSC DEC 27
9983/16 CSDP/PSDC 327 CFSP/PESC 468 MAMA 113 RELEX 495
CONUN 110 CSC 172 EUNAVFOR MED 18 PSC DEC 26
34. Draft Council Decision on the launch of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA)
 - = Adoption

10432/16 CORLX 263 CSDP/PSDC 364 CFSP/PESC 514 COAFR 189
RELEX 542 CONUN 121 EUMAM RCA 13 EUTM RCA 17
CSC 196
10275/16 CORLX 252 CSDP/PSDC 347 CFSP/PESC 494 COAFR 184
RELEX 526 CONUN 117 EUMAM RCA 12 EUTM RCA 14
CSC 184
9881/16 CSDP/PSDC 319 COPS 175 EUMC 66 POLMIL 57
EUTM RCA 10 **EU RESTRICTED**
35. Negotiating Directives for the PNR Agreement with Mexico
 - = Transmission to the European Parliament

10450/16 JAI 594 AVIATION 131 RELEX 545 COLAC 45 DATAPROTECT 65

36. "Prüm Decisions"
= Presidency progress report
10526/16 JAI 607 DAPIX 111 ENFOPOL 217 CRIMORG 72
9823/1/16 REV 1 JAI 525 DAPIX 94 ENFOPOL 175 CRIMORG 50
37. Draft Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by the Netherlands
10603/16 SCH-EVAL 102 SIRIS 102 COMIX 470
10566/16 SCH-EVAL 101 SIRIS 101 COMIX 464 **EU RESTRICTED**
38. Draft Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of common visa policy by the Netherlands
10606/16 SCH-EVAL 104 VISA 217 COMIX 472
10605/16 SCH-EVAL 103 VISA 216 COMIX 471
39. Draft Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of management of the external borders by Hungary
10609/16 SCH-EVAL 106 FRONT 264 COMIX 474
10608/16 SCH-EVAL 105 FRONT 263 COMIX 473
40. Draft Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis by Poland in the field of management of the external land border with Ukraine
10613/16 SCH-EVAL 108 FRONT 266 COMIX 476
10611/16 SCH-EVAL 107 FRONT 265 COMIX 475
41. Draft Regulation of the European Parliament and of the Council on a European travel document for the return of illegally staying third-country nationals
= Confirmation of the final compromise text with a view to agreement
10638/16 MIGR 120 FRONT 271 CODEC 957 COMIX 483

Statement by France

"La France accueille favorablement l'objectif d'harmonisation et de sécurisation juridique du document de voyage européen pour le retour des ressortissants d'Etats tiers en situation illégale. Concernant l'application de l'article 4 du règlement, elle prend acte de l'assurance qui lui a été donnée par la Commission de pouvoir maintenir la transmission des informations individuelles, de la signature et du cachet de l'autorité compétente par voie électronique aux autorités chargées de l'exécution des mesures de retour, pour impression localement sur les feuillets vierges respectant les nouvelles spécificités techniques de sécurité"

42. SIS Coordination Mechanism
10441/16 CORLX 264 CFSP/PESC 516 SIRIS 104 JAI 623
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