

Brussels, 30 April 2018
(OR. en)

8437/18
CRS CRP 13

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
11, 13 and 16 April 2018

I. Adoption of the agenda

7724/18 OJ CRP1 13
7739/1/18 REV 1 OJ CRP2 13 + CM 2362/18

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 11 APRIL 2018

Employment and Social Policy

2. Revision of Directive 96/71 on Posting of Workers 7350/18 + 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

"Article 3(7), second subparagraph, of Directive 96/71/EC as amended by the Directive adopted today, lays down that allowances specific to the posting shall be considered to be part of remuneration, unless they are paid in reimbursement of expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging. It also provides that "[t]he employer shall, without prejudice to paragraph 1(gb), reimburse the worker for such expenditure in accordance with national law and/or practice applicable to the employment relationship of the posted worker".

The Commission understands that the "national law and/or practice applicable to the employment relationship of the posted worker" is in principle the national law and /or practice of the home Member State, unless otherwise determined in accordance with EU rules on private international law. In the light of the Court's judgment in Case C-396/13 (paragraph 59), reimbursement also covers the situation where the employer defrays costs of the workers without the latter having first to pay them and then seek to have them reimbursed.

The Commission notes that the Directive adopted today foresees that, because of the highly mobile nature of work in international road transport, the revised rules on posting will apply to that sector only from the date of application of a legislative act amending Directive 2006/22/EC as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EC for posting drivers in the road transport sector.

The Commission calls on the European Parliament and the Council to adopt that act swiftly in order to adapt the rules to the specific needs of posted workers in the sector while ensuring proper functioning of the internal road transport market.

Until the date of application of the sector-specific legislative act, Directive 96/71/EC and Directive 2014/67/EU remain in force in road transport. These legislative acts do not apply to road transport operations which do not constitute posting.

The Commission will continue to closely monitor the proper enforcement of the current rules in particular in the road transport sector and where appropriate take action."

Statement by Hungary and Poland

"We are committed to the protection of workers, to combatting fraud and abuses, as well as safeguarding the integrity of the Internal Market. We believe that Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (hereafter: Directive 96/71/EC) created a delicate balance between the protection of workers and the freedom to provide services. We regret that the modification of that Directive was proposed before the effects of the application of its Enforcement Directive (2014/67/EU) ⁽¹⁾ could be seen.

We are of the opinion that the amendment of Directive 96/71/EC will restrict the freedom to provide services in an unjustified and disproportionate manner. Instead of being an instrument for the protection of workers it will likely be a tool for protectionist measures. With all likelihood it will render the legal institution of posting itself meaningless and will be highly detrimental to the competitiveness of the Union as a whole.

We are also concerned about the legal uncertainty of several provisions. In particular small and medium-sized enterprises (SMEs) will be affected negatively by the legal uncertainty and the increased administrative burden. The 2-year long transition period does not provide sufficient time to adapt to the new rules in particular for SMEs.

We are of the position that the amendment to Directive 96/71/EC and the separate proposal on laying down special posting rules in the road transport sector (*lex specialis*) should have been treated as a package. The negotiations on the *lex specialis* are still ongoing; therefore, the amendment to Directive 96/71/EC by definition cannot be considered as a balanced text.

While only the Court of Justice of the European Union is entitled to interpret EU law, nevertheless we are of the view that application of the current posting rules to the road transport sector is doubtful. It is our understanding that this legal interpretation will be unaffected by the amendment to Directive 96/71/EC either."

"⁽¹⁾ Directive 2014/67/EU on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System."

Energy

3. Regulation on governance of the Energy Union 6794/18 + COR 1
Preparation for the trilogue

The Committee prepared a revised mandate for the forthcoming trilogue.

Agriculture and Fisheries

4. Meeting of the Council (Agriculture and Fisheries) on 16 April 2018: Preparation

Regulation on a multi-annual plan for fish stocks in the Western Waters 7287/18
7245/18
Presentation by the Commission
Exchange of views

The Committee prepared this item for the Council.

FRIDAY 13 APRIL 2018

Internal Market and Industry

5. Regulation on fertilisers
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 11 April 2018.

Employment and Social Policy

6. Directive on the accessibility requirements for products and services
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 12 April 2018.

Internal Market and Industry

7. Regulation on SatCab 6728/18
Preparation for the trilogue

The Committee prepared a slightly revised mandate for the forthcoming trilogue.

COREPER (PART 2)

WEDNESDAY 11 APRIL 2018

Justice and Home Affairs

26. Dublin Regulation 7674/18
State of play

The Committee took note of the information given by the Presidency on the state of play of discussions on the Dublin Regulation and on the further handling of the file.

Foreign Affairs

30. EU-Western Balkans Summit (Sofia, 17 May 2018) 7677/18
Policy debate

The Committee continued its exchange of views on the upcoming EU-Western Balkans Summit and agreed to revert to this issue at its next session.

27. Meeting of the Council (Foreign Affairs) on 16 April 2018:
Preparation

- a) Current Affairs

The Committee prepared this item for the Council.

- b) Russia
Exchange of views

The Committee prepared this item for the Council.

- c) Western Balkans
Exchange of views

The Committee agreed to remove this item from the agenda of the Council.

- d) Iran
Exchange of views

The Committee prepared this item for the Council.

- e) Future of external financing instruments
Exchange of views

The Committee prepared this item for the Council.

- f) Other items in connection with the Council meetings

The EEAS provided further information regarding the Council meeting. The Committee agreed to add an item on Syria to the agenda of the Council and considered that it may need to revert to the text of the Council conclusions on this topic in view of the developing situation.

Foreign Affairs

- 28. Scope of Strategic Partnership Agreement with Japan
Exchange of views

The Committee had an exchange of views on the scope of provisional application under the Strategic Partnership Agreement with Japan and invited the negotiator to conclude the negotiations with Japan on this basis.

General Affairs

- 29. Meeting of the Council (General Affairs) on 17 April 2018:
Preparation

- a) Reform of the Electoral Act
Approval

The Committee prepared this item for the Council.

- b) Rule of Law in Poland / Article 7(1) TEU Reasoned
Proposal
State of play

The Committee prepared this item for the Council.

- c) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

Economic and Financial Affairs

31. Facility for Refugees in Turkey - Financing of the second tranche 7653/18
Exchange of views

The Committee continued its exchange of views on the financing of the second tranche of the Facility for Refugees in Turkey and agreed to return to this issue at its next session.

MONDAY 16 APRIL 2018 (in Luxembourg)

Foreign Affairs

55. Conclusions on Syria 7777/18
Adoption MAMA
transferred from Part I

The Committee reverted to the text of the conclusions on the basis of a revised draft and agreed on a further amended version, as set out in document 7941/18.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

Military mobility

The Committee took note of the presentation by the EEAS and the Commission.

EMA relocation

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

US trade measures

The Committee took note of the information provided by the Commission. This item was held in a restricted session.

"I" items approved

COREPER (PART 1)

Institutional Affairs

Written questions

- | | | |
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| 8. | Replies to questions for written answer submitted to the Council
by Members of the European Parliament
Adoption by silence procedure | 7673/18
PE-QE |
| a) | José Ignacio Salafranca Sánchez-Neyra (PPE)
'Cyber security' | 7236/18 |
| b) | João Pimenta Lopes (GUE/NGL)
'Adoption of sanctions against the Bolivarian Republic of
Venezuela' | 7000/18 + COR1 |
| c) | Jeroen Lenaers (PPE)
'Composition of the European Commission' | 7046/18 |
| d) | Barbara Kappel (ENF)
'White Paper on the Future of Europe' | 6999/18 |
| e) | Merja Kyllönen (GUE/NGL)
'Rare diseases' | 7022/18 |
| f) | Merja Kyllönen (GUE/NGL)
'Harmful impurities in indoor air' | 7237/18 |
| g) | Lynn Boylan (GUE/NGL)
'Irish Government's intention for Ireland to join PESCO' | 7238/18 |
| 9. | Minutes of Council meetings
<i>Approval</i> | |
| a) | AGRIFISH 29.01.2018 | 5842/18
+ COR 1
+ ADD 1
+ ADD 1 COR 1
REV 1 |
| b) | EYCS 15.02.2018 | 6224/18 |
| c) | AGRIFISH 19.02.2018 | 6291/18
+ COR 1
+ ADD 1 |

Appointments

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|-----|--|--------------------------------------|
| 10. | Two members (SE, DK) and one alternate member (DK) of the Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 7487/18
7535/18
7537/18
SOC |
| 11. | One alternate member (SE) of the Governing Board of the European Agency for Safety and Health at Work
<i>Adoption</i> | 7581/18
SOC |
| 12. | Members and alternate members (LU) of the Advisory Committee on Freedom of Movement for Workers
<i>Adoption</i> | 7551/18 + COR 1
7550/18
SOC |

Judicial Affairs

- | | | |
|-----|---|------------------|
| 13. | Case T833/17 (Ryanair DAC and Airport Marketing Services Ltd v European Commission)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 7588/2018
JUR |
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Energy

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| 14. | Memorandum of Understanding - EU-Egypt
<i>Authorisation to sign on behalf of the European Union</i> | 7388/18
ENER |
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Statement by Sweden

"Sweden fully recognises the importance of the external dimension of the Energy union. The objectives of the Energy Union can only be met if the external and the internal dimensions of energy policy are mutually reinforcing.

Sweden welcomes in general strengthened cooperation between Egypt and the EU in the field of energy policy, in particular on energy efficiency and renewable energy. Any partnership agreement in the field of energy and climate between the EU and other countries should adhere to the ambitions of the Paris Agreement and support a transition to sustainable renewable energy. In light of EU's climate leadership, Sweden is concerned when new Partnership agreements [MoU] are established that include unqualified further developments and encourage investments in sectors such as oil. This may be counterproductive to the needed reduction in greenhouse gas emissions. Sweden is of the view that the inclusion of such sectors in any forthcoming or reassessed agreements need to be analysed thoroughly."

Transport

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|-----|--|--------------------------------|
| 15. | Council Decision on the conclusion of the EU-US agreement on cooperation in the regulation of civil aviation safety
<i>Request for the consent of the European Parliament</i> | 7547/18
7482/18
AVIATION |
|-----|--|--------------------------------|

Internal Market and Industry

- | | | |
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| 16. | Airworthiness Regulation
<i>Adoption</i> | 7609/18
6809/18
UD |
| 17. | Conclusions on Import Procedures (CoA SR No 19/2017)
<i>Adoption</i> | 7473/18
7474/18
UD |
| 18. | Council Decision on the conclusion of the EU-New Zealand agreement on cooperation and mutual administrative assistance in customs matters
<i>Adoption</i> | 7307/1/18 REV 1
7712/16
UD |

Sport

- | | | |
|-----|---|------------------|
| 19. | Approval of replacement of an EU representative in the WADA Foundation Board
<i>Confirmation of delegations' positions</i> | 7402/18
SPORT |
|-----|---|------------------|

Agriculture

- | | | |
|-----|---|---------------------------|
| 20. | Conclusions on EU and its MS' participation in UNFF 13
<i>Adoption</i> | 7469/18 + ADD 1
FORETS |
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Fisheries

- | | | |
|-----|--|---|
| 21. | Council Decision on opening negotiations on Fisheries Partnership Agreement with the Kingdom of Morocco
<i>Adoption</i> | 7448/18 + ADD 1
7548/18 + ADD 1
PECHE |
|-----|--|---|

Joint statement by Denmark and Germany

"Denmark and Germany emphasize the importance of EU's contribution towards resource conservation and environmental sustainability through fishing only on surplus resources and preventing the overfishing of stocks within the sustainable fisheries partnership agreements. Generally, we believe that fisheries within fisheries agreements provide for improvement of sustainable fisheries.

Denmark and Germany underline that the Union must promote the respect of human rights and democratic principles when entering into bilateral agreements. This is clearly stated in the negotiating mandate to the Commission and must be clear from the protocol.

We stress the importance of complying with EU law, of which international law may be considered an integral part, when negotiating a new protocol between EU and the Kingdom of Morocco.

We note the progress made during the current fisheries protocol to document the distribution of the financial support for the fishing sector, in particular in the regions of Western Sahara, and encourage furthering this work.

A future fisheries partnership agreement and protocol between EU and the Kingdom of Morocco must respect the judgement of the European Court of Justice (Case C-266/16). Denmark and Germany expect the Council Legal Service to confirm that a negotiated agreement and protocol are in compliance with the judgement.

Taking into account the above mentioned, Denmark and Germany support the Council Decision to authorise the Commission to open negotiations on behalf of the European Union on a new partnership agreement and protocol with the Kingdom of Morocco."

Delegated or Implementing Acts

Internal Market and Industry

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| 22. | Commission Delegated Regulation (EU) .../... of 5.3.2018 supplementing Regulation (EU) 2017/1001 of the European Parliament and of the Council on the European Union trade mark, and repealing Delegated Regulation (EU) 2017/1430
<i>Delegated act - Intention not to raise objections</i> | 7510/18
6890/18
PI |
| 23. | Commission Delegated Regulation (EU) .../... of 9.3.2018 amending Annex I to Regulation (EU) No 167/2013 of the European Parliament and of the Council and Commission Delegated Regulation (EU) No 1322/2014 as regards the adaptation of the vehicle construction and general requirements for the approval of agricultural and forestry vehicles
<i>Delegated act - Intention not to raise objections</i> | 7573/18
7082/18 + ADD 1
AGRI |

Health

- | | | |
|-----|---|--------------------------------------|
| 24. | Commission Regulation (EU) .../... of XXX amending Regulation (EC) No 847/2000 as regards the definition of the concept 'similar medicinal product'
<i>Decision not to oppose adoption</i> | 6480/18
6211/18
PHARMA |
| 25. | Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food
<i>Decision not to oppose adoption</i> | 7211/18
7031/18 + ADD 1
DENLEG |

COREPER (PART 2)

Judicial Affairs

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| 32. | Case T-65/18 (Bolivarian Republic of Venezuela v. Council)
<i>Information note for the Permanent Representatives Committee</i>
(Part 2) | 7492/18
JUR
CORLX |
| 33. | Case C-266/16 (Western Sahara Campaign UK)
<i>Information note for the Permanent Representatives Committee</i>
(Part 2) | 7585/18
JUR
CORLX |

Institutional Affairs

34. Minutes of Council meetings *Approval*

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| a) | FAC 22.01.2018 | 5578/18 + ADD 1 |
| b) | RGEM 28.02.2018 | 6721/18 |

Appointments

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| 35. | A member and an alternate member (DE) of the Committee of the Regions
<i>Adoption</i> | 7530/18
7529/18
CDR |
| 36. | A member (DE) of the Committee of the Regions
<i>Adoption</i> | 7534/18
7533/18
CDR |

Other

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| 58. | Handling of documents internal to the Council | 7695/18 |
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Economic and Financial Affairs

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| 37. | Council Decision approving the external auditors of the Banque de France
<i>Adoption</i> | 7330/18
7329/18
UEM |
| 38. | Directive on markets in financial instruments
<i>Decision to consult an institution or body</i> | 7445/18
EF
ECOFIN |

- | | | |
|-----|---|--------------------------------------|
| 39. | Directive on Cross-Border Distribution of Funds
<i>Decision to consult an institution or body</i> | 7485/18
EF
ECOFIN |
| 40. | Appointment of three members of the Article 11.3 Committee of the Statute the European System of Central Banks and of the European Central Bank
a) Decision
<i>Approval</i>
b) Reply to the letter of the ECB President
<i>Approval</i> | 7491/18
7415/18
7559/18
UEM |
| 41. | New Belgian Commemorative coin | 7747/18
UEM
ECOFIN |

The above-mentioned item was withdrawn.

Justice and Home Affairs

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|-----|---|--------------------------------|
| 42. | Conclusions on malicious cyber activities
<i>Approval</i> | 7517/18
CYBER
COPS |
| 43. | Schengen evaluation Recommendation - France police cooperation
<i>Adoption</i> | 7579/18
7578/18
SCH-EVAL |

Foreign Affairs

- | | | |
|-----|---|--|
| 44. | Civilian crisis management missions - New warehouse -
Decision
<i>Adoption</i> | 7443/18
15386/17
CORLX |
| 45. | Democratic People's Republic of Korea restrictive measures -
new EU designations - Decision and Implementing Regulation
<i>Adoption</i> | 7565/18
7476/18
7479/18
CORLX |
| 46. | Democratic Republic of the Congo restrictive measures -
Implementing Decision and Regulation
<i>Adoption</i> | 7568/18
7279/18
7281/18
CORLX |
| 47. | Syria restrictive measures - pre-notifications
<i>Adoption</i> | 7587/18
CORLX |

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| 48. HR Report on ALTHEA SMR-27
<i>Approval</i> | 7601/18
6955/18
CSDP/PSDC
BIH |
| 49. Regulation on protection against dumped or subsidised imports from countries not member of the European Community (TDI Modernisation)
<i>Adoption of the Council's position at first reading and of the statement of the Council's reasons</i> | 7631/1/18 REV 1
7631/18 ADD 1
5700/18 + ADD 1
WTO |

Statement by Sweden

"The proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 will contribute to an increased level of trade protection, and thus harm the competitiveness of the EU industry."

Statement by the Netherlands

"The Netherlands can support the final agreement on the Modernisation of Trade Defence Instruments (MTDI). However, the Netherlands remains very concerned about the newly created possibility to enforce trade defense measures to be applied on the continental shelf by the Customs Authorities.

The Netherlands wants to make sure that this element of the MTDI proposal will be implemented only when the Union legislation has been amended in such a way as to facilitate the levying and collecting of duties and the necessary changes have been made to the customs IT systems in order to allow these systems to perform this new task. These changes need to be effected as part of the broader IT developments of the Multi Annual Strategic Plan (MASP) and the Union Customs Code IT work program. These conditions will have to be met in the further deliberations on the implementing act in the relevant Council working parties before its adoption."

Joint statement by Denmark and Malta

"Denmark and Malta note that the outcome on the Trade Defence Instruments Modernisation dossier is overall balanced and acceptable. Whilst accepting this outcome, we are nevertheless expressing our concern with the inclusion of the possibility of applying duties on the continental shelf.

This element was not part of the Commission proposal or the original Council position. It is disproportionate to the problem it aims to address and risks becoming an unreasonable administrative burden for certain Member States, in the form of practical monitoring, surveillance, costs and enforcement by the Customs Authorities.

In view of the work on this element, we would like to stress the need for a mechanism that is the least burdensome possible, both from the perspective of administration as well as of costs and call on the Commission to provide clarity at the earliest. The Commission should also not submit a proposal for an implementing act until all Member States are satisfied that the new provisions will be manageable in practice."

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|-----|---|--|
| 50. | Council Decision within the EEA Joint Committee concerning an amendment to Annex XIII (Transport) to the EEA Agreement - 2018
<i>Adoption</i> | 6798/18
6797/18
AELE |
| 51. | Council Decision within the EEA Joint Committee concerning an amendment to Annex XXII (Company Law) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement
<i>Adoption</i> | 6802/18
6801/18
AELE |
| 52. | Annual Progress Report on the Implementation of the EU Strategy Against WMD (2017)
<i>Approval</i> | 7483/18
7634/18 + ADD 1
+ ADD 2
CONOP |
| 53. | EU position for Association Committee with Algeria concerning the update of bilateral concessions on agricultural products
<i>Adoption</i> | 7682/18
7414/18
MAMA
AL |
| 54. | Conclusions on South Sudan
<i>Adoption</i> | 7710/18
COAFR |
| 55. | Conclusions on Syria
<i>Adoption</i> | 7775/18
MAMA |
| 57. | Conclusions on Chemical Disarmament and Non-Proliferation
<i>Approval</i> | 7778/18
CONOP |

Delegated or Implementing Acts

Foreign Affairs

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| 56. | Commission Delegated Regulation (EU) .../... of 19.2.2018 amending Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America
<i>Delegated act - Intention not to raise objections</i> | 7678/18
6345/18 + ADD 1
COMER |
|-----|--|-------------------------------------|