

Brussels, 4 June 2018
(OR. en, fr)

9642/18
CRS CRP 18

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
15 and 16 May 2018

I. Adoption of the agenda

8636/1/18 REV 1 OJ CRP2 18
8749/18 OJ CRP1 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 2)

Justice and Home Affairs

2. Dublin Regulation (recast) 8591/18
State of play and guidance for further work

The Committee held an exchange of views and decided to revert to this issue at its meeting on 23-24 May 2018 in the context of the preparation of the Council (Justice and Home Affairs) on 4-5 June 2018.

Foreign Affairs

3. Meeting of the Council (Foreign Affairs) on 28 May 2018:
Preparation

- a) Post-Cotonou - Negotiating mandate 8682/18 + ADD 1
State of play and guidance for further work

The Committee held an exchange of views and decided to revert to this issue at its meeting on 23-24 May 2018.

General Affairs

4. Regulation establishing the European Defence Industrial Development Programme (EDIDP) 8727/18
Preparation for the trilogue

The Committee agreed on a revised mandate in view of the forthcoming trilogue.

5. Meeting of the Council (General Affairs) on 14 May 2018:
Follow-up

The above-mentioned item was withdrawn.

Economic and Financial Affairs

6. Meeting of the Council (Economic and Financial Affairs) on 25 May 2018: Preparation

- a) Banking Package 8630/18
Capital Requirements Regulation (CRR) and Directive 8626/18
(CRD) 8627/18
Bank Recovery and Resolution Directive (BRRD) 8628/18
Single Resolution Mechanism Regulation (SRMR) 8629/18
General approach EF

The Committee prepared this item for the Council.

- b) Other items in connection with the Council meeting

The above-mentioned item was withdrawn.

29. 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 in one of its forthcoming sessions.

COREPER (PART 1)

Agriculture

30. Regulation on veterinary medicinal products
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 15 May 2018.

Employment and Social Policy

31. 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 15 May 2018.

Internal Market and Industry

32. Directive on empowering national competition authorities:
ECN Plus
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 May 2018.

Competitiveness

33. Meeting of the Council (Competitiveness (Internal Market, Industry, Research and Space) on 28 and 29 May 2018:
Preparation

1. Competitiveness "check-up"
Presentation by the Commission
Exchange of views

The Committee prepared the item for the Council.

2. Regulation on platforms-to-business relations 8601/18
Policy debate

The Committee prepared the item for the Council.

3. Goods package: Regulation on mutual recognition 8674/18
General approach / Progress report

The Committee prepared the item for the Council.

4. Conclusions on accelerating knowledge circulation in the 8690/18
European Union
Adoption

The Committee prepared the item for the Council.

5. Conclusions on the European Open Science Cloud 8692/18
Adoption

The Committee prepared the item for the Council.

6. Regulation on the Research and Training Programme of 8695/1/18 REV 1
the European Atomic Energy Community (2019-2020) + ADD 1 REV 1
complementing the Horizon 2020 Framework Programme + ADD 2
for Research and Innovation
General approach

The Committee prepared the item for the Council. The Committee took note of the statements by Austrian and Luxembourg delegations.

Statement by Austria

"Austria followed a constructive approach during the negotiations on the Euratom Research and Training Programme 2019/20, with a view to enabling a continuation of the measures for increasing the safety and security of European citizens and their environment.

The content of the General Approach is identical in substance with the currently running programme (2014-2018). Therefore the Austrian position also remains the same. Austria welcomes the emphasis on safety and security aspects throughout the text. However, Austria still remains highly critical regarding EU funding or any supportive framework for nuclear power plants. Austria therefore intends to abstain."

Statement by Luxembourg

"Le Luxembourg reconnaît l'importance du programme de recherche et de formation de la Communauté européenne de l'énergie atomique (2019-2020) complétant le programme-cadre pour la recherche et l'innovation "Horizon 2020", ainsi que la nécessité de mettre davantage l'accent sur la sûreté nucléaire contribuant à une réorientation de la recherche nucléaire. Ainsi le Luxembourg accueille favorablement le compromis tout en maintenant cependant son attitude critique vis-à-vis de la recherche nucléaire.

Le Luxembourg insiste toutefois sur le fait qu'à l'avenir les fonds européens consacrés aux activités de recherche et de formation devront être orientés davantage vers les énergies renouvelables.

Le programme de recherche et de formation de la Communauté européenne de l'énergie atomique (2019-2020) n'amorçant pas une telle réorientation vers les énergies renouvelables, le Luxembourg ne peut y souscrire dans sa globalité et s'abstient par conséquent du vote."

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| 7. | Regulation on establishing the European High Performance Computing Joint Undertaking
<i>Progress report</i> | 8634/18 |
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The Committee prepared the item for the Council.

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| 8. | R&I within the context of next MFF
<i>Policy debate</i> | 8600/18 |
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The Committee prepared the item for the Council.

Transport, Telecommunications and Energy

34. Meeting of the Council (Transport, Telecommunications and Energy), Luxembourg, 7, 8 and 11 June: Agenda

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Energy

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| 35. | Regulation on governance of the Energy Union
<i>Preparation for the trilogue</i> | 8536/18 |
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The Committee agreed on a revised mandate for the forthcoming trilogue.

IV. Any other business

COREPER (PART 2)

EU-Western Balkans Summit in Sofia on 17 May 2018

The Committee took note of the information provided by the Spanish delegation. The Cyprus delegation expressed its alignment to the Spanish statement.

Statement by Spain

"Spain's position concerning the Council adoption of the "Sofia Declaration", and regarding the celebration of the EU-Western Balkans Summit, is without prejudice to the well-known Spanish position on the international status of Kosovo*. The participation of Spain in this Summit does not entail any change in that position.

As recalled in the Declaration made by Spain on the approval of the Council Decisions for the Stabilization and Association Agreement with Kosovo, wording referring to the "European perspective" can only be understood in the case of Kosovo as approximation to the EU, without the ultimate objective of EU accession, as the unilateral declaration of independence is not recognized by all the Member States."

Conference of State Parties at the OPCW

The Committee took note of the information provided by the UK delegation.

MFF group interpretation regime

One delegation requested the addition of an item to the agenda of the Committee regarding the interpretation regime in the working group dealing with the MFF. At the proposal of the Presidency, the Committee agreed to add this item to the agenda of its next meeting.

COREPER (PART 1)

None.

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

"I" items approved**COREPER (PART 2)****Institutional Affairs****Appointments**

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| 7. | An alternate member (ES) of the Committee of the Regions
<i>Adoption</i> | 8513/18
8512/18
CDR |
| 8. | Three members (NL) of the European Economic and Social Committee
<i>Adoption</i> | 8432/18
8431/18
CES |

Transparency

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| 9. | Public access to documents
Confirmatory application No 31/c/01/17
<i>Adoption</i> | 5532/18
INF
API |
| 10. | Public access to documents
Confirmatory application No 02/c/01/18
<i>Adoption</i> | 5170/18
INF
API |
| 11. | Transparency
Council reply to the letter from Mr Azmani
<i>Approval of a letter</i> | 8092/1/18 REV 1
INF
API |

Economic and Financial Affairs

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| 12. | New Portuguese 2 euro Commemorative Coins | 8491/18
UEM |
| 13. | Conclusion on ECA report on Greece
<i>Adoption</i> | 8659/18
8665/18
UEM |
| 14. | ECA SR No 11/2018 on new options for financing rural development projects
<i>Designation of a Working Party</i> | 8568/18
FIN |
| 15. | De-Listing of certain jurisdictions from the EU list of non-cooperative jurisdictions for tax purposes
<i>Adoption</i> | 8304/1/18 REV 1
FISC |

General Affairs

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| 16. | 2019 EP Elections dates
<i>Adoption</i> | 8742/18
7162/18
INST |
| 17. | Fast Track procedure
<i>Approval of a letter</i> | 7409/18
7404/18
8298/18
JUR
INST |

Justice and Home Affairs

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| 18. | Insolvency Regulation - Amendment Annexes -
BE/BG/HR/LV/PT
<i>Confirmation of the final compromise text with a view to
agreement</i> | 8655/18
8656/18
JUSTCIV |
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Statement by Slovenia

"The Republic of Slovenia opposes to the inclusion of the Law for the Extraordinary Administration of Companies with Systemic Importance for the Republic of Croatia (hereinafter referred to as EA Law) to Annexes A and B to the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

On the 14 March 2018 the Supreme Court of the Republic of Slovenia declared that EA Law violates public order.

When it comes to notification of EA Law the question arises as to whether it is possible to include in the Regulation a law which violates the fundamental principles of the civil law, insolvency law and EU law in general. EA Law is an expression of state interventionism or economic protectionism, as it is intended to rescue a company which has exceptional importance for the Croatian economy because of its size. Therefore it could be disputed from the aspect of sincere cooperation between the Member States as well as from the aspects of the internal market rules. EA Law violates the fundamental principle of equal treatment of creditors and strives for concentration, not the coordination of proceedings in cases of insolvency. We also have to highlight the dominant role of the state in the appointment of an extraordinary commissioner and the non-existence of effective legal remedy for creditors against a decision to launch insolvency proceedings.

The Republic of Slovenia has presented all the arguments in the document WK 4276/2018.

Moreover, the Republic of Slovenia calls on the Commission that future proposals for notification should be verified more thoroughly; especially any possible negative consequences for the functioning of the internal market should be assessed."

Foreign Affairs

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| 19. | Council Decision within the EEA Joint Committee amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (Budget Line - Implementation and development of the single market for financial services
<i>Adoption</i> | 8188/18
8187/18
AELE |
| 20. | Council Decision within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement (The Union's preparatory action on defence research)
<i>Adoption</i> | 8191/18
8190/18
AELE |
| 21. | Council Decision within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (Budget Line 04 03 01 03 - Social Security)
<i>Adoption</i> | 8195/18
8194/18
AELE |
| 22. | Council Decision within the EEA Joint Committee concerning an amendment to Annex IX (Financial Services) to the EEA Agreement (EMIR Level 2 Acts)
<i>Adoption</i> | 7440/18
7438/18
AELE |
| 23. | Conclusions on Energy and development
<i>Adoption</i> | 8550/18
DEVGEN |
| 24. | Conclusions on Investing in Sustainable Development and 2018 Report on EU Development Aid Targets
<i>Adoption</i> | 8551/18
DEVGEN |
| 25. | Conclusions on the Annual Report on the EU EFIs
<i>Adoption</i> | 8554/18
DEVGEN |
| 26. | (poss.) Conclusions on EU cooperation with cities and local authorities
<i>Adoption</i> | 8556/18
DEVGEN |
| 27. | Relations with Mexico - Accession of Croatia and provisional application of the Third Additional Protocol to the EU-Mexico Economic Partnership, Political Coordination and Cooperation Agreement
Decision on the signing
<i>Adoption</i>
Decision on the conclusion
<i>Request for the consent of the European Parliament</i> | 8633/1/18 REV 1
15380/17
15410/17
15383/17
COLAC |

28. Council Decision on the position to be adopted within the EU-Mexico Joint Council established under the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States to take account of the accession of the Republic of Croatia to the European Union
Adoption

8681/18
15376/17
COLAC

COREPER (PART 1)

Institutional Affairs

Appointments

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| 36. | One alternate member (NL) of the Advisory Committee on Freedom of Movement for Workers
<i>Adoption</i> | 8398/18
SOC |
| 37. | One member (DK) in the Governing Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Adoption</i> | 8566/18
SOC |
| 38. | One member (FI) and one alternate member (HU) in the Advisory Committee for the Coordination of Social Security Systems
<i>Adoption</i> | 8374/18
8375/18
SOC |

EU positions for international negotiations

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| 39. | Council Decision on the EU position at the OTIF-RID Committee (30 May 2018)
<i>Adoption</i> | 7561/18
7209/18 + ADD 1
TRANS |
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Internal Market and Industry

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| 40. | Regulation on cash controls
<i>Mandate for negotiations with the European Parliament</i> | 8691/18
UD |
| 41. | Regulation on type approval
<i>Adoption of the legislative act</i> | 8499/18 + ADD 1
PE-CONS 73/17
IND |

Environment

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| 42. | Waste package: Directive on ELV/Batteries/WEEE
<i>Adoption of the legislative act</i> | 8500/18
+ ADD 1 REV 1
PE-CONS 9/18
ENV |
| 43. | Waste package: Directive on Landfill of waste
<i>Adoption of the legislative act</i> | 8501/18
+ ADD 1 REV 1
PE-CONS 10/18
ENV |
| 44. | Waste package: Directive on waste
<i>Adoption of the legislative act</i> | 8502/18
+ ADD 1 REV 1
PE-CONS 11/18
ENV |

Statements by Germany

"Separate collection"

1. Article 10(2) of the current Waste Framework Directive (WFD) stipulates that, to comply with Article 10(1), waste shall be collected separately "if technically, environmentally and economically practicable". The amendment to Article 10(2), agreed on in the trilogue, removes this reservation and replaces it in Article 10(3) (new) with a special derogation clause which allows Member States to make exceptions from mandatory separate collection under certain conditions. The amendment to Article 10 of the Waste Framework Directive not only impacts direct obligations on the producer and holder, it also affects Member States' obligation to ensure separate collection of certain wastes, achieve recycling quotas (Article 11 WFD) and collect bio-waste separately (Article 22 WFD).

Germany supports the objective pursued by the WFD to achieve sustainable circular economy at both EU and national level. Efforts to achieve circular economy should be carried out by all actors and thus requires a sound legal basis. Germany would like to point out that irrespective of the derogation clause in Article 10(3) of the WFD, both the Treaty on the Functioning of the European Union and German constitutional law stipulate that legally binding obligations for waste producers and holders, such as, in particular, separate collection obligations, can only be imposed if they are proportionate i.e. suitable, necessary and appropriate with a view to improving recycling.

2. The same applies to the new ban on the incineration of separately collected waste pursuant to Article 10 (3)(a) of the WFD (new) and the ban on landfilling separately collected waste under Article 5(3)(f) (new) Landfill Directive. To be imposed these bans must be proportionate. Furthermore, Article 13 of the WFD calls for the management of such waste to be carried out without endangering human health and without harming the environment.

Regarding the obligation to provide information about articles to ECHA (Article 9 (1), indent nine and (1a) of the Waste Framework Directive)

The provision introduced in Article 9 (1), indent nine and (1a) in the final phase of the trilogue negotiations regarding the establishment of a database for articles that contain substances of very high concern within the meaning of the REACH Regulation at the European Chemicals Agency (ECHA) raises a number of detailed questions that need to be clarified so that the member states are able to draw up rules that are in keeping with the provision's goals. For example, clarification is required about how to identify the articles concerned to allow the information to be retrieved easily from the database. Additionally, common provisions need to be drawn up regarding the issue of multiple submissions of data about the same article that can be expected in large numbers as a result of the planned extension of the obligations to all suppliers in the supply chain.

The German government considers it regrettable that this provision, which will cause a considerable workload for all parties, was included in the draft without the appropriate preparation and impact assessment required for such a complex issue. Germany is only able to agree in view of the overall compromise achieved in the trilogue procedure. The German government requests that the Commission specifies the precise details in collaboration with ECHA as the body envisaged for maintaining the database. These details are required to enable ECHA and the member states to implement this provision in an appropriate way that limits the workload to the necessary minimum. Should the Commission be of the opinion that this requires supplementary amendments to Union law, the Commission is requested to present corresponding draft provisions."

Statement by Greece

"Greece supports the overall compromise achieved during the negotiations for the "Waste Package", acknowledging the painstaking efforts it took to reach an agreement, as well as the importance of the package within the Circular Economy Strategy.

However, a number of important provisions have been included in the course of the negotiations that are not legally coherent, or that have not been based on proper impact assessment, in particular:

- Art. 9(1) indent nine & Art.9(1a) on the interface between REACH and waste, as well as
- the lack of reference to Art. 10(2) & 10(3) of WFD in:
 - ✓ Art. 11(1) on selective demolition,
 - ✓ Art. 18.3 on mixed hazardous waste,
 - ✓ Art. 20 on separate collection of household hazardous waste and
 - ✓ Art. 22(1) on biowaste

In our view, the implementation of the said provisions is likely to prove so challenging in practice for businesses, the public administration and for citizens, that it will even be counterproductive as to the overall objective of promoting circular economy in a sustainable manner.

Furthermore, we are of the opinion that the full financial responsibility shall be borne by the EPR systems and we note that the 10% landfill target of municipal waste by 2035/2040 does not sufficiently take into account the different social conditions or population density and characteristics between MSs and leads inevitably to increased incineration, which is a sub-optimal outcome.

Moreover, we encourage the Commission to address in a systematic and coherent manner the specific characteristics of small remote islands as part of the implementing measures of the package and notably of the revised Landfill Directive as well as of Art. 10(1) to 10(3) and the aforementioned related provisions."

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| 45. Waste package: Directive on packaging waste
<i>Adoption of the legislative act</i> | 8503/18
+ ADD 1 REV 1
PE-CONS 12/18
ENV |
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Delegated or Implementing Acts

Environment

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| 46. Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 582/2011 as regards the provisions on testing by means of portable emission measurement systems (PEMS) and the requirements for universal fuel range type-approval
<i>Decision not to oppose adoption</i> | 8395/18
7472/18
ENV |
| 47. Commission Decision of XXX amending Decisions (EU) 2017/1214, (EU) 2017/1215, (EU) 2017/1216, (EU) 2017/1218 and (EU) 2017/1219 as regards the duration of the transitional period
<i>Decision not to oppose adoption</i> | 8396/18
7490/18
ENV |