



Brussels, 25 January 2018

5626/18
CRS CRP 1

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
10 January 2018

I. Adoption of the agenda

5052/18 OJ CRP1 1 + COR 1
5081/17 OJ CRP2 1

The Committee adopted the agenda.

II. Approval of the "I" items

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

III. Discussion items

COREPER (PART 1)

Other

2. Work programme of the Bulgarian Presidency
Information from the Presidency

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

Agriculture and Fisheries

3. Meeting of the Council (Agriculture and Fisheries) on 29 January 2018: Agenda
(For the items in the remit of the Permanent Representatives Committee)

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Energy

4. Appointment of three members and three alternate members of the Administrative Board of the Agency for the Cooperation of Energy Regulators (ACER) 15434/17 + ADD 1

Examination and selection of candidatures

The Committee established the list of the Council's three members and four alternates of the Administrative Board of ACER. The list will be formalised in a Council Decision to be submitted to Coreper/Council for adoption as an I/A item.

COREPER (PART 2)

General Affairs

13. Presidency priorities
Presentation by the Presidency

The Presidency informed the Committee on its main priorities for the semester.

Economic and Financial Affairs

14. Meeting of the Council (Economic and Financial Affairs) on
23 January 2018: Preparation
Other items in connection with the Council meeting

The Presidency provided further information with regard to the Council.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

Cooperation between the European Parliament and the Council
during the annual discharge

The Committee took note of the information provided.

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

5. Replies to questions for written answer submitted to the Council by Members of the European Parliament 15697/17
Adoption by silence procedure
- a) E-004669/2017, E-004670/2017 and E-004671/2017 - 14714/17
Ramón Luis Valcárcel Siso (PPE)
Progress made in the fight against radicalisation by Bosnia and Herzegovina
Need for further agricultural reforms in Bosnia and Herzegovina
Progress noted at the second meeting of the Stabilisation and Association Council between the EU and Bosnia and Herzegovina
- b) P-004685/2017 - Rebecca Harms (Verts/ALE) 14716/17
EU sanctions and alleged delivery of gas turbines to the Crimean peninsula
- c) E-005753/2017 - Esther de Lange (PPE) 14724/17
Dutch companies' involvement in construction of Crimean bridge

Judicial Affairs

6. Case C-616/17 (Blaise e.a. against France) 15818/2017
Reference for a preliminary ruling
Information note for the Permanent Representatives Committee (Part I)

Delegated or Implementing Acts

Internal Market and Industry

7. Commission Regulation (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards 1-methyl-2-pyrrolidone
Decision not to oppose adoption
- 15993/17
13878/17 + COR 1
+ ADD 1
+ ADD 1 COR 1

Joint statement by Austria and Czech Republic

"The Commission's restriction proposal essentially establishes a limit value for 1-methyl-2-pyrrolidone (NMP) for the protection of workers at EU level on the basis of restrictions under the REACH regulation. In the regulatory committee Austria voted against this draft decision because it is of the opinion that, although the draft is correct both scientifically and content-wise, the appropriate legal basis has not been chosen.

Austria and the Czech Republic are of the opinion that **by adopting this decision the Commission is exceeding its implementation powers** provided for in the basic instrument, as the stipulation of a binding limit value pursuant to Articles 68-71 of the REACH Regulation is based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), while Article 153 TFEU explicitly states that measures for the protection of workers shall be laid down in directives in the form of **minimum requirements**.

Austria and the Czech Republic are also of the opinion that **the proposed decision does not seem compatible with the essential aim or content of the basic instrument**. Austria and the Czech Republic acknowledge that with the REACH Regulation the legislator has empowered the Commission to adopt risk management measures for the protection of workers, but according to Article 2(4) of the REACH Regulation such measures must apply without prejudice to existing provisions for the protection of workers adopted under Article 153 TFEU. The proposed restriction under the REACH Regulation establishes a new, binding EU-wide limit value for the protection of workers, which - contrary to the provision set out in Article 2(4) - directly impinges on the national limit values which have been laid down in accordance with European worker protection legislation. The draft Commission Regulation thus introduces a stricter limit value which, under Article 153 TFEU, is a competence of the Member States. Furthermore, Austria and the Czech Republic are of the opinion that **the proposed decision does not comply with the principles of subsidiarity and proportionality**. Article 128(2) of the REACH Regulation stipulates that the Regulation shall not prevent Member States from laying down non-harmonised measures for the protection of workers. This means, in particular, that Member States may establish stricter national limit values only for substances for which limit values for the protection of workers have not been adopted as part of restrictions under the REACH Regulation. The introduction of a parallel system of limit values on the basis of restrictions under REACH directly impinges on the existing European regulatory provisions for worker protection and effectively suspends the possibility of establishing stricter (national) limit values as provided for in that legislation.

Additionally, Austria and the Czech Republic are of the opinion that the proposed restriction under the REACH Regulation creates uncertainties both for downstream users of NMP and for national enforcement authorities and that the proposed provision thus contradicts the principles of the Refit programme, which aims at eliminating unnecessary bureaucracy and making EU legislation simpler and easier to understand.

For these reasons Austria and the Czech Republic are of the opinion that the Commission has chosen an inappropriate legal instrument and should, instead, lay down the limit value under the appropriate legal framework for European worker protection in compliance with the procedures laid down therein."

Statement by Germany

"Regarding the decision:

Germany has voted against this restriction in the REACH Committee based on technical arguments. However Germany sees no legal basis for the Council to oppose the draft measure at this stage. Underlining that it is the long standing position of Germany – as already stated in the protocol declaration of 15 June 2006 together with SWE and DNK when adopting the REACH-Regulation – that even when harmonized provisions are laid down in REACH stricter regulations for worker protection – also national ones (Art. 1 para. 3 Framework Directive 89/391/EEC) – remain in force and may also be adopted in future according to Art. 2 para. 4 lit. a REACH. Germany see no a conflict between REACH and Directive 89/391/EEC. From the German point of view the stricter rule applies. Germany doesn't see an infringement of the rights conferred to in Art. 5a para 3 lit. b Council Decision of 28 June 1999 (1999/468/EC), stressing that it would still be possible for member states to adopt more stringent national rules on occupational safety and health

Regarding the German translation:

Germany assumes that the German version of the recitals will be corrected as follows:

In recital 1 the expression „eine Beschränkung“ is changed to „eine Beschränkung“.

In recitals 1, 2, 4, 5, 6, 11 and 12 the word „Arbeitskräfte“ is replaced by „Arbeitnehmer“.

The first sentence in recital is changed into „Am 5. Juni 2014 hat der Ausschuss für Risikobeurteilung (RAC) der Agentur eine seine Stellungnahme verabschiedet, mit der bestätigt wird, dass die Entwicklungstoxizität der kritischste Gesundheitsendpunkt ist.“

In recital 6 the expression „ein Gutachten angenommen“ is changed to „seine Stellungnahme verabschiedet“.

In recital 9 „Gutachten“ is replaced by „Stellungnahmen“.

In recital 10 the first sentence is replaced by „Nachdem sie auf eine Diskrepanz zwischen dem vom RAC in seiner Stellungnahme vorgeschlagenen DNEL-Wert für die NMP-Exposition durch Inhalation und dem indikativen Arbeitsplatzgrenzwert für NMP gemäß der Richtlinie 98/24/EG des Rates basierend auf einem wissenschaftlichen Gutachten des Wissenschaftlichen Ausschusses für Grenzwerte für berufsbedingte Expositionen gegenüber chemischen Stoffen (Scientific Committee on Occupational Exposure Limits for chemical substances, SCOEL) aufmerksam geworden war, forderte die Kommission den RAC und den SCOEL auf, zur Lösung des Problems im Sinne des Artikels 95 Absatz 3 der Verordnung (EG) Nr. 1907/2006 zusammenzuarbeiten.“

In the first sentence of recital 11 the word „Gutachten“ is replaced by „Stellungnahme“ and the word „angegangen“ by „adressiert“. In the third sentence the word „sinnvoller“ is replaced by „angemessener“.

The first sentence of reictal 13 is replaced by „Bei der Durchführung der Stoffsicherheitsbeurteilung eines Stoffes gemäß der Verordnung (EG) Nr. 1907/2006 sollten DNEL-Werte angewendet werden, damit bestimmt werden kann, welche Maßnahmen zur Eindämmung des bei bestimmten Expositionsszenarien von dem betreffenden Stoff ausgehenden Risikos zu treffen sind.“

With regard to the Annex Germany assumes furthermore that in number 1 and 2 the words „Arbeitskräften“ is changed to „Arbeitnehmer“.

Statement by France

"Lors des derniers comités REACH, la France, ainsi que d'autres États membres, a exprimé ses réserves quant à l'égard de la proposition de la Commission.

C'est la raison pour laquelle la France souhaite ajouter la présente déclaration au compte-rendu du Coreper :

La proposition de restriction intègre deux valeurs (DNEL – *Derived No-Effect Levels*) qui concernent les travailleurs. En pratique, cela revient à fixer une valeur limite d'exposition professionnelle ou VLEP, constituant ainsi une mesure d'effet équivalent à la fixation d'une VLEP contraignante, alors que ces VLEP auraient dû être définies dans le cadre des directives sur la santé et la sécurité au travail ou SST.

La France considère que la procédure suivie porte préjudice à la législation en matière de protection de la santé et de la sécurité des travailleurs contre les risques liés à des agents chimiques sur le lieu de travail ainsi qu'au principe de décision tripartite en la matière¹.

Les valeurs (DNEL), par construction, ne font pas l'objet de vérification par des mesures physico-chimiques, contrairement aux VLEP, ce qui gêne le contrôle sur les lieux de travail par les corps d'inspection compétents. Cela génère une incertitude juridique de nature à empêcher la bonne application de ce texte et la réalisation de ses objectifs."

¹ Impliquant la consultation des syndicats.

8. Commission Regulation (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards methanol
15837/17 + ADD 1
14552/17 + ADD 1
Decision not to oppose adoption

Statement by Germany

"Germany assumes that the first sentence of recital 3 in the German version will be replaced by the following sentence: 'Am 4. Dezember 2015 nahm der Ausschuss für Risikobeurteilung (RAC) der Agentur eine Stellungnahme mit der Schlussfolgerung an, dass Kontakt mit Methanol, wie es in Scheibenwaschflüssigkeiten und denaturiertem Alkohol vorkommt, in einer Konzentration von mehr als 0,6 Gew. -% das Risiko von Tod, schwerer okularer Toxizität und anderer schwerer Folgen von Methanolvergiftung birgt.'

Germany also assumes that recital 5 in the German version will be replaced by the following sentence: 'Das Forum für den Austausch von Informationen zur Durchsetzung der Agentur wurde während des Beschränkungsverfahrens konsultiert und seine Empfehlung berücksichtigt, insbesondere die Empfehlung, auch Flüssigkeiten zur Windschutzscheibenentfrostung in die vorgeschlagene Beschränkung miteinzubeziehen.'

Furthermore, Germany assumes that in the German version of the Annex the text of the entry itself will be replaced by the following text: 'Darf nach dem [Datum: 12 Monate nach in Kraft treten dieser Regelung] nicht in Scheibenwaschflüssigkeiten oder Scheibenfrostschutzmitteln in einer Konzentration von 0,6 Gew. - % oder mehr für die allgemeine Öffentlichkeit in den Verkehr gebracht werden.'"

Health

9. Commission Regulation (EU) .../... of XXX on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials
14024/17
13852/17 + ADD 1
Decision not to oppose adoption

Environment

10. Commission Delegated Regulation (EU) .../... of 28.11.2017 amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals
15850/17
15278/17 + ADD 1
Delegated act - Intention not to raise objections

Energy

11. Commission Delegated Regulation (EU) .../... of 23.11.2017 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest
15915/17
15089/17 + ADD 1
Delegated act - Intention not to raise objections

Research

12. EURATOM Research and Training Programme extension
Regulation
Decision to consult an institution or body

15859/17
15387/17 + ADD 1

COREPER (PART 2)

Institutional Affairs

Appointments

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| 15. | Appointment of an alternate member to the Committee of the Regions (PT) | 15799/17 |
| | <i>Adoption</i> | 15798/17 |
| 16. | Appointment of six members of the Court of Auditors (2018) | 14528/17 |
| | <i>Adoption</i> | 13883/17 |

Economic and Financial Affairs

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| 17. | European Court of Auditors' Special Report No 18/2017 | 15882/17 |
| | <i>Designation of a Working Party</i> | |

Foreign Affairs

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| 18. | Council Decision on the EU position in the EU-Ukraine Association Council and Association Committee in Trade Configuration | 15969/17 |
| | <i>Adoption</i> | 15244/17 |
| 19. | PSC Decision EUCAP Sahel Mali/1/2018 | 5025/18 |
| | <i>Decision to publish in the Official Journal</i> | 15771/17 |
| 20. | Promotion of Effective Arms Export Controls - Decision | 5053/18 |
| | <i>Adoption</i> | 14383/17 |
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