Council of the European Union

Brussels, 23 January 2023
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16351/22
CRS CRP 51

SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE

20 and 21 December 2022

I. Adoption of the agenda

16105/22 OJ CRP1 45
16169/1/22 REV 1 OJ CRP2 45

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

66. Revision of Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF) — 15075/22
Analysis of the final compromise text with a view to agreement

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.

Statement by Finland

"Finland endorses the final compromise text provided to the Member States on 9 December 2022.

Finland views that due to the sector specificities, the compliance in LULUCF should be assessed at minimum five year periods and not on one solitary year.

Finland agrees that there is a need for a governance mechanism to secure the LULUCF

commitments and targets. However, Finland regrets that a penalty mechanism has been included into the LULUCF regulation together with the ambitious EU level target of -310 Mt CO2 eqv. This goes beyond the LULUCF contribution determined in the European Climate Law and the Council General Approach.

The political agreement of the LULUCF Regulation has increased the burden of land use sector reporting and monitoring compared to Commission proposal. Such micro-managing of Member States will force Member States to direct their resources to governance of reporting and monitoring instead of implementation of climate action in land use sector. Finland doubts that this evolution would support results in land use sector climate mitigation."

Statement by Cyprus, Greece, France, Italy, Portugal and Spain

"The signatories of this Declaration are fully committed with the greenhouse gas neutrality objective both at EU and at Member States level. We strongly support the aim and overall approach of the Fit for 55 package in delivering ambitious goals in the crucial decade up to 2030.

We recognize the essential role of the Land Use, Land use Change and Forest sector (LULUCF) within the climate instruments.

Therefore, we acknowledge the merit of the Commission's proposal to establish an ambitious target for the sector and based on clear information from inventory data.

We would like to underline that this regulation has successfully accommodated several specificities of different Member States.

In the negotiation of this regulation, we highlighted a specific concern related natural disturbances, particularly those caused by extreme events, of non-anthropogenic origin and beyond human control. They are, by definition, temporary, and geographically located. These are events such as extreme forest fires, reaching far beyond the background level of fires and beyond other disturbances, such as the effects of pests or effects of anthropogenic origin.

Treating natural disturbances as these ones, in the context of the overall flexibility, fails to consider the specificities of Member States and fails to address the extreme events described above. This is so because it places emissions deriving from events that are outside of that control at the same level of emissions from policy options under the control of Member States.

Therefore, we must express our deep disappointment with the exclusion of Article 10 of the agreement.

We believe this decision severely limits Member States ability to achieve their targets. It also introduces a level of uncertainty that is very hard to manage and prepare for. The solution that results from the final agreement fails to provide an adequate solution and risks condemning Member States affected by extreme natural disturbances to their own fate.

We therefore call for a profound reflection that considers the forecasts of the impact of climate change.

As such, we look forward to the proposals the Commission will bring forward in respect to the implementation of the EU Climate Law, most notably the post-2030 framework. These will provide the opportunity to amend the lapse generated by the elimination of article 10 in this Regulation."

Statement by Hungary

"Hungary is not able to vote in favor of the final compromise reached on LULUCF, presented to Member States on the 9th of December, 2022, therefore, it abstains from its endorsement.

Hungary is committed to the 2030 emission reduction target of 55% and the climate neutrality objective for 2050. On June 28, 2022, Hungary was ready to accept the compromise presented at the Environment Council, including the LULUCF and the highly ambitious -310 Mt Union level target together with the national target, as it found the overall package balanced and fit for purpose.

During the negotiations, Hungary was able to demonstrate flexibilities in order to preserve the fragile balance in LULUCF, however, we believe that the final compromise goes beyond that, by adopting measures, which would make compliance an extremely heavy burden for Member States, and against which Hungary was advocating very vocally from the beginning. Therefore, while appreciating the compromise on some elements of the proposal, we cannot provide our support on others.

First, we are discontent about the introduction of the *governance mechanism* (Article 13c.) within the regulation aggravated by the multiplier of 1.08. We believe, that such instrument is not in line with the sectoral specificities of the LULUCF and does not provide an effective incentive for increasing sinks, but further aggravates the situation for Member States, who are already struggling to reach their ambitious targets.

Second, we truly regret the deletion of Article 10. on *natural disturbances*. This measure could be essential in dealing with unexpected events beyond the control of Member States under the framework of the LULUCF, especially during times, when we are facing the exacerbating effects of climate change.

Third, we have concerns about the significant strengthening of MRV rules and the application of Tier3 methodology. However, Hungary supports in principle improving the tools, which would enable better monitoring and reporting, and is doing its best to improve our own methodology, we believe, that it is already challenging to meet with the requirements of what is adopted in the Council general approach. The measures adopted in the compromise would make it even more challenging for Member States to meet the obligations than the Commission proposal, further increasing the administrative burden and red tape. Member States would need sufficient time and resources, to prepare for such requirements, which is extremely difficult in the case of small Member States with a limited number of experts available.

Finally, we believe that due to the nature of the LULUCF sector and its significant fluctuations, it is not appropriate to assess its *compliance* for one given year, but a longer, at least five-year period should be taken into consideration."

Statement by the Commission

"In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation, and take this assessment into account as appropriate in any possible subsequent legislative proposal."

67. Revision of Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 (ESR) 15108/22
Analysis of the final compromise text with a view to agreement

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.

Statement by the Commission
"In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation, and take this assessment into account as appropriate in any possible subsequent legislative proposal."

68. Fit for 55 package: ETS revision

a) Revision of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading (ETS)

b) Revision of Decision (EU) 2015/1814 (market stability reserve)

Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 16 to 18 December 2022.

69. Regulation establishing a Social Climate Fund
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 16 to 18 December 2022.

70. Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation 16054/1/22 REV 1
Analysis of the final compromise text with a view to agreement

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.

Statement by Finland

"Finland abstains from the final compromise text (16054/1/22 REV1) provided to the Member States on 20 December 2022.

Finland supports and is fully committed to the important aims of the proposed groundbreaking Regulation.

However, considering the magnitude of the proposed Regulation, Finland regrets that the final compromise text lacks clarity on some crucial points, leaving open questions of practical and

legal nature.

Finland continues to consider the cut-off date of 31.12.2020 as problematic from a constitutional perspective, especially as regards the protection of property and the right to work and the freedom to engage in commercial activity, as guaranteed in the Constitution of Finland. Finland also sees problems with regard to the legitimate expectations, investment and operational security and legal certainty of operators. The proposed Regulation directly affects farmers and causes significant concern as regards investments made into farm improvements and animal welfare that have been made just around or after the cut off date. Such investments have been made in good faith, have received positive investment decisions, and have been granted financial support, including through EU funds. These investments have been made to contribute to the targets of the current CAP. Finland views the cut-off date and the inclusion of agricultural buildings in the scope of the Regulation as disproportionate compared to the potential negative impacts on individual farmers. Finland also regrets the inconsistency with other EU policy, such as the Common Agricultural Policy, that amongst others pushes and incentivizes improvements in farming practices and farm structure. Finland's CAP strategic plan was approved 31 August 2022, long after the proposed cut-off date.

Finland is of the view that the proposed definition on forest degradation leaves much room for interpretation, causing legal and practical uncertainty as regards its implementation and verifiability. Finland continues to underline the need for clear, unambiguous and implementable definitions, as well as the importance of continued international cooperation in developing the definition on forest degradation."

Statement by Sweden

"While Sweden remains committed to fighting deforestation and forest degradation, the agreed text entails significant uncertainties, especially regarding control, monitoring and traceability. Moreover, the effects of the proposed rules are unpredictable and legal certainty for natural and legal persons are at risk. Sweden underlines with regard to the definition of degradation, that the scientific base for remote sensing as presented by the Commission, points to mapping deficits and does not include finer thematic disaggregation of forests into natural versus managed or any other classification of forest by type or origin, nor the causes of change, especially in boreal forest. This lack of data raises unresolved issues regarding the functioning of monitoring and controls, that we assume will affect trading partners similarly. Sweden stresses that collaboration with trading partners and multilateral institutions will be necessary to develop a common understanding of degradation and the monitoring thereof for the purpose of this regulation, to avoid undue trade barriers and distorted competition."

Statement by Latvia

"Latvia supports and commits to contribute to the aim of regulation to fight against deforestation and forest degradation worldwide.

However, Latvia abstains on the compromise reached on deforestation and forest degradation regulation, for the following reasons.

Latvia regrets that Council's general approach was not maintained, and forest degradation definition is extended to naturally regenerating forests (the conversion of naturally regenerating forests into plantation forests or other wooded land). This was very important and sensitive issue for Latvia and many Member States. Latvia believes that the proposed definition could lead to difficulties of interpretation, implementability and verifiability. It creates legal uncertainty for operators, traders and competent authorities. Latvia also sees risks related to returning of overgrown agricultural land back to economic activity, as due to historical reasons

in past few decades large areas of agricultural land has been set aside and overgrown.

Addition of a broad definition of establishments for cattle sector poses risks to implementability for the farmers and raises questions about the proportionality of provisions for Member States, where agricultural land overgrows quickly and forests cover considerable part of the country's territory."

Statement by Slovakia

"Slovakia is fully committed to fighting global deforestation and forest degradation and regards this challenge as a matter of urgency and priority. Therefore, Slovakia supports the aim of the proposed Regulation.

Nevertheless, we are of the view that the final compromise text entails uncertainties regarding some aspects, especially monitoring and traceability in relation to the proposed definition of the term “forest degradation”.

The proposed definition of forest degradation will decrease legal certainty of operators, traders and relevant authorities and applicability of the proposed Regulation. In some cases it will also limit the rights of forest owners at the national level.

In relation to the proposed definition of forest degradation, we have identified several practical examples, at a national level, that may cause uncertainties and unclear and unpredictable implications in the future. Those examples most often relate to sustainable management of forests within a territory of our country. In this regard, we would like to point out a special case of protection forests, a special category of forests designated for soil protection according to our national legislation (these do not fall under category protected forests; there is a difference between “protection” and “protected” forests). Many of those protection forests have been left without any management activity, in some cases for more than 100 years. Their characteristics and structure may therefore remind or copy primary forests. However, for instance, in case of future natural disturbance, those protection forests may be significantly damaged and will need to be urgently regenerated to ensure continuity in fulfilling their protective function and enhancing their adaptability to climate change. Artificial regeneration may be used (to different extent) in such cases. Nevertheless, the application of artificial regeneration practices here does not constitute forest degradation."

71. Regulation concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 9 December 2022.

Energy

72. Revision of the Renewable Energy Directive
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 15 December 2022.

73. Revision of the Energy Efficiency Directive (recast)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 14 December 2022.

Employment and Social Policy

74. Directive on binding pay transparency measures 15997/1/22 REV 1
Presidency debriefing on the outcome of the trilogue + ADD 1 REV 2
Analysis of the final compromise text with a view to agreement

The Presidency debriefed on the trilogue which took place on 15 December 2022.
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.

Statement by Poland

"Równość kobiet i mężczyzn została zapisana w traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów, wyrażenie "gender equality" Polska będzie interpretowała jako równość kobiet i mężczyzn, zgodnie z art. 2 i 3 Traktatu o Unii Europejskiej oraz art. 8 i 157 ust. 3 Traktatu o Funkcjonowaniu Unii Europejskiej, natomiast wyrażanie „gender pay gap" jako lukę płacową między kobietami i mężczyznami. W związku z powyższym, pozostałe wyrażenia zawierające termin "gender", Polska będzie interpretowała jako płeć ("sex"), zgodnie z art. 10, art. 19 ust. 1 oraz art. 157 ust. 2 i 4 Traktatu o Funkcjonowaniu Unii Europejskiej. Jednocześnie, Polska nie uznaje kategorii płci innych niż „kobieta" i „mężczyzna", zatem motywy 3a i 3b nie odnoszą się do sytuacji w Polsce."

Courtesy translation

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the Polish national legal system in line with international human rights treaties and within the framework of the fundamental values and principles of the European Union. For these reasons, the expression "gender equality" will be interpreted by Poland as equality between women and men, in accordance with Article 2 and 3 of the Treaty on European Union and Article 8 and 157 para 3 of the Treaty on the Functioning of the European Union, while expressing "gender pay gap" as the "pay gap between women and men". In connection with the above, the remaining expressions containing the term "gender" will be interpreted by Poland as "sex", in accordance

with Article 10, Article 19 para 1 and Article 157 para 2 and 4 of the Treaty on the Functioning of the European Union. At the same time, Poland does not recognize categories of sex other than "female" and "male", therefore recitals 3a and 3b will not refer to situation in Poland."

Statement by the Commission

"The Commission takes note of the compromise reached between the co-legislators on a transposition period of three years for the entry into application of the new rules on pay transparency. The Commission would like to point out that this deviation from the standard two-year transposition period should not be seen as a precedent. It only aims at ensuring that employers will have non-discriminatory pay structures in place so as to ensure full application of the new rules at the time of transposition."

Transport

75. Directive amending Directive 2003/25/EC introducing improved stability requirements for ro-ro passenger ships — 15708/22
Analysis of the final compromise text with a view to agreement

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.

76. Regulation on the use of renewable and low-carbon fuels in maritime transport (FuelEU Maritime initiative)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 8 December 2022.

77. Regulation on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation initiative)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 8 December 2022.

78. Regulation on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU (AFIR)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 13 December 2022.

79. Revision of the Directive on the framework for the deployment of Intelligent Transport Systems (ITS)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 14 December 2022.

Internal Market and Industry

80. Regulation on general product safety (GPSR) 16032/22
Analysis of the final compromise text with a view to agreement

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.

81. Regulation on machinery products
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 15 December 2022.

Statement by the Commission

"When assessing the criteria in Article 5, the Commission will pay particular attention to categories of products for which a significant number of accidents and fatalities occurs."

COREPER (PART 2)

General Affairs

4. European Council follow-up
State of play

The Committee took note of the main outcomes of the European Council and the intended next steps.

Foreign Affairs

6. Meeting of the Council (Foreign Affairs) on 23 January 2023:
Agenda

The EEAS presented the main items on the agenda.

7. Anti-coercion instrument Regulation
State of play

The Committee took note of the outcome of the trilogue.

Statement by the Commission

The European Commission is committed to cooperate closely with the European Parliament, with the Council and with the EU Member States in the application of the EU Anti-Coercion Instrument, at all stages, following applicable rules and best practices. The Commission notes that delivering a united EU response will support the key features of the instrument, namely, deterrence and effectiveness, and will be the most appropriate in light of the sensitive nature of the instrument.

The Commission underlines that, in the context of this regulation, arriving at solutions which command the widest possible support is achievable given the nature and impact of the Union action under the regulation. The application of this regulation requires an assessment of complex economic, policy and legal matters, which provides a substantial margin for selecting solutions, and notably those which have the widest possible support from EU Member States.

In this regard, in the exercise of its implementing powers under the regulation, and following the rules and general principles established by the European Parliament and the Council and laid down in Regulation (EU) No 182/2011, the Commission will pay particular attention to affording early and effective opportunities to the committee of EU Member States to examine any draft implementing act and express views before voting, and, at all times, to work towards solutions which command the widest possible support by the EU Member States within the committee.

Furthermore, in the event a committee delivers no opinion on a draft implementing act, the Commission will take the utmost account of the views expressed within the committee and will prioritise return to the committee with an amended draft act, in order to ensure the widest possible support for a positive opinion by consensus or qualified majority in favour in relation to an amended draft act. Should it be necessary to have recourse to the appeal committee, the

Commission will take the utmost account of the views expressed within the appeal committee and work towards the adoption of measures which are based on the widest possible support for a positive opinion by consensus or qualified majority in favour. In the event that the appeal committee delivers a no opinion on a draft implementing act, the Commission will act in such a way as to avoid going against any predominant position within the appeal committee against the appropriateness of the draft implementing act

8. Regulation on applying a generalised scheme of tariff preferences: review 16074/22
Mandate for negotiations with the European Parliament

The Committee agreed on a mandate for negotiations with the European Parliament.

Statement by Germany

"Deutschland dankt der Präsidentschaft für ihre fortgesetzten intensiven Bemühungen, eine Vereinbarung über die APs-Reform zu erreichen. Allgemein unterstützt Deutschland das APS als ein wichtiges Instrument der EU-Handelspolitik und seine Entwicklungsziele nachdrücklich. Die derzeitige Fassung für einen Gesamtvorschlag für die APS-Reform sehen wir differenziert. Zwar enthält er durchaus eine Reihe von Elementen, die wir gutheißen und mittragen. Insbesondere begrüßen wir die verstärkten Anknüpfungen an internationale Menschenrechts- und Nachhaltigkeitsstandards und die weiteren Verbesserungen bei Überwachung, Implementierung und Transparenz. Zu unserem Bedauern enthält er aber auch Elemente, die wir nicht akzeptieren können.

In Anbetracht der angespannten geopolitischen Situation, in der wir uns befinden, sollte das neue APS für am wenigsten entwickelte Länder (LDC) attraktiv bleiben und die Glaubwürdigkeit der EU als Partner bei dem Implementieren der Ziele für nachhaltige Entwicklung (SDG) stärken. Das APS ist eingeführt worden, um den extrem niedrigen Anteil von LDCs am Welthandel durch ein Anheben ihrer Exporte in die EU auf Basis des Respektierens von multilateral vereinbarten Menschenrechten sowie Arbeits- und Umweltstandards zu vergrößern. Daher muss das neue APS in einer entwicklungsfreundlichen Weise konzipiert sein und sollte keine Elemente enthalten, die einem Welthandelssystem zuwiderlaufen, das so offen wie möglich zu Gunsten von Entwicklungsländern ist.

Vor diesem Hintergrund hätten wir eine Vereinfachung des Kapitels über Schutzmaßnahmen begrüßt, das im Laufe der Jahrzehnte sehr weitreichend und komplex geworden ist. Stattdessen soll es einmal mehr erweitert werden, insbesondere im Bereich der für die Entwicklungsländer so wichtigen Agrarprodukte, und die Auslöseschwelle soll signifikant abgesenkt werden. Dies kann Deutschland nicht akzeptieren.

Zur vielschichtigen Frage der Zusammenarbeit bei der Rückübernahme hat Deutschland aktiv daran gearbeitet, einen Weg nach vorne zu vermitteln. Deutschland unterstützt das allgemeine politische Ziel, Rückkehrzusammenarbeit zu verbessern. Nichtsdestotrotz befürchtet Deutschland, dass die Begründung einer Konditionalität im Bereich der Rückkehrzusammenarbeit in der APS-Verordnung sich nachteilig in Bezug auf die Ziele der Verordnung auswirken könnte, da sich Handelspräferenzen oft als hilfreich für die Umsetzung der SDG erwiesen haben. Deutschland wird sich weiterhin aktiv an den Reformarbeiten und dem Finden angemessener Lösungen beteiligen."

Courtesy translation

"Germany thanks the Presidency for its continued intensive efforts to reach an agreement on the GSP reform. In general, Germany strongly supports the GSP as an important instrument of EU trade policy and its development goals. We take a differentiated view of the current version of an overall proposal for the GSP reform. It does certainly contain a number of elements which we welcome and support. In particular, we welcome the enhanced links to international human rights and sustainability standards, and the further improvements in monitoring implementation and in transparency. To our regret, however, it also contains elements which we cannot accept.

Given the tense geopolitical situation we are in, the new GSP should remain attractive for least developed countries (LDCs) and strengthen the credibility of the EU as a partner in implementing the Sustainable Development Goals (SDGs). The GSP has been introduced to increase the extremely low share of LDCs in global trade by increasing their exports to the EU based on the respect of multilaterally agreed human rights as well as labor and environmental standards. Therefore, the new GSP needs to be designed in a development-friendly manner, and should not contain elements which counteract a system of world trade which is as open as possible, to the benefit of developing countries.

Against this background, we would have welcomed a simplification of the chapter on safeguard clauses, which has grown to be very wide-ranging and complex over the decades. Instead, it is to be extended further once again, particularly in the field of agricultural products, which are so important for developing countries, and the triggering threshold is to be significantly lowered. Germany cannot accept this.

Regarding the multifaceted question of cooperation on readmission, Germany has worked actively to mediate a way forward. Germany support the general policy objective to improve return cooperation. Nevertheless, Germany fears that the establishment of a conditionality in the area of readmission cooperation in the GSP regulation could be detrimental with regard to the objectives of the regulation as trade preferences have often been instrumental in implementing the SDGs.

Germany will continue to work actively on the reforms and the identification of appropriate solutions."

Statement by Spain

"España agradece a la Presidencia el intenso trabajo realizado en los últimos meses. No obstante, no podemos dar nuestra conformidad a la última propuesta de revisión del reglamento SPG.

Compartimos la conveniencia de disponer de un SPG generoso con los países menos avanzados, pero debe ser compatible con la protección de nuestros sectores productivos, y en especial con aquellos calificados como sensibles.

Tanto la Política Agraria como el Arancel Aduanero Común consideran al arroz como un producto sensible que necesita de una especial protección frente al exterior. Las masivas importaciones libres de arancel de ciertos países beneficiarios del SPG ponen en riesgo esta protección y la supervivencia de un sector de especial relevancia para la seguridad alimentaria de la UE.

Por tanto, desde España se ha pedido un mecanismo ágil, objetivo basado en cifras, transparente, y no susceptible de reclamaciones judiciales, que permita en determinadas circunstancias un restablecimiento rápido del arancel común que impida un daño irreversible sobre este sector. Lamentablemente, la propuesta presentada no contempla un mecanismo de estas características."

Courtesy translation

"Spain thanks the Presidency for the hard work carried out in recent months. However, we cannot support the latest proposal on the revision of the GSP regulation.

We agree that it is desirable to have a generous GSP with the less developed countries, but it must be compatible with the protection of our productive sectors, especially those classified as sensitive.

Both the agricultural policy and the Common Customs Tariff consider rice as a sensitive product that needs special external protection. Massive zero-duty imports from certain GSP beneficiary countries jeopardise this protection and the survival of a sector of special relevance to the EU's food-security.

Therefore, Spain has called for a swift, objective, transparent, and not susceptible to legal claims mechanism, which would allow in certain circumstances a rapid reinstatement of the common customs tariff, in order to prevent irreversible damage to this sector. Unfortunately, the present proposal does not provide for such a mechanism."

Statement by Greece

"Greece thanks the Presidency for all efforts made on the review of the GSP Regulation and declares that it can accept its last proposal as a compromise text. Therefore, Greece agrees on a mandate to enter into negotiations with the European Parliament.

However, representing the third rice producer member state in the EU, Greece also underlines the significant role of the rice sector. Especially the provision for the special surveillance mechanism by which the Commission, on a request of a Member State, shall suspend the preferences in cases of disturbance of Union markets is considered as an important safeguard.

In this regard we stress out that Greece's rice production, prices and exports have already faced significant reductions due to cumulative imports from third countries. In addition to that, adverse weather conditions that occur on a permanent basis now due to climate change have had serious impacts to the quantity and quality of rice production. And this situation is

similar to most of EU producer M-Ss.

At the same time the current threat on food security has pointed out that rice has become a highly strategic and priority commodity both globally and at the EU level. For this reason there is a need for protection and maintenance of the Union's production in line with our common goal to succeed strategic autonomy in the EU.

Taking all the above into account, during the upcoming negotiations with the European Parliament, it is critical to ensure the establishment of a mechanism that will effectively and rapidly protect the European production in cases of EU serious market disruptions due to a huge increase in exports, while it will also set the duration of the suspension of the tariff preferences for a period of 12-18 months, in order to avoid deregulation of the market."

Economic and Financial Affairs

9. Meeting of the Council (Economic and Financial Affairs) on 17 January 2023: Agenda

The Presidency presented the main items on the agenda.

10. Regulation establishing a carbon border adjustment mechanism (CBAM) 16059/22 16060/22
Analysis of the final compromise text with a view to agreement

The Committee endorsed the text of the final compromise and agreed that the letter signed by the Chair to inform the European Parliament will be sent once the Committee (part 1) has endorsed the text of the final compromise on the revision of the EU ETS, in the context of the 'Fit for 55' package.

Statement by Germany

„Deutschland kann dem gefundenen Kompromiss zustimmen, um die internationalen Anstrengungen zum Klimaschutz zu beschleunigen und unsere Klimaziele bis zur Mitte des Jahrhunderts zu erreichen.

Um die Verlagerung von CO2-Emissionen (auch bei der Ausfuhr von CBAM-Produkten) zu begrenzen, sind geeignete Maßnahmen unerlässlich. In dieser Hinsicht ist die Bewertung der Handelsströme und der in den Exporten enthaltenen Emissionen durch die KOM für uns sehr wichtig. Wenn ein erhebliches Risiko der Verlagerung von CO2-Emissionen festgestellt wird, erwarten wir, dass die KOM einen Legislativvorschlag vorlegt, der dieses Risiko in einer Weise adressiert, die mit den WTO-Regeln vereinbar ist. Die KOM sollte bei ihrer Bewertung insbesondere prüfen, ob die bisher in der EU-ETS-Richtlinie festgelegten Maßnahmen ausreichen, um auf das Risiko der Verlagerung von CO2-Emissionen einzugehen.

Darüber hinaus möchten wir betonen, dass einer weiteren Ausweitung des CBAM-Bereichs eine gründliche Analyse vorausgehen muss, die die wirtschaftlichen Folgen berücksichtigt. Dies gilt insbesondere, wenn eine Ausweitung auf alle ETS-Sektoren in Betracht gezogen wird."

Courtesy translation

“Germany can agree to the found compromise with view to accelerating international efforts of climate protection and reaching our climate goals by the mid-century.

For limiting carbon leakage (also regarding the export of CBAM products), adequate measures are essential. In this regard, COM’s assessment of trade flows and the embedded emissions of exports is very important to us. Where a significant risk of carbon leakage is identified, we expect COM to present a legislative proposal to address that risk in a manner that is compliant with WTO rules. COM’s assessment should particularly examine whether or not the measures so far specified in the EU-ETS-directive are sufficient to address the risk of carbon leakage.

Furthermore, we would like to stress that a further extension of the CBAM-scope needs to be preceded by a thorough analysis that reflects its economic consequences. This is in particular the case when considering an extension to all ETS sectors.”

Statement by Portugal

“Portugal apoia os objetivos climáticos da UE em conformidade com a Lei do Clima e a finalidade prosseguida de alcançar impacto neutro no clima até 2050. O MACF, enquanto instrumento compatível com a OMC para fazer face ao risco de fuga de carbono causado por políticas climáticas assimétricas de países terceiros, é um elemento fundamental do pacote “fit for 55”.

Portugal recorda a Ata do Conselho da União Europeia (Assuntos Económicos e Financeiros) de 15 de março de 2022 e a sua Declaração aí exarada. Neste contexto, Portugal destaca o texto de compromisso presente no documento ST 16060/22, de 14 de dezembro de 2022.

Portugal reforça que entende que a redação da parte do considerando 52 da proposta "tendo em conta as características especiais e os condicionalismos das regiões ultraperiféricas" constitui uma citação direta do artigo 349.º do Tratado sobre o Funcionamento da União Europeia (TFUE). No contexto da proposta de regulamento do Parlamento Europeu e do Conselho que cria um mecanismo de ajustamento carbónico fronteiriço, tal aplicar-se-á às regiões ultraperiféricas que fazem parte do território aduaneiro da União.

O artigo 349.º do TFUE estabelece que "as medidas a que se refere o primeiro parágrafo incidem designadamente sobre as políticas aduaneira e comercial, a política fiscal, as zonas francas, as políticas nos domínios da agricultura e das pescas, as condições de aprovisionamento em matérias-primas e bens de consumo de primeira necessidade, os auxílios estatais e as condições de acesso aos fundos estruturais e aos programas horizontais da União. O Conselho adotará as medidas a que se refere o primeiro parágrafo tendo em conta as características e os condicionalismos especiais das regiões ultraperiféricas, sem pôr em causa a integridade e a coerência do ordenamento jurídico da União, incluindo o mercado interno e as políticas comuns."

Por conseguinte, Portugal interpreta que a Comissão assegurará que na apresentação dos relatórios previstos no artigo 30.º da referida proposta de regulamento serão igualmente incluídos o impacto económico, social e territorial nas regiões ultraperiféricas, de acordo com o considerando 52.

Em conclusão, Portugal apela a que os colegisladores, na revisão jurídica ao texto de compromisso, e com o apoio da Comissão, façam referência expressa e tenham em consideração o artigo 349.º do TFUE no presente regulamento, como é prática corrente

noutros regulamentos pertinentes. Tal não prejudica o necessário reconhecimento, no âmbito do regulamento, de outras situações em que os encargos económicos possam ser desproporcionados e de todas as avaliações de impacto necessárias."

Courtesy translation

"Portugal supports the EU's climate goals in line with the Climate Law and its 2050 climate neutrality objective. The Carbon Border Adjustment Mechanism, as a WTO-compatible instrument to address the risk of carbon leakage caused by asymmetrical climate policies of non-EU countries, is a key element in the Fit for 55 Package.

Portugal recalls the Minutes of the Council of the European Union (Economic and Financial Affairs) of March 15, 2022, and its Declaration held therein. In this context, Portugal highlights the compromise text in the document ST16060/22 of 14 December 2022.

Portugal highlights that the language in Recital 52 of the Proposal on "taking into account the special characteristics and constraints of outermost regions" is a direct quotation of article 349 of the Treaty on the Functioning of the European Union (TFEU). In the context of the Proposal for a Regulation of the European Parliament and the Council establishing a carbon border adjustment mechanism, this will apply to the outermost regions which are part of the customs territory of the Union.

Article 349 of the TFEU states that "The measures referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programs. The Council shall adopt the measures referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies."

Therefore, Portugal understands that the Commission will ensure that in the reporting obligations envisaged by article 30 of the said Proposal for a Regulation, the economic, social, and territorial impact on the outermost regions will also be included, in accordance with recital 52.

In conclusion, Portugal calls on the co-legislators, in the legal revision of the compromise text, and with the support of the Commission, to introduce an explicit reference and consider article 349 of the TFEU in this Regulation, as it is common practice in other relevant Regulations. This is without prejudice to the necessary recognition, within the Regulation, of other situations where the economic burden might be disproportional and of all necessary impact assessments."

11. Regulation REPowerEU — 16103/22
Analysis of the final compromise text with a view to agreement — 16078/1/22 REV 1

The Committee endorsed the text of the final compromise and the European Parliament will be informed.

Justice and Home Affairs

12. Meeting of the Council (Justice and Home Affairs) on 8-9 December 2022: Follow-up

The above-mentioned item was withdrawn.

13. The external dimension of migration: MOCADEM action files and implementation reports
Exchange of views

The Committee held an exchange of views.

14. Regulation on Kosovo* visa liberalisation 16087/22
Analysis of the final compromise text with a view to agreement

The Committee endorsed the text of the final compromise. The European Parliament will be informed.

Statement by Slovakia

"With regard to the reaching an interinstitutional agreement on Regulation on Kosovo* visa liberalisation, Slovak Republic would like to recall its Statement from November 30th 2022, as follows:

Slovak Republic regrets that the final compromise text does not reflect amendment to recital 5 of the Regulation which was submitted during the written consultation with a view of incorporating the language of "Roadmap towards a visa-free regime with Kosovo", Part I. on Requirements related to Readmission and Reintegration, part Readmission, which states that Kosovo should, inter alia, *"ensure that readmission procedures, conducted through the appropriate channels, function in relation to all Member States"*.

Slovak Republic believes that the above mentioned amendment would have ensured more clarity and removed the ambiguity in the interpretation."

* 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.

15. E-evidence 16053/22
    a) Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters 16056/22
    b) Directive of the European Parliament and of the Council laying down harmonized rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings

Analysis of the final compromise text with a view to agreement

The Committee took note of the outcome of the trilogue and agreed to revert.

16. Asylum Procedure Regulation 16072/22
Mandate for negotiations with the European Parliament

The Committee agreed on a partial mandate for negotiations with the European Parliament.

Statement by Germany

„Deutschland begrüßt die partielle allgemeine Ausrichtung im AStV am 20.12.2022 zum Vorschlag der Asylverfahrensverordnung in der Fassung vom 19.12.2022. Mit der Zustimmung gibt die Bundesregierung die folgende Protokollerklärung ab:

1. Deutschland geht davon aus, dass seine nationalen Regelungen zu dem Rechtsinstitut des so genannten Familienasyls (zurzeit geregelt in § 26 Asylgesetz) sowohl mit dem Vorschlag der Asylverfahrensverordnung in der Fassung vom 19.12.2022 als auch mit dem Vorschlag der Qualifikationsverordnung in der Fassung vom 16.12.2022 im Einklang stehen.
2. Wir verstehen zudem Art. 24 Abs. 5 Satz 2 so, dass die Weigerung aus guten Gründen, sich einer medizinischen Altersfeststellung zu unterziehen, eine Erwägung sein kann, die in die Einschätzung mit einfließen kann.“

Courtesy translation

“Germany welcomes the partial general approach in Coreper on 20.12.2022 on the proposal for an Asylum Procedure Regulation in the version of 19.12.2022. With the approval, the Federal Government makes the following protocol declaration:

1. Germany assumes that its national regulations on the legal institution of so-called family asylum (currently regulated in Section 26 of the Asylum Act) are in line with both the proposal of the Asylum Procedure Regulation in the version of 19.12.2022 and the proposal of the Qualification Regulation in the version of 16.12.2022.
2. We also understand Art. 24(5), second sentence, to mean that refusal for good reasons to undergo a medical age assessment may be a consideration that may be taken into account in the assessment.”

Statement by Hungary

"Hungary remains committed to the reform of the Common European Asylum System, however, we do not consider justified to urgently close the legislative proposals of the New Pact on Migration and Asylum which only provide a partial solution. Instead, Hungary calls for a completely new approach, which focuses on prevention, the actions against international criminal organizations, the effective protection of the external borders and on making our asylum system resistant to abuses.

Hungary firmly believes that the protection of persons fleeing from armed conflicts must be guaranteed as close as possible to their countries of origin, preferably in the territory of the first safe country. Furthermore, in order to avoid the abuses of asylum provisions and to enable the proper identification of persons in genuine need of protection, the possibility of making asylum applications at external locations should be ensured.

Accordingly, Hungary can only accept the draft Asylum Procedure Regulation if its final content can guarantee the prevention of the abuses of asylum by persons not entitled to protection, and if the balance between the solidarity and responsibility components of the reform package prevails, ensuring that all forms of solidarity contributions are treated equally, including measures that Member States take, without EU support, to ensure the security of the European Union as a whole.

In our view, the provisions covered by the current partial general approach would not be able to provide an adequate response to the changed circumstances due to mass immigration, since the procedural rules defined by the current Proposal, such as limiting the making of asylum applications to the territory of the Member States, encourages the misuses of the asylum systems, thereby undermining our efforts to prevent both primary and secondary migratory movements.

Taking into account the aforementioned reasons, and bearing in mind that no agreement has yet been reached on those elements of the Regulation which are decisive for the truly effective reform, Hungary cannot support the adoption of a partial general approach."

17. Qualification Regulation 16109/22
Mandate for negotiations with the European Parliament

The Committee agreed on an updated mandate for negotiations with the European Parliament.

18. Resettlement Framework Regulation 16110/22
Mandate for negotiations with the European Parliament

The Committee agreed on an updated mandate for negotiations with the European Parliament.

19. Reception Conditions Directive (recast) 16111/22
Mandate for negotiations with the European Parliament

The Committee agreed on an updated mandate for negotiations with the European Parliament.

IV. Any other business

COREPER (PART 1)

Recent developments in relation to Twitter and the DSA perspective
Information by the French delegation

The Committee took note of the information provided by France.

COREPER (PART 2)

Kosovo* EU Membership Application

The Committee took note of the information provided by the Presidency.

9th sanctions package

The Committee took note of the information provided by the Greek delegation.

EU-NATO Joint Declaration

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

"I" items approved

COREPER (PART 1)

Institutional Affairs

Written questions

82.	Replies to questions for written answer submitted to the Council by Members of the European Parliament *Adoption by silence procedure*		16042/22 PE-QE
	a)	Cornelia Ernst (The Left) "Support for the Republic of Moldova with border monitoring and control"	15344/22
	b)	Francesca Donato (NI) "English's status as an official language despite not having been requested by a Member State"	15908/22
	c)	Nils Ušakovs (S&D) "Support for municipalities severely affected by the energy crisis"	15346/22
	d)	Jean-Lin Lacapelle (ID) "General Elections in Bosnia and Herzegovina"	15358/22
	e)	Domènec Ruiz Devesa (S&D), Massimiliano Smeriglio (S&D), Petra Kammerevert (S&D), Marcos Ros Sempere (S&D), Cyrus Engerer (S&D), Hannes Heide (S&D), Vilija Blinkevičiūtė (S&D), Giuliano Pisapia (S&D), Pierre Larrouturou (S&D), René Repasi (S&D), Margarida Marques (S&D), Predrag Fred Matić (S&D), Łukasz Kohut (S&D), Pietro Bartolo (S&D) "40th anniversary of the Stuttgart Declaration"	15402/22 + COR 1

Other

83.	Attendance of a third party at the Working Party on Research on 12 January 2023 *Approval*	15875/22 RECH
84.	Attendance of a third party at the Working Party on Space on 10 January 2023 *Approval*	15865/22 ESPACE

85.	Attendance of a third party at the Working Party on International Food and Agricultural Questions (OECD – Seeds) during the first half of 2023 *Approval*	16050/22 AGRI

Judicial Affairs

86.	Case T-589/22 (Silgan Holdings e.a. v Commission) *Information note*	16035/22 JUR

Environment

87.	Transboundary Water Cooperation Coalition *Authorisation to negotiate an NBI*	15933/22 ENV

Employment and Social Policy

88.	Council Recommendation on adequate minimum income ensuring active inclusion *Adoption*	16039/22 + ADD 1 15540/22

Statement by Poland

"Równość kobiet i mężczyzn została zapisana w Traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów, wyrażenie "gender equality" Polska będzie interpretowała jako równość kobiet i mężczyzn, zgodnie z art. 2 i 3 Traktatu o Unii Europejskiej oraz art. 8 i 157 ust. 3 Traktatu o Funkcjonowaniu Unii Europejskiej, a pozostałe wyrażenia zawierające termin "gender", Polska będzie interpretowała jako płeć ("sex"), zgodnie z art. 10, art. 19 ust. 1 oraz art. 157 ust. 2 i 4 Traktatu o Funkcjonowaniu Unii Europejskiej."

Courtesy translation

"Equality between women and men is enshrined in the Treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the Polish national legal system in accordance with international human rights treaties and within the framework of the fundamental values and principles of the European Union. For these reasons, the expression "gender equality" will be interpreted by Poland as equality between women and men, in accordance with Article 2 and 3 of the Treaty on European Union and Article 8 and 157 para 3 of the Treaty on the Functioning of the European Union, and the remaining expressions containing the term "gender" will be interpreted by Poland as "sex", in accordance with Article 10, Article 19 para 1 and Article 157 para 2 and 4 of the Treaty on the Functioning of the European Union."

Internal Market and Industry

89.	Regulation on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724	15784/22 TOUR

Decision to consult an institution or body

90.	Regulation on Community designs and repealing Commission Regulation (EC) No 2246/2002 and Directive on the legal protection of designs (recast) *Decision to consult an institution or body*	16025/22 PI

COREPER (PART 2)

Judicial Affairs

20.	Case T- 607/22, Andrey Kozitsyn v. Council *Information note*	15725/22 JUR
21.	Case T-644/22, Timchenko v. Council *Information note*	15912/22 JUR
22.	Case C-683/21, Nacionalinis Visuomenės Sveikatos Centras (Lithuania) *Information note*	15745/22 JUR DATAPROTECT
23.	Case T- 737/22, Galina Pumpyanskaya v. Council *Information note*	15808/22 JUR
24.	Case T- 740/22, (Dimitry Alexandrovich Pumpyansky v. Council) *Information note*	15824/22 JUR
25.	Case C-807/21, Deutsche Wohnen *Information note*	15744/22 JUR DATAPROTECT

Institutional Affairs

Other

26.	Attendance of third parties at the preparatory bodies of the Council and at the informal videoconferences in the field of Justice and Home Affairs during the Swedish Presidency *Approval*	15872/22 JAI
27.	Attendance of third parties at the meetings of PSC and CFSP Working Parties, or in the margins of such meetings from 1st January to 30 June 2023 *Approval*	14159/22 COPS
28.	Attendance of third parties at COHAFA meetings during the Swedish Presidency *Approval*	15663/22 COHAFA

29.	Attendance of a third party at the Working Party of Financial Counsellors meeting on 10 January 2023 *Approval*	14747/22 ECOFIN
30.	Attendance of third parties at the Law Enforcement Working Party (Police) on 10 January 2023 *Approval*	15615/22 ENFOPOL
31.	Attendance of third parties at the meeting of the Horizontal Working Party on Drugs (HDG) on 10-11 January 2023 *Approval*	16097/22 CORDROGUE
32.	Attendance of third parties at the Working Party on Human Rights (COHOM) on 11 January 2023 *Approval*	15988/22 COHOM
33.	Attendance of third parties at the Budget Committee on 13 January 2023 *Approval*	15944/22 FIN
34.	Attendance of a third party at the Law Enforcement Working Party (Police) meeting on 19-20 January 2023 *Approval*	16094/22 ENFOPOL

Transparency

35.	Public access to documents request 22/0419 *Decision to make the results of votes and the statements entered in the Council minutes public*	15851/22 COTER
36.	Public access to documents request 22/0429 *Decision to make the results of votes and the statements entered in the Council minutes public*	15964/22 INF

Economic and Financial Affairs

38.	Council amending Regulation as regards introducing new environmental economic accounts modules *Mandate for negotiations with the European Parliament*	15926/22 15925/22 ECOFIN STATIS
39.	Appointment of a member of the European Statistical Governance Board (ESGAB) for a second term *Approval*	16049/22 15959/22 ECOFIN STATIS
40.	Review of the Central Securities Depositories Regulation (CSDR) *Mandate for negotiations with the European Parliament*	15984/22 15985/1/22 REV 1 EF
41.	Insurance Recovery and Resolution directive (IRRD) *Mandate for negotiations with the European Parliament*	15999/22 16001/22 EF

Joint statement by Ireland, Italy,Malta and Portugal

"Ireland, Italy, Malta and Portugal strongly support the establishment of a harmonised EU insurance recovery and resolution framework, which is essential to ensure a robust and resilient EU insurance industry. Moreover, given that significant insurance activity also takes place on a cross border basis, we equally believe that a consistent EU-wide approach is the best way forward. As such, we welcome the general approach reached by the Presidency, which we believe strikes a balance between providing resolution authorities with a flexible framework and applying new requirements to undertakings in a proportional manner.

While we support the introduction of the principle-based financing arrangements in the Directive, we are disappointed with the lack of detail, such as the target for adequate funding, and how it will work on a cross-border and group basis. Also absent are clear timelines and procedures for Member States establishing the arrangements. It is essential that consistent funding rules apply across Member States, thereby protecting the level playing field and the integrity of the Single Market, while ensuring that policyholders receive appropriate compensation and protection regardless of where they are located.

That said, we welcome the inclusion of the specific review clause requiring the European Commission to analyse the financial arrangements regime, which will enable an assessment of the impact and sufficiency of financing arrangements throughout the Union. During the IRRD Council negotiations, it was commonly accepted among Member States that further investigation into the costs of resolution and how to finance them was essential. This review clause will ensure that this investigation will now happen.

We call on the European Commission to properly consider financing arrangements. The review clause will enable the Commission to prepare a report related to the financing arrangements regime and should address issues such as the costs and funding models. Such consideration will lead to better, evidence-based policy making for future proposals on financing arrangements. Finally, we agree with the European Commissions' assessment that an EU Insurance Guarantee Scheme would 'constitute a major improvement in the protection for policyholders across the EU'. Accordingly, we look forward to its promised proposal on

this, which was delayed due to economic uncertainties created by the Covid-19 pandemic.[1]

Ireland, Italy, Malta and Portugal hope that the above-mentioned issues will be further discussed during the Trilogues with the aim to improve the text and ensure that the objectives of the directive are fully being met.

[1] *COM(2021) 580, Communication from the Commission to the European Parliament and the Council on the review of the EU prudential framework for insurers and reinsurers in the context of the EU's post pandemic recovery, p. 11."*

42.	Review of the Markets in Financial Instruments Regulation (MiFIR) and the second Markets in Financial Instruments Directive (MiFID II) *Mandate for negotiations with the European Parliament*	16098/22 EF
	a) MiFIR	16099/22
	b) MiFID	16102/22

Statement by Germany

„Die Bundesrepublik Deutschland lehnt den durch die Ratspräsidentschaft zur Abstimmung im AStV am 20. Dezember 2022 vorgelegten Kompromissvorschlag zur Überarbeitung der EU-Wertpapierrichtlinie (MiFID) und EU-Wertpapierverordnung (MiFIR) ab.

Der vorgelegte Text ist in dieser Form nicht zustimmungsfähig. Er begegnet erheblichen Bedenken, da er im Widerspruch zu den Zielen der Kapitalmarktunion steht und den EU-Binnenmarkt für Finanzdienstleistungen beeinträchtigt.

Das vorgesehene Verbot von Payment for Orderflow wird EU-Privatanlegern entgegen der Ziele der Kapitalmarktunion den einfachen und kostengünstigen Zugang zu den EU-Kapitalmärkten erschweren. Unternehmen, die diesen Zugang bislang auf der Grundlage von Payment for Order Flow bereitstellen, werden - selbst bei Nutzung der vorgesehenen nationalen Ausnahme - diese Dienstleistung künftig nicht mehr europaweit erbringen können. Dadurch wird der EU-Binnenmarkt für Finanzdienstleistungen beeinträchtigt. Zudem haben wir Bedenken bei der Ausgestaltung des Consolidated Tape im Hinblick auf die Zulassung nationaler Ausnahmen für bestimmte Handelsplätze. Damit wird - wiederum im Widerspruch zu den Zielen der Kapitalmarktunion - keine EU-weite Transparenz im Wertpapierhandel hergestellt. Darüber hinaus wird durch die Rücknahme von bestehenden Einschränkungen für den Handel durch sog. Systematische Internalisierer der Wettbewerb um die Ausführung von Wertpapierhandelsaufträgen zulasten transparenter Handelsplätze beeinträchtigt."

[1] COM(2021) 580, *Communication from the Commission to the European Parliament and the Council on the review of the EU prudential framework for insurers and reinsurers in the context of the EU's post pandemic recovery,* p. 11.

[1] COM(2021) 580, *Communication from the Commission to the European Parliament and the Council on the review of the EU prudential framework for insurers and reinsurers in the context of the EU's post pandemic recovery,* p. 11.

Courtesy translation

"The Federal Republic of Germany rejects the compromise proposal on the review of MiFID and MiFIR submitted by the Council Presidency for voting in Coreper on 20 December 2022.

We cannot agree to the proposed text in the current form. It raises significant concerns as it contradicts the objectives of the Capital Markets Union and would impair the EU single market for financial services.
The proposed ban on payment for order flow will hamper the easy access of EU retail investors to EU capital markets at low costs, contrary to the objectives of the Capital Markets Union. Investment firms that currently provide access to capital markets on the basis of payment for order flow will not be able to provide their services throughout Europe in the future, even if the national opt-out is used. This will impair the EU's single market for financial services. Furthermore, we have concerns with regard to the proposed provisions on the consolidated tape concerning the approval of national exemptions for certain trading venues. This will hinder – again contrary to the objectives of the Capital Markets Union – the envisaged EU-wide transparency in securities trading. In addition, the withdrawal of existing restrictions on trading by systematic internalisers will impair competition for the execution of orders to the detriment of transparent trading venues."

43.	ECA SR No 25/2022 on verification of GNI for financing the EU budget *Designation of a Working Party* *Attendance of the European Court of Auditors at the Working Party meeting*	16003/22 FIN
44.	ECA SR No 26/2022 on European statistics *Designation of a Working Party* *Attendance of the European Court of Auditors at the Working Party meeting*	15949/22 FIN
45.	ECA SR No 27/2022 on EU support to cross-border cooperation with neighbouring countries *Designation of a Working Party* *Attendance of the European Court of Auditors at the Working Party meeting*	15961/22 FIN

General Affairs

46.	2030 Agenda implementation at EU level and way forward *Information note*	15806/22 SUSTDEV
47.	Transparency Register - Assessment of the implementation of conditionality and complementary transparency measures in the Council *Endorsement*	15954/22 AG INST

48.	Implementation of the interinstitutional agreement on better law-making *State of play*	15532/22 INST
49.	Regulation on autonomous measures in the implementation of the TCA and the Withdrawal Agreement *Confirmation of the final compromise text with a view to agreement*	15374/22 15992/22 UK

Intervention by the Commission:
"The Commission wishes to assure the Council that the "other situations that may give rise to measures taken pursuant to this Regulation" referred to in recital 5b cover also 'possible future developments."

50.	Extension of the mandate of the ad hoc Working Party on resilience *Approval*	16085/22 IPCR
51.	Progress in Bulgaria and Romania under the Cooperation and Verification Mechanism *Report by the Presidency*	16057/22 COVEME
52.	Reply to citizens on the follow-up to the conference on the future of Europe *Approval of a letter*	15879/22 AG INST
53.	EP Resolutions and Decisions (December 2022) *Information note*	15748/22 PE-RE

Justice and Home Affairs

54.	Council Decision appointing the members of the EPPO selection panel Council Implementing Decision as regards the use of videoconferencing for the hearing of EPPO candidates *Adoption*	15792/22 14627/22 14630/22 JAI
55.	Civil protection *Report by the Presidency*	15718/22 PROCIV
56.	Regulation establishing a Joint Investigation Teams collaboration platform *Confirmation of the final compromise text with a view to agreement*	16007/22 16106/22 + **COR 1** JAI

57.	Regulation on digital information exchange on cross-border terrorism cases *Confirmation of the final compromise text with a view to agreement*	16095/22 16096/22 JAI

Foreign Affairs

58.	PSC Decision EUCAP Somalia/1/2022: appointment of the Head of Mission *Decision to publish in the Official Journal*	15800/22 15233/22 PSC DEC
59.	PSC Decision BiH/34/2022: appointment of the EU Force Commander *Decision to publish in the Official Journal*	15791/22 15456/22 PSC DEC
60.	UfM Ministerial Declaration on sustainable urban development *Authorisation to negotiate an NBI*	15770/22 MED
	The above-mentioned item was postoponed.	
61.	EU Cabo Verde Ministerial Joint Communiqué *Authorisation to negotiate an NBI* *Decision to use the written procedure*	16028/22 COAFR
62.	Council Implementing Decision and Implementing Regulation concerning restrictive measures in view of the situation in Libya *Decision to use the written procedure for the adoption*	15844/22 14260/22 15257/22 CORLX
63.	Council Decision on the European Union CSDP Mission in Mali (EUCAP Sahel Mali) *Decision to use the written procedure for the adoption*	12728/22 12727/22 CORLX
64.	Council Decision on the European Union Rule of Law Mission in Kosovo* (EULEX KOSOVO) *Adoption*	15804/22 15803/22 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.

91. Belarus restrictive measures - pre-notifications
Approval
Decision to use the written procedure
14258/22
CORLX

92. Restrictive measures in view of Russia's actions destabilising the situation in Ukraine - pre-notifications
Approval
Decision to use the written procedure
14261/22
CORLX

93 Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine - pre-notifications
Approval
Decision to use the written procedure
16184/22
CORLX

Delegated or implementing Acts

Economic and Financial Affairs

65. Extension of the deadline for objection to Commission delegated Regulation on prior permission to reduce own funds
Decision to request an extension of the time-limit
Decision to use the written procedure
16108/22
13517/22
EF