



Brussels, 24 February 2023
(OR. en)

6462/23
CRS CRP 5

SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE

8 February 2023

I. Adoption of the agenda

5919/23 + COR 1 OJ CRP1 5
6063/1/23 REV 1 OJ CRP2 5

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

2. Revision of Directive 2003/87/EC as regards aviation's contribution (ETS Aviation) 5440/23 + 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 the Commission is set out in document 5440/23 ADD 1.

- 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)

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 Lithuania

“Lithuania endorses the final compromise text on amendment of the Directive on the EU Emissions Trading System (ETS).

Lithuania supports the need for higher GHG mitigation ambitions to achieve long-term climate neutrality target. The strengthened and extended EU ETS to the new sectors is the effective tool for the GHG emission reduction. The EU ETS extension to transport, buildings and other sectors is an instrument that should provide EU level harmonized approach to mitigating non-ETS GHG emissions especially in transport sector. Nevertheless, it will also cause additional socio-economic challenges with the most adverse effects born on the Member States with lower GDP and the highest energy poverty rates.

In this regard, Lithuania welcomes the establishment of Social Climate Fund as a tool to mitigate adverse social impacts of the proposed EU ETS for buildings and road transport (ETS BRT) on vulnerable households, micro-enterprises, and transport users, through measures and investments as well as temporary direct income support. It is critical to ensure that the Member States with lower GDP and experiencing the greatest energy poverty at least recover the expenses incurred under the ETS BRT through auctioning rights and the Social Climate Fund.

Lithuania regrets that the Social Climate Fund will be established at a fixed size without possibility of the dynamical increase of its size in line with the increase of the price of allowances (especially over 55 Euros) to adequately react to the changes in costs incurred to consumers.

It is also regrettable that the established allowances price regulation mechanism may not effectively provide predictability of the carbon price for a longer period as it is only set for the years 2028 and 2029 (Art 30 h).”

Statements by the Commission are set out in document 5768/23.

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 Lithuania

“Lithuania endorses the final compromise text on amendment of the Regulation establishing a Social Climate Fund.

Lithuania supports the need for higher GHG mitigation ambitions to achieve long-term climate neutrality target. The strengthened and extended EU ETS to the new sectors is the effective tool for the GHG emission reduction. The EU ETS extension to transport, buildings and other sectors is an instrument that should provide EU level harmonized approach to mitigating non-ETS GHG emissions especially in transport sector. Nevertheless, it will also cause additional socio-economic challenges with the most adverse effects born on the Member States with lower GDP and the highest energy poverty rates.

In this regard, Lithuania welcomes the establishment of Social Climate Fund as a tool to mitigate adverse social impacts of the proposed EU ETS for buildings and road transport (ETS BRT) on vulnerable households, micro-enterprises, and transport users, through measures and investments as well as temporary direct income support. It is critical to ensure that the Member States with lower GDP and experiencing the greatest energy poverty at least recover the expenses incurred under the ETS BRT through auctioning rights and the Social Climate Fund.

Lithuania regrets that the Social Climate Fund will be established at a fixed size without possibility of the dynamical increase of its size in line with the increase of the price of allowances (especially over 55 Euros) to adequately react to the changes in costs incurred to consumers.

It is also regrettable that the established allowances price regulation mechanism may not effectively provide predictability of the carbon price for a longer period as it is only set for the years 2028 and 2029 (Art 30 h).”

Statements by the Commission are set out in document 5802/23.

Competitiveness

5. Meeting of the Council (Competitiveness (Internal Market, Industry, Research and Space)) on 2 March 2023: Agenda

The Presidency presented the main items on the agenda.

COREPER (PART 2)

General Affairs

22. Meeting of the Council (General Affairs) on 6 February 2023:
Follow-up

The above-mentioned item was withdrawn.

23. Meeting of the Council (General Affairs) on 21 February 2023:
Preparation
Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency

Economic and Financial Affairs

24. Meeting of the Council (Economic and Financial Affairs) on
14 February 2023: Preparation

- a) Economic and financial impact of Russia's aggression
against Ukraine
Exchange of views

The Committee prepared this item for the Council meeting.

- b) Economic governance review 5915/23
Exchange of views

The Committee prepared this item for the Council meeting.

- c) (poss.) Council Implementing Decisions under the 5531/23
Recovery and Resilience Facility 5536/23
Adoption

The Committee confirmed this agenda item and prepared it for the Council meeting.

- d) Preparation of the G20 Finance Ministers and Central 5969/23
Bank Governors meeting of 23-24 February 2023: G20
EU terms of reference
Approval

The Committee prepared this item for the Council meeting.

- e) Conclusions on the revision of the EU list of non-cooperative jurisdictions for tax purposes
Approval

5945/23

The Committee agreed to submit this item to the Council for approval as an A item.

- f) Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency and approved the attendance of the EIB President at the Council session and at the informal breakfast session, as well as the attendance of the ESM Managing Director and the Eurogroup President at the informal breakfast session.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

IPCR activation (earthquake in Türkiye/Syria)

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

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

- | | | |
|----|--|------------------------------|
| 6. | Replies to questions for written answer submitted to the Council by Members of the European Parliament
<i>Adoption by silence procedure</i> | 5937/23
PE-QE |
| a) | Liudas Mažylis (PPE)
"Incredibly dangerous actions of the Russian military at the Zaporizhzhia Nuclear Power Plant" | 5816/23 |
| b) | Filip De Man (ID)
"Abolition of Economic and Social Committee" | 5181/23 |
| 7. | Minutes of the Council meetings
<i>Approval</i>

AGRIFISH 11-12.12.2022 |

16024/22 + ADD 1 |

Appointments

- | | | |
|-----|--|-----------------------------------|
| 8. | Renewal of the Advisory Committee on Freedom of Movement for Workers 2022-2024
<i>Adoption</i> | 5525/23 + COR 1
5524/23
SOC |
| 9. | One member (AT) of the Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 5894/23
SOC |
| 10. | One member (DE) of the Advisory Committee for the Coordination of Social Security Systems
<i>Adoption</i> | 5901/23
SOC |
| 11. | One alternate member (DE) of the Advisory Committee for the Coordination of Social Security Systems
<i>Adoption</i> | 5902/23
SOC |

Other

- | | | |
|-----|---|-------------------|
| 12. | Attendance of third parties at the Working Party on Competitiveness and Growth (Better Regulation) on 15 February 2023
<i>Approval</i> | 5898/23
BETREG |
|-----|---|-------------------|

Judicial Affairs

- | | | |
|-----|---|----------------|
| 13. | Case C-19/23 (Denmark v European Parliament and Council of the European Union)
<i>Information note</i> | 5839/23
JUR |
| 14. | Case T-706/22 (Nicoventures Trading Ltd and Others v European Commission)
<i>Information note</i> | 5837/23
JUR |
| 15. | Judgment of the Court of 22 November 2022 in Case C-24/20 (Commission v Council)
<i>Information note</i> | 5824/23
JUR |

Transport

- | | | |
|-----|---|---|
| 16. | Council Decision on the signing of the Agreement between the EU and Japan on certain aspects of air services
<i>Adoption</i> | 5772/23 + ADD 1
16230/22
16232/22
AVIATION |
|-----|---|---|

Joint statement by France, Italy, Luxembourg, Spain, Portugal and Belgium is set out in document 5772/23 ADD 1.

Statement by the Commission

“The Commission considers that the Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and Japan on certain aspects of air services should refer to the person designated by the negotiator as the one to be empowered to sign. Therefore, the changes that provide for the President of the Council to designate the person who is to sign the agreement on behalf of the Union are not in accordance with the Treaties.

All acts of external representation in the process of treaty-making, including the signature of an international agreement and the subsequent expression of the consent to be bound by it are, in accordance with Article 17(1) TEU, the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union, where it is the High Representative who represents the Union externally according to Article 27(2) TEU. Without prejudice to this exception, when the Commission and another actor designated by the Council, co-sign an international agreement on behalf of the Union, only the signature of the Commission commits the Union.

The Court of Justice has emphasized that consistent practice by Union institutions that is not in accordance with the EU Treaties ‘cannot alter the rules of the Treaties that the institutions are obliged to respect’ (Case C-687/15 Commission v Council, EU:C:2017:803, para. 42).

While not opposing the adoption of the amendment by the Council by a qualified majority vote, the Commission reserves all its rights in this regard.”

Internal Market and Industry

- | | | |
|-----|---|---------------------------|
| 17. | EU adherence to OECD Recommendation on Responsible Business Conduct
<i>Approval</i> | 5834/23
COMPET |
| 18. | OECD Ministerial Declaration on Responsible Business Conduct
<i>Authorisation to sign an NBI</i> | 5753/1/23 REV 1
COMPET |

Fisheries

- | | | |
|-----|--|------------------|
| 19. | Commission's intention to join on behalf of the EU the IUU Fishing Action Alliance Pledge
<i>Approval of an NBI</i> | 5735/23
PECHE |
|-----|--|------------------|

Delegated or Implementing Acts

Internal Market and Industry

- | | | |
|-----|---|--|
| 20. | Commission Delegated Directive (EU) .../... of 16.12.2022 amending Directive 2000/53/EC of the European Parliament and of the Council as regards the exemptions for the use of lead in aluminium alloys for machining purposes, in copper alloys and in certain batteries
<i>Delegated act - Intention not to raise objections</i> | 5910/23
16215/22 + ADD 1
ENT |
| 21. | Commission Delegated Regulation (EU) .../... of 19.12.2022 amending Regulation (EC) No 1272/2008 as regards hazard classes and criteria for the classification, labelling and packaging of substances and mixtures
<i>Delegated act - Intention not to raise objections</i> | 5909/23 + ADD 1
16273/22 + ADD 1
ENT |

Joint statement by Slovakia and Finland

"Slovakia and Finland support the EU initiatives to implement the goals of the EU's Chemicals Strategy in order to better protect EU citizens and the environment and to boost an innovation for safe and sustainable chemicals.

However, we raised a few concerns regarding the Commission Delegated Regulation, which proposes to introduce three new hazard classes (ED, PBT/vPvB, PMT/vPvM) in Regulation 1272/2008 (CLP Regulation).

Slovakia and Finland are of the opinion that the EU initiatives related to the introduction of new hazard classes/criteria in the CLP Regulation should fully reflect and follow the outcome of the discussion at the UN level to ensure compliance with the UN GHS (United Nations' Globally Harmonized System of Classification and Labelling of Chemicals) principles and secure a global process of harmonization of chemicals. In our view this approach, which is also reflected in Recital 77 of the CLP Regulation has not been respected in the above mentioned Commission Delegated Regulation.

Additionally, according to our reading of Article 53(1) the power of the Commission is limited only to make the amendments to the CLP Regulation that have already been made/implemented at the UN level in UN GHS, since in our view only those amendments can be considered as non-essential element of the CLP Regulation. Amendments that have not been made/implemented to the UN GHS yet, should be considered as an essential element and cannot be implemented via a Delegated Act.

We are also of the opinion that introduction of new hazard classes in the CLP Regulation before any changes/amendments took place at UN level might create barriers in the global market of chemicals and negatively impact competitiveness and free movement of substances, mixtures and articles and thus might disadvantage EU industry at a global market.

From the reasons stated above Slovakia and Finland are against the Commission Delegated Regulation (EU) .../... of 19.12.2022 amending Regulation (EC) No 1272/2008 as regards hazard classes and criteria for the classification, labelling and packaging of substances and mixtures.”

COREPER (PART 2)

Judicial Affairs

- | | | |
|-----|---|----------------|
| 25. | Joined Cases C-498/22 to C-500/22 (validity of Article 3(2) of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions)
<i>Information note</i> | 5948/23
JUR |
| 26. | Case C-716/22 (validity of the agreement on the withdrawal of the United Kingdom from the European Union - right to vote of UK nationals in elections to the European Parliament)
<i>Information note</i> | 5934/23
JUR |
| 27. | Case C-746/22 (Slovenské Energetické Strojárne A. S. against Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága)
<i>Information note</i> | 5927/23
JUR |
| 28. | Case T-182/21 (Kurdistan Workers Party (“PKK”) v. Council)
<i>Information note</i> | 5972/23
JUR |
| 29. | Case T-782/22 (COGEBI v. Council)
<i>Information note</i> | 5792/23
JUR |
| 30. | Case T-6/23 (UC v. Council)
<i>Information note</i> | 5943/23
JUR |

The above-mentioned item was withdrawn.

Institutional Affairs

Other

- | | | |
|-----|---|------------------|
| 31. | Attendance of third parties at the meetings of COJUR-ICC - International Criminal Court WP during CZ Presidency
<i>Information note</i> | 5985/23
COJUR |
| 32. | Attendance of third parties at the Working Party on Terrorism (international aspects) on 14 February 2023
<i>Approval</i> | 5734/23
COTER |
| 33. | Attendance of a third party at the informal meeting of the members of the Political and Security Committee on 14 February 2023
<i>Approval</i> | 5992/23
COPS |

- | | | |
|-----|--|-----------------------------|
| 34. | Attendance of a third party at the informal meeting of the members of the Political and Security Committee on 15 February 2023
<i>Approval</i> | 5994/23
COPS |
| 35. | Attendance of a third party at the Working Party on Maritime Issues - EU Maritime Security Strategy during the first semester of 2023
<i>Approval</i> | 5740/23
POLMAR |
| 36. | Attendance of a third party at the Working Party on Maritime Issues - EU Maritime Security Strategy on 15 February 2023
<i>Approval</i> | 5741/23
POLMAR |
| 37. | Attendance of a third party at the Working Party on Statistics on 15 February 2023
<i>Approval</i> | 5874/23
ECOFIN
STATIS |
| 38. | Attendance of a third party at the Terrorism Working Party (TWP) meeting on 15 February 2023
<i>Approval</i> | 5687/23
CT |
| 39. | Attendance of a third party at the Working Party on Human Rights (COHOM) on 15 February 2023
<i>Approval</i> | 5840/23
COHOM |
| 40. | Attendance of a third party at the informal videoconference of the members of the Working Party on Financial Services on 15 February 2023
<i>Approval</i> | 5917/23
EF |
| 41. | Attendance of a third party at the Working Party on Public International Law on 15 February 2023
<i>Approval</i> | 5936/23
COJUR |
| 42. | Attendance of third parties at the Law Enforcement Working Party (Police) on 16 February 2023
<i>Approval</i> | 5963/23
ENFOPOL |

Transparency

- | | | |
|-----|---|-----------------|
| 43. | Public access to documents
Confirmatory application No 23/c/01/22
<i>Adoption</i> | 16152/22
INF |
| 44. | Public access to documents
Confirmatory application No 01/c/01/23
<i>Adoption</i> | 5625/23
INF |

Economic and Financial Affairs

- | | | |
|-----|--|--|
| 45. | ECA SR No 28/2022 on Support to mitigate Unemployment Risks in an Emergency (SURE)
<i>Approval</i> | 5860/23
ECOFIN |
| 46. | Appointment of a member of the European Statistical Governance Board (ESGAB) for a second term of office
<i>Adoption</i> | 5842/23
5996/23
ECOFIN
STATIS |
| 47. | New French commemorative coin
<i>Information note</i> | 5359/23
UEM |
| 48. | Transfer No DEC 01/2023 (Section III - Commission)
<i>Approval</i>
<i>Approval of a letter</i> | 5911/23
5777/23
FIN |
| 49. | Council's decision contrary to the EEAS request to lease a residence for the head of the EU delegation to the UK
<i>Approval</i>
<i>Approval of a letter</i> | 5956/23 + COR 1
FIN |
| 50. | ECA SR No 2/2023 on adapting cohesion policy rules to respond to COVID-19
<i>Designation of a Working Party</i>
<i>Attendance of the European Court of Auditors at the Working Party meeting</i> | 5888/23
FIN |
| 51. | ECA SR No 3/2023 on internal electricity market integration
<i>Designation of a Working Party</i>
<i>Attendance of the European Court of Auditors at the Working Party meeting</i> | 5984/23
FIN |
| 52. | Report on developments in the EU's export finance system
<i>Approval</i> | 5650/23 + ADD 1
CCG |

General Affairs

- | | | |
|-----|---|------------------|
| 53. | EP Resolutions and Decisions (February I 2023)
<i>Information note</i> | 5925/23
PE-RE |
| 54. | Conclusions on ECA SR No 22/2022 on EU support to coal regions
<i>Approval</i> | 5884/23
COH |

Justice and Home Affairs

- | | | |
|-----|--|---|
| 55. | Appointments in Europol 2023: Council Decision extending the term of office of a Deputy Executive Director
<i>Adoption</i> | 5421/23
5371/23
ENFOPOL |
| 56. | Council Decision on the conclusion of the Agreement on the exchange of personal data between Europol and New Zealand for fighting serious crime and terrorism
<i>Adoption</i> | 5959/23
10092/22
9269/22
ENFOPOL |
| 57. | Schengen Evaluation Recommendation – Malta: police cooperation
<i>Adoption</i> | 5873/23
5870/23
SCH-EVAL |
| 58. | Schengen Evaluation Recommendation – Norway: external borders
<i>Adoption</i> | 5941/23
5935/23
SCH-EVAL |
| 59. | Schengen Evaluation Recommendation – Iceland: external borders
<i>Adoption</i> | 5946/23
5944/23
SCH-EVAL |
| 60. | Schengen Evaluation Recommendation – Iceland: Schengen Information System
<i>Adoption</i> | 5953/23
5952/23
SCH-EVAL |
| 61. | Schengen Evaluation Recommendation – Sweden: external borders
<i>Adoption</i> | 5950/23
5949/23
SCH-EVAL |

Foreign Affairs

- | | | |
|-----|---|--|
| 62. | Joint Statement with the United States of America in the framework of the EU-US Energy Council
<i>Authorisation to negotiate an NBI</i> | 5962/23
COTRA |
| 63. | Union for the Mediterranean Ministerial Declaration on Trade
<i>Authorisation to negotiate an NBI</i> | 5893/23 + COR 1
MED |
| 64. | Restrictive measures in view of the situation in Myanmar – coordination with third countries
<i>Approval</i> | 5891/23
COASI |
| 65. | Council Decision and Regulation amending certain Decisions and Regulations concerning restrictive measures in order to insert provisions on a humanitarian exemption
<i>Adoption</i> | 5299/23
5294/23
5296/23
CORLX |

- | | | |
|-----|--|-----------------------------|
| 66. | Council Decision concerning restrictive measures in view of the situation in Zimbabwe
<i>Adoption</i> | 5682/23
5679/23
CORLX |
| 67. | Council Decision concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine
<i>Adoption</i> | 5703/23
5700/23
CORLX |
-