SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
26 and 27 September 2018

I. Adoption of the agenda
12442/18 OJ CRP1 32 + ADD 1
12444/1/18 REV 1 OJ CRP2 32 COMIX 513

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 26 SEPTEMBER 2018

Agriculture and Fisheries

2. Meeting of the Council (Agriculture and Fisheries) on 15 October 2018: Agenda
(For the items in the remit of the Permanent Representatives Committee)

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

Environment

3. Meeting of the Council (Environment) on 9 October 2018: Preparation

1. Regulation on CO2 standards for cars and vans (recast) 12303/18

General approach

The Committee prepared the item for the Council.
2. Regulation on CO2 standards for heavy-duty vehicles 12347/18

_Policy debate_

The Committee prepared the item for the Council.

3. Conclusions on the preparations for the United Nations Framework Convention on Climate Change (Katowice, Poland, 2-14 December 2018) 12329/18

_Adoption_

The Committee prepared the item for the Council.

**Employment and Social Policy**

4. Directive on the accessibility requirements for products and services 12328/18 + COR 1

_Preparation for the trilogue_

The Committee agreed on a revised mandate for the forthcoming trilogue.

**Telecommunications**

5. Regulation on the Cybersecurity Act 12489/18

_Preparation for the trilogue_

The Committee agreed on a revised mandate for the forthcoming trilogue.

**Health**

10. WHO Framework Convention on Tobacco Control (FCTC) – Eighth session of the Conference of the Parties (COP8) (Geneva, 1-6 October 2018)

a) EU common approaches and positions 12283/18

(Except on agenda item 8.8)

_Approval_

b) Agenda item 8.8 (Possible amendments to the Rules of Procedure of the Conference of the Parties) 12385/18

_Preparation for the establishment of the EU position_

The Committee agreed to continue discussion on this item on the following day.
Health

10. (continuation) WHO Framework Convention on Tobacco Control (FCTC) – Eighth session of the Conference of the Parties (COP8)
(Geneva, 1-6 October 2018)

a) EU common approaches and positions 12283/18
(Except on agenda item 8.8)

Approval

The Committee reached consensus.

Statement by Bulgaria

"Bulgaria thanks the Austrian Presidency for the efforts to find a compromise solution.

In a spirit of compromise and willing to support a European Union speaking in one voice at FCTC, we do not oppose the proposed Draft position and Draft decision.

At the same time, Bulgaria considers that the suggested wording in particular in p. h) on the last page of Annex III to the proposed Draft decision is incorrect and might lead to misleading perception among the international community about the status-quo within the EU.

Conformity with the acquis communautaire is of significant importance when the Union – and not the single Member States - are speaking in an international setting. This is a reliable guarantee for Member States which contributes to a relationship based on trust but also to an endorsement by all Member States of the position expressed.

This principle is not attained in p. h) on the last page of Annex III to the proposed Draft decision, which concerns novel tobacco products such as heated products. Bulgaria considers that the direct invitation to “restrict or ban” those products is not originating from the EU acquis, which:

a) leaves it at the discretion of the Member States to regulate the matter as they see fit – i.e. there are no harmonized rules introducing a ban or restrictions within the Union;

b) allows for a regulation – but does not encourage a ban (see Art. 19, art. 24 (3) of TPD). “Regulation” can take up different forms, with prohibition being an option, in case it is a needed and proportionate measure, based on scientific evidence, and genuinely intended to protect public health.

Furthermore, not a single Member State of the EU has introduced a ban or restrictions of production, distribution etc. of heated products. It is, therefore, misleading to encourage others to do so.

Therefore, Bulgaria would support the proposal to replace the words “restrict or prohibit” with “regulate” in p. h) on the last page of Annex III.

Bulgaria supports the endeavor to find a common position based on consensus provided that the final decision adopted at FCTC, which is initiated by the European Union, remains within the mandate given and the red lines introduced by the Presidency are kept:
- The words “in accordance with national law” are preserved throughout the text, in order to make clear that despite the common legal framework at Union level, specific legislation is a national competence;

- The words “as appropriate” are kept, thus making clear that it is at the discretion of the Member States to assess the need of regulation, including the need for a ban;

It should also be a red line that any ban or restrictions are based on grounds relating to the specific situation in particular Member State and provided that they are justified by scientific evidence for the need to protect public health.

We are convinced that regardless of amendments introduced in the document during the negotiating process at international level, these safeguards can be justified, defended and kept in the text. Therefore, we consider them to be red lines in the mandate provided to the Commission. Their deletion would mean loss of consensus among the EU Member States on the proposed draft decision, and have as consequence the need of withdrawal of the draft decision.

As the statements and commitments within the FCTC of WHO are of broad political nature Bulgaria underlines that the EU commitments under FCTC should not be fulfilled only in virtue of the discussions and documents produced by COPs, but also on grounds relating to the specific situation in individual EU Member States.”

Statement by Italy

"Italy thanks the Austrian Presidency for all its efforts to find a compromise solution.

In a spirit of compromise and willing to support the European Union speaking in one voice at COP8/FCTC in Geneva, Italy will support a compromise text of an EU common position on point 4(h) of Annex III in document 6.3 of FCTC agreed by all Member States, provided that in this final compromise text of the EU common position the words “as appropriate to their national laws,” are preserved throughout the text, in order to make clear that despite the common legal framework at Union level, specific legislation is a national competence.

Directive 2014/40/EU, of the European Parliament and of the Council, in Article 24.3 stipulates that Member States may also prohibit a certain category of tobacco or related products, on grounds relating to the specific situation in that Member State and provided the provisions are justified by the need to protect public health, taking into account the high level of protection of human health achieved through this Directive. The Commission shall approve or reject such national provisions, after having verified also whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States.

We believe it is in the shared interest of all Member States and their citizens to achieve an EU common position on this point 4(h) of Annex III in document 6.3 of FCTC, so that the European Union can speak in one voice at FCTC in Geneva."
Statement by Germany

"Germany thanks the Presidency for its efforts to reach consensus on document 12283/18 (EU coordination document on FCTC 6.3). In the spirit of compromise we can accept the document as it stands. However, we think that in Annex III 4 h the words “restrict or prohibit” and in 4 d the words “restrict or ban” are not appropriate. We consider the word “regulate” to be more appropriate in both cases; the aforementioned wording should be replaced accordingly. Therefore we propose to come back to that issue in the EU coordination on the spot during COP 8 of FCTC in Geneva taking into account the discussions with all FCTC members."

b) Agenda item 8.8 (Possible amendments to the Rules of Procedure of the Conference of the Parties)

Preparation for the establishment of the EU position

The Committee agreed on the draft EU position and agreed to forward it to Council.

Internal Market and Industry

6. Goods package: Regulation on mutual recognition

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 September 2018.

Energy

7. Regulation on risk preparedness in the electricity sector

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 25 September 2018.

Transport

8. Regulation on safeguarding competition in air transport

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 September 2018.


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 25 September 2018.
COREPER (PART 2)

Justice and Home Affairs

26. Return Directive (recast)
   Information from the Commission
   
   The Committee took note of the information provided by the Commission.

27. Amended proposal for the EU Agency for Asylum Regulation
   (EU) No 439/2010
   Information from the Commission
   
   The Committee took note of the information provided by the Commission.

Foreign Affairs

28. Meeting of the Council (Foreign Affairs) on 15 October 2018:
   Agenda
   
   The EEAS presented the provisional agenda for the above-mentioned meeting. A number of
   delegations requested the addition of an item on the Central African Republic.

29. 9th EU-Republic of Korea Summit (Brussels, 19 October 2018)
   State of play
   
   The Committee took stock of the state of play of preparations.

Economic and Financial Affairs

30. Meeting of the Council (Economic and Financial Affairs) on
   2 October 2018: Preparation
   
   a) (poss.) VAT "quick fix"
      i) Directive as regards harmonising and simplifying
         certain rules in the VAT system and introducing the
         definitive system for the taxation of trade between
         Member States
      ii) Regulation as regards certain exemptions for intra-
           Community transactions
      iii) Regulation as regards the certified taxable person
   
   General approach
   
   The Committee prepared this item for the Council.
b) (poss.) VAT Generalised Reverse Charge Mechanism 12258/18

   goods and services
   General approach

   The Committee prepared this item for the Council.

c) (poss.) VAT E-Publications 12259/18

   Political agreement

   The Committee took note of the agreement reached at working party level and agreed to move this item to the list of A-items of the Council.

d) Anti-money laundering and prudential supervision 12108/18

   Amended proposal for a Regulation and communication 12111/18

   for strengthening the Union framework for prudential and anti-money laundering supervision of financial institutions

   Presentation by the Commission

   The Committee prepared this item for the Council.

e) European Semester 2018 - Lessons learnt 12375/18

   Exchange of views

   The Committee prepared this item for the Council.

f) Preparation of the international meetings in October in Bali, Indonesia

   i) Terms of reference for the G20 meeting

   ii) Statement to the IMFC

   Approval

   The Committee prepared this item for the Council.

g) Other items in connection with the Council meeting

   The Presidency provided further information regarding the Council meeting. The Committee agreed to postpone the A-items on "Data protection by Union institutions" and "Money laundering" to the JHA Council on 11-12 October 2018.
**Justice and Home Affairs**

31. Meeting of the Council (Justice and Home Affairs) on 11-12 October 2018: Preparation

a) Directive on Insolvency, Restructuring and Second Chance

The Committee endorsed the compromise text of the draft Directive, including the amendments proposed in WK 11168/2018 and agreed to submit it to the Council for a General Approach.

b) EPPO Regulation: Implementation

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.

**General Affairs**

32. Meeting of the Council (General Affairs) on 18 September 2018: Follow-up

The Presidency presented the provisional agenda for the above-mentioned meeting. Following interventions by a majority of delegations, the Presidency announced that the aim of the item on Rule of law in Poland will be reflected as state of play in the provisional agenda.

33. Meeting of the Council (General Affairs) on 16 October 2018: Agenda

The Presidency presented the main items on the agenda.

34. EBA/EMA relocation

The Presidency informed delegations about the latest contacts with the EP. The Committee provided guidance on the way forward and agreed to revert to this item at its next meeting.
IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

Trilogues

The Committee took note of the information provided by the Presidency.
"I" items approved

COREPER (PART 1)

Institutional Affairs

Written questions

11. Replies to questions for written answer submitted to the Council by Members of the European Parliament
   Adoption by silence procedure
   a) João Pimenta Lopes (GUE/NGL)
      "Persecution of the Communist Party of Ukraine" 11726/18
   b) João Pimenta Lopes (GUE/NGL)
      "The need to continue the peace process in Colombia" 11752/18

Appointments

12. Three members (SK, ES, CY) in the Governing Board of the European Centre for the Development of Vocational Training (CEDEFOP) (2018-2021)
   Adoption 11947/18
   EDUC 11948/18

13. One member (FR) in the Management Board of the European Institute for Gender Equality
   Adoption 12209/18
   SOC

14. One member (SE) in the Governing Board of the European Foundation for the Improvement of Living and Working Conditions
   Adoption 12210/18
   SOC

15. Two members (CZ, AT) in the Advisory Committee on Safety and Health at Work
   Adoption 12248/18
   12313/18
   SOC

16. Two members (CZ, AT) in the Governing Board of the European Agency for Safety and Health at Work
   Adoption 12249/18
   12314/18
   SOC
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**Telecommunications**

| 20. | Conclusions on Public Private partnerships in the EU (CoA SR No 9/2018) |
|     | Adoption                                                     |
|     | 12169/1/18 REV 1 / TELECOM                                 |

**Health**

| 21. | Recommendation on vaccination                                |
|     | Adoption                                                    |
|     | 11944/1/18 REV 1 / PHARM                                    |

**Internal Market and Industry**

| 22. | Regulation on cash controls                                  |
|     | Adoption of the legislative act                             |
|     | 12231/18 + ADD 1 / PE-CONS 49/18                           |
|     | UD                                                         |

**Statement by Germany**

"In Germany's view, the uniform retention period of five years provided for in Article 13(4) appears problematic, because data may also be collected on individuals who have not violated any rules and who themselves have not given any cause for their data to be stored. It would therefore have been preferable for Article 13(4) to differentiate between retention periods for suspicious and non-suspicious individuals. However, Germany welcomes the compromise that was reached during the negotiations whereby the permissible one-off extension of the retention period is limited to three years in accordance with Article 13(5)."

**Transport**

| 23. | Revision of Regulation on wet-lease                        |
|     | General approach                                           |
|     | 12346/18 / AVIATION                                        |
Delegated or Implementing Acts

Internal Market and Industry


Decision not to oppose adoption

Statement by Germany

"Germany assumes that the German version of the recitals will be corrected as follows:

In recital 1 the expression “fortpflanzungsgefährdend” will be changed to “reproduktionstoxische Stoffe“.

In recital 2 the expression “für einen Beschränkungsvorschlag” will be added after “Dossier“.

In recital 3 the expression “der Agentur“ is deleted after “Ausschuss für Risikobeurteilung (RAC)“ and added after “Ausschuss für sozioökonomische Analyse (SEAC)“.

In recital 4 the expression “die Einführung“ is replaced by “das Einbringen“.

In recital 5 the word “wird“ is replaced by “wurde“ in the first sentence. The second sentence is changed to “Dieser Konzentrationsgrenzwert würde wirksam die Verwendung der vier Phthalate in Erzeugnissen im Geltungsbereich dieser Beschränkung verhindern“.

Recital 6 is changed to “Am 10. März 2017 verabschiedete der RAC seine Stellungnahme mit der Schlussfolgerung, dass die vorgeschlagene Beschränkung im Hinblick auf die Wirksamkeit bei der Verringerung dieser Risiken die zweckmäßigste unionsweite Maßnahme zur Bewältigung der festgestellten Risiken darstellt, die von diesen Stoffen ausgehen“.

In recital 8 the expression “bei einer sozioökonomischen Kosten/Nutzen-Abwägung“ is changed to “im Hinblick auf die sozio-ökonomischen Nutzen und Kosten“.

In recital 9 the third sentence is changed as follows: “Außerdem schlug der SEAC aufgrund sozioökonomischer Überlegungen basierend auf mit zusätzlichen Informationen, die von der Automobil- und Luftfahrtbranche im Rahmen der öffentlichen Konsultation eingereicht wurden, bestimmte Ausnahmeregelungen für diese Branchen vor“.

In recital 10 the word “Beschränkungsverfahren“ is changed to “Beschränkungsvorschlag“.

In recital 11 the word “auswirkten“ is changed to “auswirkt“ in the second sentence. In the third sentence the word “können“ is added after the word “enthalten“. In the fourth sentence “Verkleidungen“ is changed to “Lackierungen“ and “Klebeschichten“ to “Aufklebern“.
The first sentence of recital is replaced by the following sentence: “Nach Anhang XVII der Verordnung (EG) Nr. 1907/2006 ist das Inverkehrbringen von Spielzeug und Babyartikeln, die DEHP, DBP und /oder BBP enthalten, unter bestimmten Bedingungen bereits verboten, diese fallen in den Anwendungsbereich der vorgeschlagenen Beschränkung”. Furthermore, in the second sentence “DIPB“ is corrected to “DIBP“.

In the last sentence of recital 13 the “n“ is deleted at the end of the word “menschlichen“.

In recital 15 the word “Entwurfspezifikationen“ is changed to “Konstruktionsspezifikationen“.

In the first sentence of recital 16 “Belastung“ is changed to “Belastungen“.

Furthermore, the second row of the entry itself will be changed as follows:

Paragraph 1 is changed to: “Dürfen nicht als Stoffe oder in Gemischen einzeln oder in einer Kombination der in Spalte 1 dieses Eintrags aufgeführten Phthalate in Spielzeug und Babyartikeln verwendet werden, wenn diese Konzentration mindestens 0,1 Gewichtsprozent des weichmacherhaltigen Materials ausmacht.“

Paragraph 2 is changed to: “Dürfen nicht in Spielzeug oder Babyartikeln auf den Markt gebracht werden, wenn die Konzentration einzeln oder eine Kombination der ersten drei der in Spalte 1 dieses Eintrags aufgeführten Phthalate mindestens 0,1 Gewichtsprozent des weichmacherhaltigen Materials ausmacht.


In paragraph 3 the expression “dieses Eintrags“ is added after “in Spalte 1“.

In paragraph 4 letter b and c the “und“ in “Wartung und Reparatur“ is replaced by an “oder“. In paragraph 4 letter c also the expression “vom Zeitpunkt des Inverkehrbringens“ is added after the word “unabhängig“.

In paragraph 4 letter g the “und“ is changed to “oder“.

In paragraph 5 letter a the word “Verkleidungen“ is changed to “Lackierungen“ and the word “Klebeschichten“ to “Aufkleber“.

Paragraph 5 letter b is changed to “‘für längere Zeit mit der menschlichen Haut in Berührung kommen’ bezeichnet einen dauerhaften Kontakt von mehr als 10 Minuten oder wiederholte Berührungen über einen Zeitraum von 30 Minuten pro Tag“.

Paragraph 5 letter c is changed to “‘Babyartikel‘ bezeichnet jedes Produkt, das dazu bestimmt ist, den Schlaf, die Entspannung, die Hygiene, das Füttern von Kindern und den Kindern das Saugen zu erleichtern“.

The first sentence of paragraph 6 is changed to “Für die Zwecke des Absatzes 4 Buchstabe b bezeichnet ,Luftfahrzeug‘ entweder:“. At the end of letter a the expression “;oder“ is added.”

Decision not to oppose adoption
COREPER (PART 2)

Judicial Affairs

35. Case T-376/18 (Front Polisario v. Council) 12270/18
   Information note for the Permanent Representatives Committee (Part 2)
   JUR
   CORLX

36. Cases C-208/17 P, C-209/17 P and C-210/17 P (EU-Turkey Statement) 12217/18
   Information note for the Permanent Representatives Committee (Part 2)
   JUR

37. Case T-401/18 (SFIE-PE/Parliament and Case T-402/18 (Aquino e.a./Parliament) 12376/18
   Request for an authorisation to intervene
   JUR

Institutional Affairs

Appointments

38. A member (DE) of the Committee of the Regions 12465/2/18 REV 2
   Adoption 12468/1/18 REV 1
   CDR

Economic and Financial Affairs

39. Transfer No DEC 20/2018 (Section III - Commission) 12238/18
   Approval 12238/18
   FIN

40. ECA SR No 23/2018 on air pollution 12215/18
   Designation of a Working Party 12215/18
   FIN

41. De-listing of certain jurisdictions from the EU list of non-cooperative jurisdictions for tax purposes 11763/1/18 REV 1
   Adoption 11763/1/18 REV 1
   FISC

42. Council Implementing Decision on a derogation for Hungary as regards turnover threshold for exemption from VAT 11930/18
   Adoption 11930/18
   FISC

43. Council Implementing Decision on a VAT derogation for Latvia as regards ferrous and non-ferrous semi-finished metals 11931/18
   Adoption 11931/18
   FISC
44. Council Implementing Decision on a VAT derogation for Hungary as regards use of passenger cars for non-business purposes
   Adoption

45. Council Implementing Decision on a VAT derogation for Austria as regards goods or services used for non-business purposes or non-economic activities
   Adoption

46. Council Implementing Decision on a derogation for Spain as regards excise duty on electricity for vessels at berth in a port
   Adoption

47. Regulation on administrative co-operation in the field of VAT
   Adoption

48. Directive on extending period of application of optional reverse charge mechanism and of quick reaction mechanism (VAT)
   General approach

General Affairs

49. EP Resolutions and decisions (September 2018)
   Adoption

63. Conclusions on Court of Auditors report on EU pre-accession assistance to Turkey
   Adoption

   Joint Statement by The Netherlands and Denmark
   "The Netherlands and Denmark stress that the conclusions and recommendations formulated by the European Court of Auditors in its Special Report No 7/2018 'EU pre-accession assistance to Turkey: Only limited results so far' confirm the urgency of the request by the European Council to cut and redirect IPA funds for Turkey."

Justice and Home Affairs

50. Negotiations for a strategic agreement Eurojust-Tunisia
   Adoption

51. Money laundering Directive
   Adoption of the legislative act
52. Regulation on Data Protection by EU Institutions and bodies
   Adoption of the legislative act
   12221/18 + ADD 1
   PE-CONS 31/18
   DATAPROTECT

   on data protection
   Request for the consent of the European Parliament
   11981/18 + COR 1
   10923/18
   DATAPROTECT

54. Regulation amending Regulation (EC) No 1393/2007 on the
   Service of Documents
   Decision to consult an institution or body
   12298/18
   JUSTCIV

55. Council Decision on the position to be taken on behalf of the EU
   in the UN in connection with the envisaged adoption of a new
   Convention on the facilitation of border crossing procedures in
   international traffic by rail
   Adoption
   12059/18
   12051/18
   FRONT

56. Council Decision on the signing of the status agreement with
   FYROM on actions carried out by EBCG Agency in FYROM
   Adoption
   12062/18
   12027/18
   12043/18
   FRONT

57. eu-LISA Regulation: Council Decision on UK opt-in
   Adoption
   12039/1/18 REV 1
   12040/18
   DAPIX

58. Joint Action Plan on Counter-Terrorism for the Western Balkans
   Approval
   12391/18
   12411/18
   CT

   Three delegations recalled the need to respect status neutrality with regarding Kosovo.

59. Schengen evaluation Recommendation - Spain visa policy
   Adoption
   12345/18 + COR 1
   12344/18 + COR 1
   SCH-EVAL

Foreign Affairs

60. African Peace Facility - Amendment No 4 to the 2017-2018
    Action Programme
    Approval
    12341/18
    ACP
61. Council Decision on the EU position in the EU-Ukraine Customs Sub-Committee Adoption

62. Council Decision on EU position within the EU-Azerbaijan Cooperation Council on the EU-Azerbaijan Partnership Priorities Adoption

64. EU HEX-ML 18 (PACE) EXSPEC Approval

65. Chemical weapons restrictive measures: Decision and Regulation Adoption

**Delegated or Implementing Acts**

**Economic and Financial Affairs**


**Other items**

69. Interim approval of a cryptographic product Approval

11203/18 11204/18 11205/18

12047/18 12045/18 12048/18

CSCI 11980/18 R-UE CSCI

CSC