

Brussels, 25 May 2018
(OR. en)

9326/18
CRS CRP 15

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE (Part 2)
25 and 27 April 2018

I. Adoption of the agenda

8239/1/18 REV 1 OJ CRP2 15 COMIX 203
8234/18 OJ CRP1 15

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 2)

Justice and Home Affairs

2. Regulation establishing a European Travel Information and Authorisation System (ETIAS) 7986/18
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 Belgium, Germany, Denmark and Sweden

"Declaration by Belgium, Germany, Denmark and Sweden on article 75 of the regulation establishing a European Travel and Information and Authorisation System (ETIAS)

The wording of article 75 of the ETIAS-regulation reads:

"The revenues generated by the ETIAS shall constitute internal assigned revenue in accordance with Article 21(4) of Regulation (EU, EURATOM) No 966/2012. They shall be assigned to cover the costs of the operation and maintenance of the ETIAS. Any revenue remaining after covering these costs shall be assigned to the Union budget."

While acknowledging the possibility to specify revenue as internal assigned revenue in the EU-budget according to article 21(4) of the financial regulation, Belgium, Germany, Denmark and Sweden would like to highlight the special character of the agreement to define fees generated by ETIAS as internal assigned revenue in the EU-budget, also considering that these fees could have constituted revenue for Member States.

As such, Belgium, Germany, Denmark and Sweden would like to clarify that the current agreement should be seen as a pragmatic solution for financing operational and maintenance costs for the ETIAS by fees generated. At the same time, Belgium, Germany, Denmark and Sweden consider that the revenue remaining after covering these costs is only assigned to the EU-budget in the sense that they increase the general revenue of the EU-budget and that the agreement doesn't provide for any possibility to use remaining revenue for other expenditures in the EU-budget. Belgium, Germany, Denmark and Sweden ask the Commission to take this into consideration in future budgetary proposals.

Finally, Belgium, Germany, Denmark and Sweden emphasize that the agreement on article 75 of ETIAS is strictly without prejudice to any future discussions on the financing of the EU-budget, whether this concerns so called internal or external resources, and reminds all parties that such discussions fall under the competency of the Council and are decided with unanimity among Member States."

3. Preparation of the fifth Euro-African Ministerial Conference on Migration and Development (Rabat Process) *Policy debate*

The Committee took note that there is no consensus on the texts of the Marrakesh Ministerial meeting, and that one delegation not to subscribe the Political Declaration and Action Plan and therefore not to be mentioned in the list of signing parties. This being the case, the two documents will commit only the 27 Member States who are part of the Rabat Process and the reference in the text to the European Union should be deleted. The representatives of the European Commission and of the High Representative present at the meeting can also be mentioned in the Declaration. Belgium, as chair of the Rabat Process, was asked to ensure that those changes are applied to the text.

4. Post-Cotonou - Negotiating mandate
State of play and way forward

8062/18 + ADD 1

The Committee held an exchange of views on the abovementioned topic and agreed to return to this issue at one of its forthcoming sessions.

Statement by the Commission

"I. Declaration on the inclusion of a substantive legal base in the proposal for a Council Decision authorising the opening of negotiations on a Partnership Agreement with the countries of Africa, the Caribbean and the Pacific (ACP)

The Commission states that it disagrees with the inclusion of a substantive legal base for opening the negotiations of the Partnership Agreement between the European Union and the countries of the African, Caribbean and Pacific Group of States, considering it unnecessary, as the legal base will be determined at the end of the negotiations on the basis of the scope and content of the Agreement.

If it were for a substantive legal base to be included in the decision, then, in accordance with case-law, Article 217 TFEU is the sole appropriate legal base, given its all-encompassing nature. It empowers the Union to undertake commitments towards non-member countries in all fields covered by the Treaties, including CFSP. The Commission states that it disagrees with the addition of Article 37 TEU as a substantive legal base for opening of negotiations of the Partnership Agreement between the European Union and the countries of the African, Caribbean and Pacific Group of States.

II. Declaration on the introduction of alternative language in Article 1 of the proposal for a Council Decision authorising the opening of negotiations on a Partnership Agreement with the countries of Africa, the Caribbean and the Pacific (ACP), to the effect that the Partnership Agreement is determined as "mixed"

The Commission reiterates its opinion that the final legal nature of the Agreement will be determined at the end of the negotiations on the basis of the scope and content of the Agreement.

III. Declaration on the addition of separate intergovernmental Decision of the Representatives of the Governments of Member States, meeting within the Council, relating to the competences of the EU Member States

The Commission states that the proposed adoption of a Decision of the Representatives of the Governments of the Member States, meeting within the Council, goes beyond the Treaties, and should therefore be the subject of a specific decision by the Commission, on whether to accept or not to negotiate on behalf of the Member States. Member States would have to authorise, in accordance with their constitutional requirements, the Commission to negotiate on their behalf."

General Affairs

5. Meeting of the Council (General Affairs) on 14 May 2018:
Agenda

The Presidency presented the main points on the agenda.

6. Relations with the EP (April 2018)
Debriefing

The above-mentioned item has been withdrawn.

7. MFF post 2020 - Involvement of the European Parliament in the preparatory work of the MFF post 2020 8172/18
Information from the Presidency

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

8. Preparation for the MFF post 2020
Information from the Commission

The Committee took note of the information provided by the Commission. Following a brief discussion on the request of one delegation regarding the provision of interpretation on demand during the proceedings of the working party dealing with the MFF, the Presidency concluded that the situation was unchanged, but it would continue to reflect on the matter.

Economic and Financial Affairs

9. Facility for Refugees in Turkey - Financing of the second tranche
Political Endorsement

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 one of its forthcoming sessions.

General Affairs

10. Regulation establishing the European Defence Industrial Development Programme (EDIDP) 8143/18 + ADD 1
Preparation for the trilogue

The Committee held an exchange of views on the abovementioned topic and agreed to return to this issue at its next session.

Statement by Austria

"As regards Art. 7 draft EDIDP regulation, AT fully agrees with the need to ensure that the results of the actions supported remain at the disposal of the Union and its MS. However, the provision has to comply with EU legal principles, in particular the principles of effectiveness and of legal certainty.

At the same time, legal scrutiny of the provision by Austria came to the conclusion that the use of the term “guarantee” proposed in Art. 7 para 1 lit c is legally problematic, which already has been raised by Austria in preparation of this COREPER meeting. In particular, Austria sees the risk that the ECJ interpretation on this term would result in legal consequences, in particular liabilities for Member States.

In order to avoid the risk that the provision in question cannot be applied by Member States, a legal examination by Commission and Council Legal Service would be important for Austria."

11. Reform of the Electoral Act 8247/18
Decision to use the written procedure

The Committee agreed to delay the decision on the use of the written procedure in order to allow more time for one delegation to clear its parliamentary reservation. The Committee also took note of the Presidency's indication that, in line with the advice of the Legal Service, the Council will proceed with a replacement and repeal of the existing electoral act, rather than with a mere amending act.

Statement by Belgium

"The proposal based on Article 223 TFEU put forward on 11 November 2015 by the European Parliament for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage (the 'Electoral Act'), has been discussed at length in the Council. Establishing an obligatory minimum threshold has been the last outstanding issue before reaching consensus among Member States.

Along with several other delegations, Belgium has consistently argued in favour of a facultative threshold since this would uphold the prospect of preserving political – as well as cultural and linguistic diversity, cfr. Art. 3 TEU - diversity within the European Parliament. It would also ensure trust in our citizens by protecting their ability to vote for smaller parties who would have a greater chance of gaining European political representation, and have the voice of the citizens they represent heard within Parliament.

Belgium is not in the capacity to pronounce itself on the compromise proposal with regard to the obligatory threshold. Therefore Belgium will abstain and not object the consensus."

COREPER (PART 1)

Internal Market and Industry

27. Regulation on the Single Digital Gateway
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 23 April 2018.

Energy

28. Regulation on governance of the Energy 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 26 April 2018.

Youth

29. Regulation on the European Solidarity Corps (ESC)
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 24 April 2018.

Internal Market and Industry

30. Directive on copyright in the Digital Single Market 8145/18
Mandate for negotiations with the European Parliament

The Committee had an exchange of views and agreed to revert.

IV. Any other business

COREPER (PART 2)

US trade measures

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

COREPER (PART 1)

None.

"I" items approved**COREPER (PART 2)****Economic and Financial Affairs**

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| 12. | ECA SR No 8/2018 on EU support for productive investments in businesses
<i>Designation of a Working Party</i> | 7942/18
FIN |
| 13. | Mobilisation European Globalisation Adjustment Fund (EGF/2017/010 BE/Caterpillar)
Transfer No DEC 05/2018 (Section III - Commission)
<i>Approval</i> | 7858/18
FIN |
| 14. | Mobilisation European Globalisation Adjustment Fund (EGF/2018/000 TA 2018)
Transfer No DEC 06/2018 (Section III - Commission)
<i>Approval</i> | 7826/18
FIN |
| 15. | Transfer No DEC 7/2018 (Section III - Commission)
<i>Approval</i> | 8123/18
FIN |
| 16. | Transfer No DEC 8/2018 (Section III - Commission)
<i>Approval</i> | 8125/18
FIN |
| 17. | Transfer No DEC 9/2018 (Section III - Commission)
<i>Approval</i> | 8126/18
FIN |
| 18. | Cooperation between the European Parliament and the Council during the annual discharge procedure
<i>Endorsement</i> | 8099/18
FIN |
| 19. | Council position on draft amending budget No 1/2018
<i>Adoption</i> | 8107/18
FIN |
| 20. | Decision on the mobilisation of the EU Solidarity Fund for Greece, Spain, France and Portugal
<i>Adoption</i> | 8108/18
FIN |
| 21. | Draft joint statement on the dates for the budgetary procedure and modalities for the functioning of the Conciliation Committee in 2018
<i>Approval</i> | 7984/18
FIN |

General Affairs

22. EP Resolutions and decisions (April 2018) 8035/18
PE-RE

Foreign Affairs

23. Council conclusions on Court of Auditors' Special Report on Assistance to Myanmar/Burma 7952/18
Adoption DEVGEN
24. European Union's position for the 4th EU-Republic of Moldova Association Council (Brussels, 3 May 2018) 8152/18
Decision to use the written procedure for the adoption COEST
WTO

Other items

25. Interim approval of a cryptographic product 8006/18 **R-UE**
Approval CSCI
CSC
26. Renewal of Agreement between Euratom and KEDO 7886/18
Adoption 7884/18 **R-UE**
ATO

COREPER (PART 1)

Institutional Affairs

Written questions

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| 31. | Replies to questions for written answer submitted to the Council by Members of the European Parliament
<i>Adoption by silence procedure</i> | 8136/18
PE-QE |
| a) | Rachida Dati (PPE)
'Selection criteria for projects under Permanent Structured Cooperation' | 8157/18 |
| b) | Sophia in 't Veld (ALDE) and Thierry Cornillet (ALDE)
'US tax reform affecting EU citizens and SMEs' | 7602/18 |
| c) | Marina Albiol Guzmán (GUE/NGL)
'List of EU tax havens and exclusion of Panama' | 8008/18 |
| d) | Jadwiga Wiśniewska (ECR)
'Cross-border placement of children in foster families' | 7604/18 |
| e) | Josef Weidenholzer (S&D)
'Death of Madina Hussiny at the Croatia-Serbia border' | 7605/18 |
| f) | Brian Crowley (ECR)
'Regulation of vulture funds' | 7493/18 |

Other

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| 32. | Seven members of the Management Board of the European Food Safety Authority: selection and voting procedure
<i>Endorsement</i> | 7957/18
AGRILEG |
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Agriculture

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| 33. | Decision on EU seed equivalence for Brazil and the Republic of Moldova
<i>Mandate for negotiations with the European Parliament</i> | 7841/18 + COR 1
+ ADD 1
AGRILEG
SEMENCES |
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Fisheries

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| 34. Council Decision denouncing the Partnership Agreement with the Union of the Comoros
<i>Adoption</i> | 7843/18 + ADD 1
14423/17
PECHE |
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Delegated or Implementing Acts

Transport

- | | |
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| 35. Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 1178/2011 as regards the automatic validation of Union flight crew licences and take-off and landing training
<i>Decision not to oppose adoption</i> | 8100/18
6979/18
TRANS |
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