Council of the
European Union

Brussels, 11 April 2024
(OR. en, fr)

7724/24
ADD 1
LIMITE
CRS CRP 10

PUBLIC

SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE

13, 15, 18 and 20 March 2024

COREPER (PART 1)

Statements to the "II" items set out in doc. 7531/1/24 REV 1

WEDNESDAY 13 MARCH 2024

Internal Market and Industry

2. Regulation on prohibiting products made with forced labour on the Union market — ❶C — 7328/24
Analysis of the final compromise text with a view to agreement

Statement by Hungary

"Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets gender as providing equal chances and opportunities for women and men. In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender-disaggregated data' as 'data collection on the basis of biological sex' in the Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market since in Hungary, data collection is possible only on the basis of biological sex."

Statement by Latvia

"Latvia welcomes the main objective of the Regulation to lay down rules prohibiting economic operators from placing and making available on the Union market or exporting from the Union market products made with forced labour with a view to improving the functioning of the internal market, while contributing to the fight against forced labour.

At the same time, in Latvia's view, due to certain elements within the Regulation, a significant administrative burden is still placed on the shoulders of the Member States' competent authorities without a detailed analysis of the practical implementation of the Regulation. In Latvia's opinion, for the implementation and enforcement of the Regulation, it is necessary to choose such solutions that essentially reduce the administrative burden and costs, while simultaneously allowing to effectively achieve the main objective of the Regulation.

Latvia prefers a solution where the Commission makes all decisions, thus promoting legal certainty and a unified approach within the Regulation. By choosing this solution, the administrative burden imposed on the Member State competent authorities and the consumption of resources will be related only to sending the necessary information.

The timeline provided for in Article 5 (3), during which Member States inform the Commission and other Member States about the designated competent authorities and their areas of competence is disproportionately short. It will be necessary to develop a new regulatory framework within it, as well as to choose a competent authority or to create a new institution for the implementation of the Regulation. Therefore, a 24-month timeline for the designation of the competent authority with 18-months for the publication of the guidelines would have better fit the purpose.

Provision in Article 10 that stipulates that the competent authorities shall designate contact points to provide information and assistance to SMEs has no clear added value and combined with the provision for the Member States to ensure that the Union Network Against Forced Labour Products has the necessary resources to carry out tasks assigned to it, including sufficient budgetary resources, it will impose significant additional administrative burden and costs for the Member states.

We regret that the interconnection between the ICSMS (Information and Communication System for Market Surveillance) and the EU Single Window Environment for Customs shall be established at the latest within 4 years from the date of adoption of the implementing act (Article 7 (5)). In Latvia's view, this interconnection should be established simultaneously with the application of the Regulation and not after it, otherwise the tasks assigned to the customs services should be attached at the time of creation of an interconnection or an appropriate transition solution should be provided.

We also express regret that within the framework of the Regulation, the allocation of the investigations based on the existence of the Union's interests was not preserved, as this solution contributed to a wider involvement of the Commission in the implementation of the Regulation.

With that Latvia abstains from the vote on this agreement."

<u>Statement by the Commission</u>

"The European Commission notes that the final agreement reached by the co-legislators on the Regulation on prohibiting products made with forced labour on the Union market has evolved significantly in terms of the staff and resources required for its implementation by the Commission, compared to the legislative financial statement which accompanied the original proposal (COM(2022) 453 final of 14.09.2022), which was based on a decentralised model of implementation combined with support for implementation at EU level.

The Commission recalls that, for the current MFF, the Commission is operating under the principle of stable staffing imposed by the budgetary authority, and – given the wide array of additional tasks that have been conferred upon the Union since the beginning of the MFF - it is already under severe constraints, making it difficult to cover even the existing tasks' needs.

PUBLIC

There is no margin to finance additional officials or external staff. Therefore, any additional tasks conferred by the co-legislators upon the Commission shall be accompanied by corresponding resource reinforcements ensuring their effective implementation.

In light of the above, the additional Commission human resources required by the final agreement endorsed by the co-legislators will not allow the Commission to respect the principle of stable staffing.

This will require additional establishment plan posts and corresponding appropriations, to be authorised by the European Parliament and the Council during the annual budget procedure along with the related budgetary appropriations.

Furthermore, the Commission will also propose, in the framework of the annual budgetary procedure, the creation of additional budget lines under the Single Market Programme, the Customs Programme or both, financed from the Programme's available appropriations, in so far as allowed under the respective legal bases, as identified in the updated Legislative Financial Statement provided by the Commission, which will also be used to finance the Commission's implementation of the Regulation beyond the limit of the principle of stable staffing. These new budget lines will cover the cost of contractual agents and other administrative expenditures of the Commission in implementing the Regulation, to be authorised by the European Parliament and the Council during the annual budget procedure."

Agriculture

5. Revision of phytosanitary legislation ❶C 7297/24
Analysis of the final compromise text with a view to agreement

Statement by Poland

"Poland perceives the solutions contained in the proposed regulation as justified and having an expected added value. For this reason, Poland, in a spirit of compromise, supports the adoption of the draft regulation.
However, in Poland's view, the scope of the proposed regulation should be broader, so that it would fully address the problems identified during the application of the existing provisions of the Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants [...]. In Poland's view, it is possible to further reduce the burden on administration and operators without increasing the phytosanitary risk.
The proposed regulation has not fully removed the problem of the unfeasible recommendations issued for Poland (DG(SANTE) 2021-7273) to notify the results of inspections of wood packaging materials used for the transport of goods not subject to border phytosanitary controls, conducted outside phytosanitary border inspection posts, in the TRACES system. Such notifications are not possible due to the functionality of the TRACES system. Poland therefore expects the European Commission to urgently solve this problem by non-legislative measures.
Poland also expects the European Commission to urgently put forward a legislative initiative fulfilling the delegation to define derogations from the obligation to issue plant passports for certain goods in the case of sales through distance contracts."

FRIDAY 15 MARCH 2024

Environment

8. Regulation on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC — 7366/1/24 REV 1 + REV 1 COR 1
Analysis of the final compromise text with a view to agreement

Statement by the Czech Republic

"The Czech Republic in the spirit of compromise supports the provisional agreement and acknowledges its benefits from the waste management and recycling point of view.

However, the Czech Republic expresses serious concerns about the implications for international trade of the so-called "mirror clause" which can have significant negative consequences for third countries (especially, but not only, the developing ones), trade flows and EU supply chains, including impact on consumer goods.

The Czech Republic therefore regrets the inclusion of the "mirror clause", which should not become a precedent for future EU legislation or for free trade agreements of the EU."

Statement by Germany

"Die in der Verordnung über Verpackungen und Verpackungsabfälle enthaltene Spiegelklausel ist aus deutscher Sicht handelspolitisch problematisch, da sie als protektionistisches Instrument Handelshemmnisse schafft. Die Bundesrepublik Deutschland hält eine solche Klausel daher für nicht geeignet, den notwendigen Schutz des Binnenmarktes zu gewährleisten. Eine Aufnahme in die Verordnung stellte daher keine Präzedenz für zukünftige Gesetzgebung oder für Freihandelsabkommen dar.

Ungeachtet dieser Bedenken stimmt die Bundesrepublik Deutschland der Verordnung im Sinne eines Gesamtkompromisses zu, da deutsche Kernanliegen berücksichtigt wurden."

Courtesy translation

"For the Federal Republic of Germany, the mirror clause contained in the Packaging and Packaging Waste Regulation is problematic from a trade policy perspective, as it is a protectionist instrument creating barriers to trade. The Federal Republic of Germany therefore does not consider such a clause to be suitable for ensuring the necessary protection of the internal market. An inclusion of the clause in the Regulation would therefore not constitute a precedent for any future legislation or free trade agreements.

Notwithstanding these concerns, the Federal Republic of Germany agrees to the regulation in the spirit of an overall compromise, as other German key concerns have been considered."

Statement by Finland

"Finland endorses the final compromise text of the legislators while regrets problematic implications of certain requirements in the regulation.
Finland agrees with most of the targets and objectives of the packaging and packaging waste regulation and with the necessity of reducing the amount of packaging waste in order to reach the EU's over-all circular economy targets.
Finland considers that the final compromise text includes a number of appropriate exemptions and derogation possibilities for Member States and economic operators concerning the re-use targets.

PUBLIC

PUBLIC

However, Finland regrets that the provisions on derogating from the re-use targets for beverage packaging do not sufficiently take into account the very high recycling rates of deposit refund systems for beverage packaging (over 85 %) and do not sufficiently take into account the environmental impacts of re-use requirements in relation to the existing return systems of beverage packaging based on very high recycling rates."

<u>Internal Market and Industry</u>

13.	Directive on Corporate Sustainability Due Diligence *Analysis of the final compromise text with a view to agreement*	I C	7327/1/24 REV 1 + REV 1 COR 1

<u>Statement by Hungary</u>

"Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets gender as providing equal chances and opportunities for women and men. In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender equality' as 'providing equal chances and opportunities for women and men' in the Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859."

<u>Statement to the "I" item set out in doc. 7531/1/24 REV 1</u>

<u>FRIDAY 15 MARCH 2024</u>

<u>General Affairs</u>

22.	Agreement between the European Union and the United States of America setting forth security procedures for the launch of Galileo satellites from United States territory	C	7280/24 CSC
	a) Council Decision on the signing and provisional application of the agreement *Adoption*		7062/24 7061/24 CSC
	b) Council Decision on the conclusion *Agreement in principle* *Request for the consent of the European Parliament*		7058/24 7061/24 CSC

<u>Statement by the Commission</u>

"The Commission reiterates that it considers exercise of depository functions by either the Council or the Secretary General of the Council to be inconsistent with the attribution of external representation prerogatives. In the Commission's view, and as is defended in the pending court case in the case C-551/21 (Commission v Council), both the signature of an international agreement and the notification of the consent of the Union to be bound by it, fall within the Commission's prerogatives to ensure the external representation of the Union under Article 17(1) TEU (or the High Representative's under Article 27(2) TEU).

It follows that the depository functions in respect of an agreement in a non-CFSP area, to which the Union is a party, such as this one, should be conferred upon the Commission. The Commission reserves all its rights in this regard."

PUBLIC

COREPER (PART 2)

Statements to the "I" items set out in doc. 7598/3/24 REV 3

WEDNESDAY 13 MARCH 2024

Economic and Financial Affairs

53.	Council position on draft amending budget No 1 to the general budget for 2024: Amendments to the 2024 budget required due to the MFF revision *Adoption* *Approval of a letter*	S C	7381/24 7382/24 7102/24 FIN

Statement by Austria, Czech Republic, Denmark, Finland, France, Germany, Greece, the Netherlands, Romania, Spain and Sweden

"Austria, Czech Republic, Denmark, Finland, France, Germany, Greece, the Netherlands, Spain and Sweden take note of the Commission's proposal to recruit contract staff financed from a thematic Heading of the 2021-2027 MFF.

While this solution can, in an exceptional manner, be accepted in the specific case of the AI Office, Austria, Czech Republic, Denmark, Finland, France, Germany, Greece, the Netherlands, Spain and Sweden recall that the European institutions' staff should be financed within Heading 7 of the MFF, and reaffirms that the ceiling for this Heading is founded on the premise that all Union institutions adopt a comprehensive and strict approach for ensuring that staff resources are optimized in respect of the stable staffing principle, as well as for achieving efficiency gains in non-salary related administrative expenditure.

This solution should not therefore be considered as a precedent for future legislative proposals.

Should any further need arise, Austria, Czech Republic, Denmark, Finland, France, Germany, Greece, the Netherlands, Spain and Sweden reiterate the Council's requests towards the Commission to present, without prejudice to its right of initiative, in line with Article 241 TFEU, effective measures to ensure that such needs can be financed within the current ceilings of Heading 7 of the MFF. This request should be addressed in a timetable compatible with the annual budgetary procedure."

Justice and Home Affairs

58. Regulation on advance passenger information (API): enforcement — ❶C — 7399/1/24 REV 1, 7279/24 + COR 1, IXIM

Confirmation of the final compromise text with a view to agreement

Statement by Denmark

"Denmark does not take part in the adoption of the two Regulations on Advance Passenger Information.

As the regulation on API information for enhancing and facilitating external border checks builds upon the Schengen acquis Denmark, as a Schengen state, shall, within a period of six months after the Council has decided on the proposal, decide whether it will implement the measure in its national law thus creating an obligation under international law between Denmark and the other Member States bound by the measure. This mechanism ensures Danish participation on an intergovernmental basis according to the Protocol on the position of Denmark (Protocol 22), Article 4.

However, the situation is different for the Regulation on API information for the prevention, detection, investigation and prosecution of terrorist offences and serious crime. As this regulation does not build on the Schengen acquis Denmark does not have the same option to take part in this measure on an intergovernmental basis. Denmark has throughout the negotiations of the regulations underlined the potential benefits for both Denmark and for European air transporters to be able to use the new router to transfer API information to Denmark – also for the purposes of prevention, detection, investigation and prosecution of terrorist offences and serious crime as Denmark believes this to be in the interest of both Denmark and the Union. Denmark regrets that so far it has not been possible to find a solution.

While Denmark welcomes the wording in the agreement that allows for the use of the router on the basis of international agreements enabling the transfer of PNR data via the router, concluded by the Union with third countries that have concluded an agreement providing for their association with the implementation, application and development of the Schengen acquis, this also raises serious concerns for Denmark. A solution for non-EU states to conclude agreements with the Union ena-bling the transfer of PNR data via the router, without an equivalent solution for Denmark, will have as consequence that Denmark – an EU and Schengen Member State – would be in a less favourable position than Schengen associated states as regards cooperation with the Union in this field.

Denmark will continue to seek a pragmatic solution between the European Union and Denmark to remedy this important matter."

PUBLIC

59. Regulation amending Regulation (EU) 2018/1806 as regards the revision of the suspension mechanism ❶C 7526/24 + COR 1 VISA
Mandate for negotiations with the European Parliament

Statement by Malta

"Malta supports efforts to strengthen the suspension mechanism for visa-free travel to the EU. While taking note of the inclusion of the requirement of a 'genuine link' with reference to the 'investor citizenship schemes' in Article 8a(1)(e), Malta disagrees with its inclusion in the absence of an autonomous definition of the notion of 'genuine link' in the process of granting citizenship in EU Law or Public International Law. Malta expresses concern that the ambiguity stemming from the different interpretation of this notion could hinder the effective implementation of the mechanism and therefore lead to a potentially inconsistent application of the mechanism. Such lack of legal clarity not only undermines the proposal's effectiveness but also diminishes the EU's credibility in establishing a consistent and transparent framework for visa suspension.

Furthermore, Malta strongly rejects the notion that the mere existence of citizenship-by-investment legislative frameworks in third countries pose an inherent threat to the European Union. Rather, it argues that it is the operational aspects of these schemes, including inadequate due diligence procedures and their potential implications for public policy and internal security, that should be considered as a potential trigger for the visa suspension mechanism.

In this context Malta also strongly objects to the singling out of citizenship-by-investment legislative frameworks overlooking other pathways to citizenship."

LUNDI 18 MARS 2024

Economic and Financial Affairs

78. Firearms Regulation (recast) ❶C 7444/24 7758/24 UD
Confirmation of the final compromise text with a view to agreement

Statement by the Czech Republic and Slovakia

"The Czech Republic and the Slovak Republic has been continuously supporting the Proposal with the few exceptions regarding the scope, digitalization, simplification regimes and the duration of authorisations etc. The Czech Republic and the Slovak Republic welcome that most of their proposals were accepted also during the trilogues. Both Member States also expressed their openness to compromise.

On the other hand, we called for the change of the scope of the Proposal, to exclude all firearms listed in the Common Military List of the European Union from out of the scope of the regulation as we have already expressed on 29 November 2023. To reach legal certainty and save both public and private expenses, the Czech Republic and the Slovak Republic proposed that import and export of firearms listed both in Annex I and in the Common Military List shall be excluded out of the scope of the Proposal.

PUBLIC

The Czech Republic and the Slovak Republic consider the idea of different procedures for import and export shall cause confusion for the industry and businesses. An applicant dealing with the same goods would face a situation where it will be necessary to apply for an export authorisation under national legislation on the export of military goods, which will be further regulated by Council Common Position 2008/944/CFSP, and for an import authorisation under the Regulation. The obligations connected with different procedures would differ, which could add burdens on businesses. The authorities would face problems with inspection and data collection, as well as certificate issuing/confirmation.

In the view of the Czech Republic and of the Slovak Republic, there should be a strict boundary between the international trade in military firearms (considered as military equipment and regulated under national legislation) and the international trade in civilian firearms (regulated by the Regulation). The Czech Republic and the Slovak Republic would like to emphasize that the exclusion of firearms listed on the Common Military List would not affect the existing authorization procedures in the Member States. These procedures are functioning and may be even more stringent considering the sensitivity of military goods.

Based on the above mentioned statement, the Czech Republic and the Slovak Republic cannot support the compromise text of the proposal as it stands now. Therefore we abstain from the voting on the proposed text."

➊ First reading

S Special legislative procedure

C Item based on a Commission proposal