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European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Council Decision on the signing, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol) - Adoption - Statement of the Commission made during the Coreper meeting on 25 May 2022

The Decision concerning the signature, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol) should indicate the Commission as responsible to designate the person(s) empowered to sign on behalf of the Union. The change to Article 2 that indicate that the President of the Council is responsible for such designation is thus not in accordance with the Treaties.

The designation of the person(s) empowered to sign, on behalf of the Union, an international agreement is an act of external representation of the Union, which, in accordance with Article 17(1) TEU, is the institutional prerogative of the Commission.

The Court of Justice has emphasized that consistent practice by Union institutions that is not in accordance with the EU Treaties ‘cannot alter the rules of the Treaties that the institutions are obliged to respect’ (Case C-687/15 Commission v Council, EU:C:2017:803, para. 42).

While not opposing the adoption of the amendment by the Council by a qualified majority vote, the Commission reserves all its rights in this regard.
