



Brussels, 4 February 2019
(OR. en, fr)

5955/19
CRS CRP 2

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
16 and 18 January 2019

I. Adoption of the agenda

5274/19 OJ CRP1 2
5320/1/19 REV 1 OJ CRP2 2

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)

WEDNESDAY 16 JANUARY 2019

Agriculture

2. Regulation amending general food law
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 14 January 2019.

Space

3. Regulation establishing the space programme of the Union
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 14 January 2019.

Internal Market and Industry

4. Goods package: Regulation on market surveillance and compliance 5129/19
Preparation for the trilogue

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

5. Regulation on supplementary protection certificate for medical products 5130/19
Mandate for negotiations with the European Parliament

The Committee agreed on a mandate for the first trilogue.

Statement by the Czech Republic

"Czechia recognizes the need to keep a balance between the imperative to ensure the attractiveness of Europe for innovative pharmaceutical companies and the urgency to allow EU based generics and biosimilars to compete on the global markets.

Nevertheless, we are concerned about the consequences of the proposed limitation of the rights of SPC holders. Any such weakening of intellectual property rights in Europe might undermine investment in research and development of new medicinal products. As a result, Europe might lose its attractiveness as a center of research and development, which might have a negative impact in particular on EU patients who are dependent on the supply of innovative medicinal products.

Against this background, we are of the view that any restriction of exclusive rights of SPC holders should only be permissible in exceptional circumstances such as humanitarian reasons addressing public health problems in developing countries. Consequently, the geographical scope of export countries should be more proportionate and limited only to those that are least developed and other developing countries."

Environment

6. Regulation on CO2 standards for cars and vans (recast) 5091/19 + ADD 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 Luxembourg

"Le Luxembourg se félicite qu'un accord ait pu être dégagé par les co-législateurs avant la fin de la présente législature sur *la proposition de règlement fixant des normes de performance en matière d'émissions pour les voitures particulières et les véhicules utilitaires légers*, garantissant ainsi la continuité de la législation de l'UE pour un secteur émetteur clé et de la clarté pour les investisseurs, les fabricants de véhicules, les pouvoirs publics et les citoyens.

Néanmoins, nous regrettons que le niveau d'ambition décidé ait été défini bien en deçà du niveau nécessaire pour aligner les émissions de CO₂ du transport routier dans l'UE aux objectifs établis par l'accord de Paris ou pour permettre aux États membres d'atteindre les objectifs nationaux de réduction des émissions de CO₂ établis par le règlement dit du «partage des efforts»¹, malgré la faisabilité technique et les nombreux avantages qu'un niveau d'ambition plus élevé aurait pu apporter à l'économie de l'UE, à sa politique industrielle et à l'intégrité environnementale de ses politiques.

Nous regrettons également que certaines des dispositions convenues dans le cadre du mécanisme d'incitation pour les véhicules à zéro et à faibles émissions (ZLEV) affaiblissent le niveau de réduction réel des émissions de CO₂ obtenu par ce règlement et craignons qu'elles soient exploitées par les constructeurs d'une manière pouvant conduire à des distorsions du marché intérieur.

En conséquence, nous appelons la Commission et les co-législateurs à mettre en place des mesures et des instruments européens supplémentaires, notamment des moyens financiers, afin de favoriser une transition aussi rapide que possible vers des véhicules à zéro émissions dans l'UE. Nous appelons également la Commission à surveiller de près la manière dont les fabricants se conforment au nouveau règlement et à prendre des mesures en cas d'abus."

"¹ Règlement (UE) 2018/842 du parlement européen et du conseil du 30 mai 2018 relatif aux réductions annuelles contraignantes des émissions de gaz à effet de serre par les États membres de 2021 à 2030 contribuant à l'action pour le climat afin de respecter les engagements pris dans le cadre de l'accord de Paris et modifiant le règlement (UE) no 525/2013."

7. Regulation on CO₂ standards for heavy-duty vehicles 5116/19
Preparation for the trilogue

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

Energy

8. Regulation on electricity (recast) 5070/19 + COR 1 +
Analysis of the final compromise text with a view to agreement COR 2

The Committee analysed the text. The Commission confirmed that on strategic reserves there is no intention to favour one form of capacity mechanism to another. The aim is to ensure that Member States examine availabilities and then freely decide. 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.

Statements by the Commission

- on the interconnector definition

"The Commission notes the agreement of the co-legislators relating to the recast Electricity Directive and Recast Electricity Regulation, reverting back to the definition of "interconnector" used in Directive 2009/72/EC and Regulation (EC) 714/2009. The Commission agrees that electricity markets differ from other markets such as natural gas, e.g. by trading products which can currently not be easily stored and are produced by a large variety of generating installations, including installations at distribution level. As a consequence, the role of connections to third countries differs significantly between the electricity and gas sectors and different regulatory approaches can be chosen.

The Commission will further examine the impact of this agreement and provide guidance on applying the legislation where needed.

For the sake of legal clarity, the Commission wishes to highlight the following:

The agreed definition of interconnector in the Electricity Directive refers to equipment linking electricity systems. This wording does not distinguish different regulatory frameworks or technical situations and thus, a priori, includes all electric connections to third countries in the scope of application. As regards the agreed definition of interconnector in the Electricity Regulation, the Commission underlines that the integration of electricity markets requires a high degree of cooperation between system operators, market participants and regulators. While the scope of applicable rules may vary depending on the degree of integration with the internal electricity market, close integration of third countries into the internal electricity market, such as participation in market coupling projects, should be based on agreements requiring the application of relevant Union law."

- on market reform implementation plans

"The Commission notes the agreement of the co-legislators relating to Art. 18(3) which provides that Member States with identified adequacy concerns shall publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions and/or market failures as a part of the State Aid process.

Pursuant to Article 108 TFEU, the Commission has exclusive competence to assess the compatibility of State aid measures with the internal market. This Regulation cannot affect and is without prejudice to the Commission's exclusive competence pursuant to the TFEU. The Commission may therefore, where relevant, give its opinion on market reform plans in parallel to the process of approving capacity mechanisms under State aid rules, but the two processes are legally separate."

Statement by Greece

"Greece has carefully considered the assurances provided by the European Commission, during the Coreper I meeting of 18 January 2019.

Based, on the above mentioned assurances, it is our understanding that the lignite power plant of Ptolemais 5, currently under construction, can be included in the provisions of Article 18b, par. 5, according to which it is possible for commitments or contracts, concluded before 31 December 2019 not to be modified in order to comply with the new provisions of the Regulation on the internal market of electricity. It was also clear to us that the Commission is willing to provide the necessary support to Greece, in this regard.

It is on this understanding, and in a constructive spirit, that Greece votes positively on the final text of the recast of the Electricity Regulation."

9. Directive on electricity (recast) 5076/19 + COR 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.

Statements by the Commission

- on alternative dispute resolution

"The Commission notes the agreement of the co-legislators relating to [Recital 24 and] Article 26 to regulate at EU level that energy service providers' participation in Alternative Dispute Resolution shall be mandatory. The Commission regrets this decision since its proposal had left this choice to Member States in line with the approach adopted in Directive 2013/11/EU on Alternative Resolution for consumer Disputes (the ADR Directive) and bearing in mind the principles of subsidiarity and proportionality.

It is not the Commission's role to undertake comparative assessments of the individual alternative dispute resolution models put in place by the Member States. The Commission will therefore consider the overall effectiveness of the national alternative dispute resolution landscapes in the context of its general obligation to monitor the transposition and effective application of Union law."

- on the interconnector definition

"The Commission notes the agreement of the co-legislators relating to the recast Electricity Directive and Recast Electricity Regulation, reverting back to the definition of "interconnector" used in Directive 2009/72/EC and Regulation (EC) 714/2009. The Commission agrees that electricity markets differ from other markets such as natural gas, e.g. by trading products which can currently not be easily stored and are produced by a large variety of generating installations, including installations at distribution level. As a consequence, the role of connections to third countries differs significantly between the electricity and gas sectors and different regulatory approaches can be chosen.

The Commission will further examine the impact of this agreement and provide guidance on applying the legislation where needed.

For the sake of legal clarity, the Commission wishes to highlight the following:

The agreed definition of interconnector in the Electricity Directive refers to equipment linking electricity systems. This wording does not distinguish different regulatory frameworks or technical situations and thus, a priori, includes all electric connections to third countries in the scope of application. As regards the agreed definition of interconnector in the Electricity Regulation, the Commission underlines that the integration of electricity markets requires a high degree of cooperation between system operators, market participants and regulators. While the scope of applicable rules may vary depending on the degree of integration with the internal electricity market, close integration of third countries into the internal electricity market, such as participation in market coupling projects, should be based on agreements requiring the application of relevant Union law".

Transport

10. Regulation amending Regulation 391/2009 to prepare for "Brexit" 5132/19
Preparation for the trilogue

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

Environment

11. Regulation on the alignment of the environmental reporting obligations 5131/19
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.

12. Directive on single-use plastics 5133/19
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.

Employment and Social Policy

13. Directive on Work-Life Balance 5092/19
Preparation for the trilogue

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

Telecommunications

14. Directive on the re-use of public sector information (PSI) 5255/19
Preparation for the trilogue

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

Internal Market and Industry

15. Regulation on SatCab 5225/19 + COR 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 the Netherlands, supported by Germany

"The Netherlands fully supports the objectives of this Directive in general and the enhancement of licensing in the case of retransmissions in particular.

Nevertheless, The Netherlands wishes to make a declaration regarding the ambiguity of the definitions of retransmission. The definition of retransmission by an internet service provider in this Directive explicitly excludes from the scope of mandatory collective management of rights the retransmission of an online transmission. The definition of retransmission by cable operators that stems from Directive 93/83 (SatCab) does not.

The omission of initial online transmissions is entirely due to the fact that initial online transmissions did not yet exist at the time Directive 93/83 entered into force, but have developed in a later stage. It has not been discussed during the negotiations and did not form part of the political agreement: on the contrary, the aim of this Directive was to provide a level playing field for signal distributors, regardless of the method of distribution. The Netherlands therefore remains of the opinion that initial online retransmissions should have been excluded explicitly in the operative part of this Directive or at the very least in a recital.

The fact that this has been omitted poses an ambiguity that risks to lead to legal uncertainty.

In the absence of clarity on this issue the Netherlands will, in the explanatory memorandum to the legislation implementing this Directive, stipulate that a retransmission of an initial online transmission by a broadcasting organization does not fall under the regime for mandatory collective management, regardless of the way the retransmission takes place."

16. Directive on copyright in the Digital Single Market 5138/19
Preparation for the trilogue

The Committee agreed to revert to the matter at a forthcoming meeting.

COREPER (PART 2)

General Affairs

26. Meeting of the Council (General Affairs) on 8 January 2019:
Follow-up

The above-mentioned item was withdrawn.

Foreign Affairs

27. Meeting of the Council (Foreign Affairs) on 21 January 2019:
Preparation

- a) Current affairs

The Committee prepared this item for the Council.

- b) Disinformation
Exchange of views

The Committee prepared this item for the Council.

- c) EU-LAS
Exchange of views

The Committee prepared this item for the Council.

- d) EU-ASEAN
Exchange of views
Conclusions
Adoption

5195/19

The Committee prepared this item for the Council. The Committee agreed to submit to the Council the text of the draft conclusions as set out in 5195/19 for consideration in light of the outcomes of the EU-ASEAN Senior Officials Meetings to be held on 20 January 2019.

- e) Other items in connection with the Council meeting

EEAS provided further information regarding the Council meeting.

Economic and Financial Affairs

28. Meeting of the Council (Economic and Financial Affairs) on 22 January 2019: Preparation

- a) InvestEU 5152/19
Policy debate

The Committee prepared this item for the Council.

- c) Presentation of the Presidency work programme
Exchange of views

The Committee prepared this item for the Council.

- d) European Semester 2019

- i) Conclusions on the Annual Growth Survey 5095/19
Adoption

- ii) Conclusions on the Alert Mechanism Report 5096/19
Adoption

- iii) Recommendation on the economic policy of the euro 5097/19
area
Approval

The Committee prepared this item for the Council and agreed to forward the two sets of conclusions and the recommendation to the Council.

Statement by Hungary

on the Conclusions on the Annual Growth Survey 2019

"Hungary is ready to work with the Commission to define investment needs and economic development priorities and as in the past still continues to engage in an active dialogue with the Commission on setting targets however strictly outside of the European Semester process.

Hungary is of the view that the Commission's proposal on the Multiannual Financial Framework (MFF) for the 2021-2027 period and the related sectoral legislative proposals intend to strengthen the link between the Cohesion Policy and the economic governance in several aspects, thereby significantly limiting Member States' room for manoeuvre in Cohesion Policy programming as well as the optimal use of resources. It is a special interest for Hungary to ensure that the economic development priorities of the Hungarian Government are taken into account in the cohesion programming fully."

- e) Economic and monetary union - Follow-up of the
December European Council
Exchange of views

The Committee prepared this item for the Council.

- b) (poss.) European system of financial supervision review 5108/19 + COR 1
Policy debate

The Committee prepared this item for the Council.

- f) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

Justice and Home Affairs

29. Directive on whistleblowers 5161/19
State of play and guidance for further work 14620/18
8713/18

The Committee held an exchange of views and agreed to revert to this at its next session.

30. Resettlement Framework Regulation 5164/19
State of play and guidance for further work

The Committee held an exchange of views and agreed to revert to this at one of its next sessions.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

EU-US Trade relations

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

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

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|---|-----------------|
| 17. One alternate member (SE) in the Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 13172/18
SOC |
|---|-----------------|

Fisheries

- | | |
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| 18. Regulation on a multi-annual plan for demersal stocks in the Western Mediterranean Sea
<i>Mandate for negotiations with the European Parliament</i> | 5081/19
PECHE |
| 19. Regulation on a multiannual recovery plan for Mediterranean swordfish
<i>Mandate for negotiations with the European Parliament</i> | 5084/19
5094/2/19 REV 2
PECHE |
| 20. Regulation amending certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area
<i>Mandate for negotiations with the European Parliament</i> | 5082/1/19 REV 1
5083/19
PECHE |

Agriculture

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| 21. Regulation amending general food law
<i>Mandate for negotiations with the European Parliament</i> | 5150/19 + ADD 1
AGRILEG |
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Déclaration de la France

"La France salue la proposition de réforme de la révision du règlement transversal 178/2002 «General Food Law» et y apporte son soutien. Elle est favorable au renforcement tant de la transparence de la procédure actuelle d'évaluation des risques que de l'indépendance de l'expertise. Les mesures proposées sont utiles pour atteindre ces objectifs.

Néanmoins, la France regrette que les enjeux liés aux «effets cocktails» des substances chimiques n'aient pas pour le moment été pris en compte lors des débats et que ce sujet, pourtant essentiel, ne soit pas abordé dans le projet de règlement. Elle rappelle que la bonne prise en compte des «effets cocktails» est une des grandes priorités que s'est fixée l'Union européenne (par le 7^{ème} programme d'action pour l'environnement, réitéré au niveau du Conseil par ses conclusions de décembre 2016 par exemple)."

Statement by Belgium

"Although supporting the general approach of the Council, Belgium remains concerned about the following topics:

- **Transparency of the risk management process (article 8)**
Belgium considers that non-binding guidelines, containing only a general risk communication plan, are insufficient to significantly improve the transparency of the risk management process and the decision-making process for authorizing regulated substances. This does not meet the conclusions of the fitness check of Regulation (EU) n° 178/2002, the ECI on the ban of glyphosate and the consultations on the roadmap on transparency and sustainability of the EU risk assessment model in the food chain.
- **Obligations of Member States towards scientific organizations employing members in scientific panels and scientific committees (article 28(5)(d))**
As regards the Council's position on EP amendment 53 concerning article 28(5)(d), Belgium would like to recall that many Member States do have neither the means nor the legitimacy nor the legal basis for applying obligations that go beyond the general approach of the Council. Therefore, only the Council's general approach is acceptable.
- **Confidentiality (article 39 and sectoral legislations)**
Belgium fears that the product innovation of European companies is still compromised and questions the justification for requiring the publication of all information even if it is not relevant for the purposes of the risk assessment of the substances concerned. Moreover, Belgium still believes that a comitology procedure, involving the legislator, should be provided to interpret, specify and / or adapt, where appropriate, the information items listed in article 39 and in sectorial legislations for which a confidential treatment procedure can be applied. This mechanism would ensure a sufficient legal security. Leaving this issue entirely to EFSA's decision via internal arrangements could be considered as a form of disempowerment of the legislator and could lead to further appeals to the ECJ."

Internal Market and Industry

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| 22. | Regulation amending and correcting Regulation (EU)
No 167/2013 on the type- approval of agricultural vehicles
<i>Confirmation of the final compromise text with a view to
agreement</i> | 5125/19
ENT |
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Delegated or Implementing Acts

Environment

23. Commission Delegated Regulation (EU) .../... of 28.11.2018 amending Delegated Regulation (EU) No 1062/2014 as regards certain active substances/product-type combinations for which the competent authority of the United Kingdom has been designated as the evaluating competent authority
Delegated act - Intention not to raise objections
- 5090/19
14911/18 + ADD 1
ENV

Employment and Social Policy

24. Commission Regulation (EU) .../... of XXX implementing Regulation (EC) No 1177/2003 concerning Community statistics on income and living conditions (EU-SILC) as regards the 2020 list of target secondary variables on over-indebtedness, consumption and wealth as well as labour
Decision not to oppose adoption
- 5059/19
13627/18 + ADD 1
STATIS

Internal Market and Industry

25. Commission Directive (EU) .../... of XXX amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products
Decision not to oppose adoption
- 5102/19
15016/18 + ADD 1
MI

COREPER (PART 2)

Institutional Affairs

Appointments

- | | | |
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| 31. | Convening of a Conference of the Representatives of the Governments of the Member States - Appointment of an Advocate General and a Judge of the Court of justice and Judges of the General Court
<i>Approval</i> | 15541/1/18 REV 1
+ REV1 COR 1
COUR |
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Economic and Financial Affairs

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| 32. | ECA SR No 35/2018 on transparency of EU funds implemented by NGOs
<i>Designation of a Working Party</i> | 5080/19
FIN |
| 33. | Tenth annual report by the European Statistical Governance Advisory Board (ESGAB) | 5127/19
5128/19
STATIS |
| 34. | Transfer No DEC 36/2018 (Section III - Commission)
<i>Approval</i> | 5181/19
FIN |

General Affairs

- | | | |
|-----|--|----------------|
| 35. | Amendment of Protocol No 3 on the Statute of the Court of Justice of the European Union
<i>Confirmation of the final compromise text with a view to agreement</i> | 5190/19
JUR |
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Justice and Home Affairs

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| 36. | eu-LISA Regulation: Council Decision on the conclusion of a complementary arrangement with Schengen Associated States
<i>Request for the consent of the European Parliament</i> | 15832/18
15833/18
DAPIX |
| 37. | Status Agreement with Serbia on actions carried out by EBCG Agency in Serbia | 5153/19 |
| a) | Council Decision on the signing
<i>Adoption</i> | 15576/18
15579/18
FRONT |
| b) | Council Decision on the conclusion
<i>Request for the consent of the European Parliament</i> | 15581/18
FRONT |

Foreign Affairs

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| 38. | Council Decision and Implementing Regulation Chemical Weapons restrictive measures - listings
<i>Adoption</i> | 5069/19
15749/18
15750/18
CORLX |
| 39. | Council Decision on the Biological and Toxin Weapons Convention (BTWC) in the framework of the EU Strategy against Proliferation of Weapons of Mass Destruction
<i>Adoption</i> | 5275/19
15531/18
CORLX |
| 40. | Iran Human Rights restrictive measures - pre-notifications
<i>Adoption</i> | 5183/19
CORLX |
| 41. | Council Decision and Implementing Regulation Tunisia restrictive measures - review
<i>Adoption</i> | 5179/19 + COR 1
15573/18
15575/18
CORLX |
| 42. | Zimbabwe restrictive measures - pre-notification
<i>Approval</i> | 5254/19
CORLX |
| 43. | Conclusions on Nicaragua
<i>Adoption</i> | 5109/19
COLAC |
| 44. | Council Decision within the EEA Joint Committee concerning an amendment to Annex IX (Financial Services) to the EEA Agreement (Central Securities Depositories Regulation)
<i>Adoption</i> | 15339/18
15338/18
AELE |
| 45. | Venezuela restrictive measures - pre-notifications
<i>Approval</i> | 5175/19
CORLX |
| 46. | Council Implementing Decision and Implementing Regulation Syria restrictive measures - new listings
<i>Adoption</i> | 5176/19
5171/19
5173/19
CORLX |

EU positions for international negotiations

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|------|---|----------------------------|
| 47. | Council Decision on EU position in SADC-EU EPA Council regarding adoption of Rules of Procedure for Dispute Avoidance and Settlement and Code of Conduct for Arbitrators and Mediators
<i>Adoption</i> | 5343/19
15617/18
ACP |
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| 48. | Council Decision on EU position in SADC-EU EPA Trade and Development Committee regarding establishment of list of Arbitrators
<i>Adoption</i> | 5344/19
15619/18
ACP |
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