

Brussels, 21 September 2021
(OR. en)

11981/21
CRS CRP 27

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
14 July 2021

I. Adoption of the agenda

10684/21 OJ CRP1 27
10739/21 OJ CRP2 27

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

2. Regulation on the extension of the term of Community plant variety rights 10620/21 + COR 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 9 July 2021. 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

3. Regulation amending Aarhus Regulation (EC) No 1367/2006
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 July 2021.

Health

4. Regulation on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices
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 13 July 2021.

Transport

5. Regulations on Single European Sky 2 +
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 13 July 2021.

COREPER (PART 2)

Justice and Home Affairs

15. (poss.) Annex I of Council Recommendation (EU) 2020/912 of 30 June 2020 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 on the addition of Ukraine and removal of Rwanda and Thailand from Annex I and on the use of the written procedure for the adoption.

16. COVID-19 EU Coordination 10646/21 + COR 1
Implementation of Council Recommendations 2020/912 on non-essential travel into the EU and 2020/1475 on free movement
Exchange of views

The Committee held an exchange of views.

Economic and Financial Affairs

17. Meeting of the Council (Economic and Financial Affairs) on 13 July 2021: Follow-up

The above-mentioned item was withdrawn.

18. Informal videoconference of the Ministers of the Economy and Finance on 26 July 2021: Preparation
Other items in connection with the informal videoconference

The Presidency provided further information regarding the informal videoconference.

19. Council position on the draft budget for 2022 10550/21
Approval + ADD 1-2
Decision to use the written procedure for the adoption 10551/21

The Committee confirmed the compromise reached by the Budget Committee. Consequently the ECOFIN/Budget Council scheduled on 23 July 2021 has been cancelled. The Presidency agreed to debrief the Committee about the budgetary trilogue scheduled on 15 July at its next meeting.

General Affairs

20. Relations with the EP (July 2021)
Debriefing

The above-mentioned item was withdrawn.

Foreign Affairs

21. Meeting of the Council (Foreign Affairs) on 12 July 2021:
Follow-up

The above-mentioned item was withdrawn.

22. Eastern Partnership Summit (Brussels, December 2021)
Orientation debate

10481/21 **R-UE**

The Committee held an orientation debate on the upcoming summit.

IV. Any other business

COREPER (PART 1)

Fit For 55 legislative package
Presentation by the Commission

The Committee took note of the presentation by the Commission and comments by delegations.

COREPER (PART 2)

None.

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

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| 6. | Replies to questions for written answer submitted to the Council by Members of the European Parliament <i>Adoption by silence procedure</i> | 10613/21 PE-QE |
| a) | Nacho Sánchez Amor (S&D) "EU Delegation to Turkey" | 9968/21 |
| b) | Dimitrios Papadimoulis (The Left), Konstantinos Arvanitis (The Left), Alexis Georgoulis (The Left), Petros Kokkalis (The Left), Stelios Kouloglou (The Left), Elena Kountoura (The Left) "Continued violations of human rights and civil liberties in Turkey" | 9877/21 |
| c) | Mounir Satouri (Verts/ALE), Tineke Strik (Verts/ALE), Hannah Neumann (Verts/ALE), Damien Carême (Verts/ALE), Salima Yenbou (Verts/ALE), Jordi Solé (Verts/ALE), Alviina Alametsä (Verts/ALE) "Operation IRINI and migrants attempting to cross the Mediterranean sea from Libya" | 9930/21 |
| d) | Klemen Grošelj (Renew), Irena Joveva (Renew) "Redrawing of borders in the Western Balkans and the European perspective for Bosnia-Herzegovina" | 10015/21 |
| e) | Cornelia Ernst (The Left) "Mystery of the Customs Cooperation Working Party's disappearing remit" | 9927/21 |
| f) | Assita Kanko (ECR) "Incident during the visit to Turkey of the President of the European Council and the President of the Commission" | 9958/21 |
| g) | Pablo Arias Echeverría (PPE), Isabel Benjumea Benjumea (PPE), Rosa Estaràs Ferragut (PPE), José Manuel García-Margallo y Marfil (PPE), Esteban González Pons (PPE), Antonio López-Istúriz White (PPE), Dolors Montserrat (PPE), Juan Ignacio Zoido Álvarez (PPE), Leopoldo López Gil (PPE), Gabriel Mato (PPE), Javier Zarzalejos (PPE) "Harmonisation of measures against COVID-19 and for mobility" | 9944/21 |

- h) Gabriel Mato (PPE), Dolors Montserrat (PPE), Pablo Arias Echeverría (PPE), Esteban González Pons (PPE), Antonio López-Istúriz White (PPE), José Manuel García-Margallo y Marfil (PPE), Francisco José Millán Mon (PPE), Rosa Estaràs Ferragut (PPE), Isabel Benjumea Benjumea (PPE), Leopoldo López Gil (PPE), Juan Ignacio Zoido Álvarez (PPE), Javier Zarzalejos (PPE)
"Harmonisation of measures against COVID-19 and for mobility" 9945/21

EU positions for international negotiations

7. Reply to ICAO State Letter on CORSIA periodic review
Establishment of the EU position 10420/21
AVIATION
8. ICAO High level conference on COVID-19
Establishment of the EU position 10326/21
+ ADD 1-5
AVIATION

Transport

9. Council Decision on the conclusion of the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States
Agreement in principle
Request for the consent of the European Parliament 6365/1/21 REV 1
6385/21
9913/10 + COR 3-4
AVIATION
10. Intergovernmental Organisation for International Carriage by Rail (OTIF) - Working Group of Legal Experts:
Statement concerning the internal arrangements for the Council, the Member States and the Commission in proceedings under OTIF
Approval 10513/21
TRANS

Statement by the Commission

"The Commission notes the Statement of the Council annexed to document ref. 10513/21.

The Commission disagrees with the opinion of the Council that the legal analysis submitted by the Commission on behalf of the European Union, following the 4th session of the OTIF advisory Working Group of Legal Experts, was to be coordinated and endorsed by the Council as a Union position.

This contribution expresses an objective interpretation of EU law in an area of exclusive EU competence. Such legal analysis of EU law does not constitute a new position to be endorsed by the Council, with this particular case neither falling under Article 218(9) of the Treaty on the Functioning of the European Union nor under Article 16 of the Treaty of European Union (TEU). In this context, the Commission fulfilled its role as guardian of the Treaties and as external representative of the Union in OTIF meetings.

The Commission acted in line with the principle of sincere cooperation and has complied with its obligations in conformity with the Treaties. The Council was consulted on the line of argumentation of the draft contribution in two successive occasions on the basis of two non-papers. The internal arrangements are to be understood and applied in light of Article 13(2) TEU. An arrangement cannot therefore alter or change the powers of the Institutions under the Treaties, and in this case it cannot alter the powers of the Commission under Article 17 TEU.

If the follow-up discussion in OTIF reaches the stage of adopting a decision having legal effects, the Union position will be established in accordance with the Treaties, namely Article 218(9) TFEU, and, where appropriate, following the internal arrangements for this purpose."

Research

11. Council Decision establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel
Adoption
- 10310/21 + ADD 1
9399/1/21 REV 1
RECH

Statement by the Commission

"Given the objective pursued by the legislator, the Commission understands that the term 'revenue generated by selling part of the assets' (or variations of the same expression) in recital 12 and article 4(1) of the amended Council Decision 2003/76, and in recital 3 and article 1, of the amended Council Decision 2003/77, and points 1 and 5 of the Annex to amended Council Decision 2003/77, is to be intended as the cash amount generated by selling part of the assets."

Fisheries

12. Council Regulation amending Council Regulation (EU) 2020/1706 as regards inclusion of autonomous Union tariff quotas for certain fishery products
Adoption
- 10275/21
10240/21
PECHE

Agriculture

13. Regulation amending Regulation (EU) 2017/625 as regards official controls
Mandate for negotiations with the European Parliament
- 10523/21
VETER

Statement by the Denmark

"Denmark supports the proposal to amend Regulation 2017/625, but notes that the amendment to Regulation 853/2004 is superfluous as the current requirements in the Hygiene Regulation provide sufficient flexibility for farmers. Furthermore, Denmark does not consider it appropriate to amend other regulations than the one under review, which in this case is the amendment of Regulation 2017/625."

Environment

14. Baltic Marine Environment Protection Commission (HELCOM): Revised Baltic Sea Action Plan and Ministerial Statement
Approval of entering into discussion 10552/21
ENV

COREPER (PART 2)

Transparency

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| 23. | Public access to documents Confirmatory application No 22/c/01/21 <i>Adoption</i> | 10538/21 8802/21 INF API |
| 24. | Public access to documents Confirmatory application No 23/c/02/21 <i>Adoption</i> | 8883/1/21 REV 1 8882/21 INF API |
| 25. | Public access to documents Confirmatory application No 27/c/01/21 <i>Adoption</i> | 9713/21 + ADD 1 9712/21 INF API |

Economic and Financial Affairs

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| 26. | ECA SR No 11/2021 on exceptional support for EU milk producers in 2014–2016 <i>Designation of a Working Party</i> | 10459/21 FIN |
| 27. | ECA SR No 14/2021 on Interreg cooperation <i>Designation of a Working Party</i> | 10461/21 FIN |
| 28. | ECA SR No 15/2021 on air passenger rights during the COVID-19 pandemic <i>Designation of a Working Party</i> | 10584/21 FIN |
| 29. | ECA SR No 16/2021 on Common Agricultural Policy and climate <i>Designation of a Working Party</i> | 10546/21 FIN |
| 30. | Transfer No DEC 1/2021 (Section VII - CoR) <i>Approval</i> | 10541/21 FIN |
| 31. | Council position on DAB No 1/2021: Brexit Adjustment Reserve <i>Adoption</i> | 10509/21 10510/21 FIN |

32. Council Decision amending Decision 2003/77/EC laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel
Adoption
- 10419/21 + ADD 1
9391/21
ECOFIN

Statement by the Commission

"Given the objective pursued by the legislator, the Commission understands that the term 'revenue generated by selling part of the assets' (or variations of the same expression) in recital 12 and article 4(1) of the amended Council Decision 2003/76, and in recital 3 and article 1, of the amended Council Decision 2003/77, and points 1 and 5 of the Annex to amended Council Decision 2003/77, is to be intended as the cash amount generated by selling part of the assets."

General Affairs

33. EP Resolutions and decisions (July 2021)
- 10606/21
PE-RE

Justice and Home Affairs

34. Council Decision authorising the opening of negotiations on an EU-Interpol cooperation agreement
Adoption
- 10407/21 + ADD 1
10263/21 + ADD 1
10264/21 + ADD 1
IXIM

Statements by the Commission

"The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decision authorising the opening of negotiations is premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Its effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

The Commission reserves all its rights in this regard."

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"The Commission considers that Interpol, while not being a "competent authority" within the meaning of Article 3(7) of Directive 2016/680 (cf. judgment in case C 505/19, *WS v. Bundesrepublik Deutschland*, para 117), may be considered as an international organisation for certain matters within the scope of this Council decision and for the purpose and effects of Article 220 TFEU.

The Commission also considers that there is a clear dividing line between matters that fall within the scope of cooperation based on Article 220 TFEU and those that a sui generis international actor such as Interpol is entitled to enter into under an international agreement based on Article 218 TFEU. The establishment of all appropriate forms of cooperation with the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development and maintaining such relations as are appropriate with other international organisations allows the Commission to conclude legally-binding instruments that ensure that the EU legislation and norms applicable to the security of the EU institutions and on the exchange of personal data are fully respected by Interpol."

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"The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations gives the Council power to issue guidelines or instructions during the negotiations, while the Treaties and Court's jurisprudence reserves this right to the negotiator. The Commission reserves all its rights in this regard."

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| 35. Schengen evaluation Recommendation – Belgium external border <i>Adoption</i> | 10611/21 10610/21 SCH-EVAL |
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Foreign Affairs

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| 36. Kimberley Process Regulation (Recast/Codification) <i>Mandate for negotiations with the European Parliament</i> | 10501/21 7750/21 + ADD 1 COMER |
| 37. Council Decision appointing the Chairman of the Military Committee of the European Union <i>Adoption</i> | 10324/1/21 REV 1 10335/21 EUMC CSDP/PSDC |
| 38. Council Decision appointing the European Union Special Representative in Bosnia and Herzegovina <i>Adoption</i> | 10483/21 10482/21 CORLX |

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| 39. | Council Decision appointing the European Union Special Representative in Kosovo* | 10486/21 |
| | <i>Adoption</i> | 10485/21 |
| | | CORLX |
| 40. | Council Decision on an assistance measure for support to the African Union under the European Peace Facility in 2021 | 10256/1/21 REV 1 |
| | <i>Decision to use the written procedure for the adoption</i> | 10255/21 |
| | | CORLX |
| 41. | Libya restrictive measures - annual review - Decision and Implementing Regulation | 10570/21 |
| | <i>Decision to use the written procedure for the adoption</i> | 10567/21 |
| | | 10569/21 |
| | | CORLX |

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.