

Brussels, 27 June 2022  
(OR. en)

10692/22  
CRS CRP 24

**SUMMARY RECORD**  
PERMANENT REPRESENTATIVES COMMITTEE  
25 May 2022

**I. Adoption of the agenda**

9368/1/22 REV 1 OJ CRP1 21  
9388/22 OJ CRP2 21 COMIX 251

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)**

**Transport, Telecommunications and Energy**

2. Meeting of the Transport, Telecommunications and Energy Council on 2 and 3 June 2022: preparation

The Committee agreed to the withdrawal of the adoption of the Eurojust Regulation from the list of A items.

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| 1. | Regulation on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation initiative) | 8814/1/22 REV 1 |
|    | <i>(poss.) General approach</i>   | + REV 1 COR 1   |
|    |   | + REV 1 COR 2   |

The Committee continued to prepare this item for the Council meeting.

2. Regulation on the use of renewable and low-carbon fuels in maritime transport (FuelEU Maritime initiative) 9278/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

### **Internal Market and Industry**

3. Directive amending Directives 2013/34/EU, 2004/109/EC and 2006/43/EC, and Regulation (EU) No 537/2014, as regards corporate sustainability reporting  
*Presidency debriefing on the outcome of the trilogue*

The Presidency debriefed on the trilogue which took place on 19 May 2022.

### **Environment**

13. Regulation amending Annexes IV and V to Regulation (EU) 2019/1021 on persistent organic pollutants (POPs) 9006/22  
*Preparation for the trilogue*

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

### **Competitiveness**

5. Meeting of the Competitiveness Council (Internal Market, Industry, Research and Space) on 9 and 10 June 2022: preparation

The Committee agreed to take all the items on the agenda at this stage, other than the AOBs on the programme of the incoming CZ Presidency in the different segments of the Council, in public session.

1. Directive on consumer credits 9208/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

### **Statement by Estonia and Lithuania**

“Estonia and Lithuania welcome the main objective of the Commission proposal to modernise and strengthen consumer credit rules in order to cater for changes brought about by digitalisation whilst creating a high level of consumer protection and helping the internal market function smoothly. However, this should be achieved by a reasonable balance that among other things avoids unnecessary burden on traders and disproportionate interference in well-functioning markets.

In this context, we welcome the final compromise text of the French Presidency, because there are many aspects that take into account these underlying principles. However, we have from the beginning supported to exclude credits free of interest and without any other charges from the scope of the Directive as is currently the case. In our view, including these types of

credits would bring along disproportionate burden for the traders and to supervisory authorities and might deprive consumers from offers beneficial to them. Even though we would have preferred a more ambitious approach in this regard, we can support the text, which allows applying proportionate regime and some targeted exclusions of this type of credits.

Therefore, we would urge to preserve the delicate balance we have achieved and to consider the above mentioned arguments in the course of the upcoming negotiations with the European Parliament.”

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| 2. | Strengthening the resilience of Europe’s strategic industrial ecosystems<br><i>Policy debate</i> | 9179/22 |
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The Committee prepared this item for the Council meeting.

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| 3. | Regulation establishing a framework of measures for strengthening Europe’s semiconductor ecosystem (Chips Act)<br><i>Progress report</i><br><i>Policy debate</i> | 9177/22<br>9178/22 |
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The Committee prepared this item for the Council meeting.

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| 4. | Conclusions on European missions<br><i>Approval</i> | 9162/22 |
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The Committee prepared this item for the Council meeting.

#### Statement by Poland

“Równość kobiet i mężczyzn została zapisana w traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów w wyrażeniach zawierających termin płeć (gender), Polska będzie interpretowała ją jako równość kobiet i mężczyzn zgodnie z art. 8 TFUE.”

#### Courtesy translation

“Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, Poland will interpret wordings referring to gender as equality between women and men, according to Article 8 TFEU.”

5. Conclusions on research assessment and implementation  
of open science  
*Approval*

9164/22

The Committee prepared this item for the Council meeting.

Statement by Poland

“Równość kobiet i mężczyzn została zapisana w traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów w wyrażeniach zawierających termin płeć (gender), Polska będzie interpretowała ją jako równość kobiet i mężczyzn zgodnie z art. 8 TFUE.”

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6. Conclusions on principles and values for international  
cooperation in research and innovation  
*Approval*

9163/22 + ADD 1

The Committee prepared this item for the Council meeting.

Statement by Poland

“Równość kobiet i mężczyzn została zapisana w traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów w wyrażeniach zawierających termin płeć (gender), Polska będzie interpretowała ją jako równość kobiet i mężczyzn zgodnie z art. 8 TFUE.”

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“Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, Poland will interpret wordings referring to gender as equality between women and men, according to Article 8 TFEU.”

7. Supporting young researchers in times of crisis 9182/22  
*Policy debate*

The Committee prepared this item for the Council meeting.

8. Conclusions on an EU approach to space traffic management 9158/22  
*Approval*

The Committee prepared this item for the Council meeting.

9. Conclusions on Copernicus by 2035 9156/22  
*Approval*

The Committee prepared this item for the Council meeting.

10. Resilience and competitiveness of the Union Space Programme 9175/22  
*Policy debate*

The Committee prepared this item for the Council meeting.

## **Energy**

6. Fit for 55 package

Revision of the Energy Efficiency Directive (recast) 9312/22  
*Guidance for further work* 9282/22

The Committee provided guidance for further work.

7. Fit for 55 package

Revision of the Renewable Energy Directive 9290/22  
*Guidance for further work* 8705/22

The Committee provided guidance for further work.

8. Regulation on gas storage 9228/22  
*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.

## **Employment and Social Policy**

9. Proposal for the introduction of a social imbalances procedure in the European Semester 9222/22  
Guidance on a social imbalances procedure 9225/22  
*Guidance for further work*

The Committee provided guidance for further work.

10. Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures 9070/22 + ADD 1  
*Preparation for the trilogue*

The Committee prepared the forthcoming trilogue.

## **Employment, Social Policy, Health and Consumer Affairs**

11. Meeting of the Employment, Social Policy, Health and Consumer Affairs Council on 16 June 2022: agenda

The Presidency presented the main items on the agenda. The Committee agreed to take all the items on the agenda at this stage, other than the AOB on the programme of the incoming CZ Presidency, in public session. The Committee approved the participation of a representative of the European Institute for Gender Equality for the relative AOB.

12. Meeting of the Employment, Social Policy, Health and Consumer Affairs Council on 14 June 2022: agenda

The Presidency presented the main items on the agenda. The Committee agreed to take an AOB requested by PL and all the items on the agenda at this stage, other than the AOBs on the emerging threats and on the programme of the incoming CZ Presidency, in public session. The Committee approved the participation of EMA and ECDC representatives for the AOBs on Ukraine and on emerging threats.

## **COREPER (PART 2)**

### **General Affairs**

30. An action plan for EU-Ukraine Solidarity Lanes – implementation 9098/22  
*Presentation by the Commission*

The Committee took note of the Commission's action plan.

### **Justice and Home Affairs**

31. Meeting of the Council (Justice and Home Affairs) on 9 and 10 June 2022: preparation
- (a) Electronic evidence 9296/22
- (i) Regulation on European Production and Preservation Orders for electronic evidence
- (ii) Directive on legal representatives for gathering evidence  
*Progress report*

The Committee prepared this item for the Council meeting.

- (b) Regulation on digital information exchange in terrorism cases 9259/22 + ADD 1  
*General approach*

The Committee prepared this item for the Council meeting.

- (c) Regulation establishing a collaboration platform to support the functioning of Joint Investigation Teams 9166/22  
*General approach*

The Committee prepared this item for the Council meeting.

#### **Statement by Germany**

“Die Bundesregierung stimmt dem Vorschlag für eine Verordnung zur Errichtung einer Plattform für die Zusammenarbeit gemeinsamer Ermittlungsgruppen zu. Die Schaffung einer sicheren und funktionstüchtigen Kooperationsplattform, die in die bestehenden Systeme der Zusammenarbeit eingebunden ist und eine effizientere Zusammenarbeit zwischen den Justiz- und Strafverfolgungsbehörden in der EU ermöglicht, ist ein wichtiger Schritt bei der Bekämpfung grenzüberschreitender Kriminalität.

Die Bundesregierung ist jedoch der Überzeugung, dass auch gemeinsame Ermittlungsgruppen nach Artikel 24 des Neapel-II-Übereinkommens, die von Strafverfolgungs- und Justizbehörden im Rahmen ihrer Aufgabenwahrnehmung bei Zuwiderhandlungen gegen Zoll- oder Verbrauchsteuervorschriften sowie gegen Verbote und Beschränkungen (u.a. Drogen- und Waffenschmuggel) eingerichtet werden, Zugang zur Kooperationsplattform erhalten sollten. Gemeinsame Ermittlungsgruppen nach dem Neapel-II-Übereinkommen werden regelmäßig

eingesetzt und haben eine hohe praktische Bedeutung für die schlagkräftige Bekämpfung der grenzüberschreitenden schweren und organisierten Kriminalität. Sie sind zudem ein wichtiges Instrument zur Wahrung der finanziellen Interessen der EU und sollten nach Auffassung der Bundesregierung somit auch Zugriff auf modernste Kollaborationswerkzeuge erhalten, wie sie mit der Kooperationsplattform geschaffen werden.”

#### Courtesy translation

“The Federal Government agrees with the proposal for a Regulation establishing a platform for the cooperation of joint investigative teams (JITs). Establishing a secure and functional collaboration platform, which is embedded in the existing collaboration systems and allows for more efficient collaboration between judicial and criminal prosecution authorities across the EU is an important step in combating of cross-border crime.

However, the Federal Government takes the view that access to this collaboration platform should also be granted to joint investigation teams within the meaning of Article 24 of the Naples II Convention, which are established by judicial and criminal prosecution authorities in the course of carrying out their duties in cases of breaches of customs or excise duty regulations, or of prohibitions and restrictions (e.g. smuggling drugs or weapons). Joint investigation teams within the meaning of the Naples II Convention are regularly used and are highly significant in practice in order to be able to effectively combat cross-border organised and serious crime. Moreover, they are an important instrument for safeguarding the EU’s financial interests. For this reason, the Federal Government takes the view that they should also have access to the most modern collaboration tools, such as the proposed collaboration platform.”

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| (d) | Data protection in the context of international transfers<br><i>Exchange of views</i> | 9258/1/22 REV 1<br>9188/22 |
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The Committee prepared this item for the Council meeting.

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| (e) | Conclusions on the EU Strategy on the rights of the child<br><i>Approval</i> | 8854/22 |
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The Committee prepared this item for the Council meeting.

#### Statement by Hungary

“Hungary recognizes and promotes equality between men and women in accordance with the Fundamental Law of Hungary, and the primary law, principles and values of the European Union, as well as commitments and principles stemming from the international law.

Furthermore, equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets the concept of ‘gender equality’ as reference to the ‘equality between girls and boys’ in point 2 of the Council Conclusions on the EU Strategy on the Rights of the Child. Hungary’s agreement to the adoption of the Council Conclusion on the EU Strategy on the Rights of the Child and to the references made therein to various strategies of the European Commission and the Council of Europe cannot be interpreted as a general endorsement of all actions announced, terminologies used as well references made in those strategies, especially when these actions, terminologies and references are direct connotations of the LGBTIQ Equality Strategy 2020-2025 and/or the Gender Equality Strategy 2020-2025 of the Commission.”



## Statement by Poland

“Equality between women and men is enshrined in the Treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the Polish national legal system in accordance with international human rights treaties and within the framework of the fundamental values and principles of the European Union. For these reasons, the expression "gender equality" will be interpreted by Poland as equality between women and men, in accordance with Article 2 and 3 of the Treaty on European Union and Article 8 and 157 para 3 of the Treaty on the Functioning of the European Union. In connection with the above, the remaining expressions containing the term "gender" will be interpreted by Poland as "sex", in accordance with Article 10, Article 19 para 1 and Article 157 para 2 and 4 of the Treaty on the Functioning of the European Union.”

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| (f) | EU accession to the European Convention for the<br>Protection of Human Rights and Fundamental Freedoms<br>(ECHR)<br><i>State of play</i> | 9211/22 |
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The Committee prepared this item for the Council meeting.

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| (g) | Regulation on the European Union Drugs Agency<br><i>General approach</i> | 9062/22 |
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The Committee prepared this item for the Council meeting.

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| (h) | Conclusions on protecting Europeans from terrorism:<br>achievements and next steps<br><i>Approval</i> | 9255/22 |
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The Committee prepared this item for the Council meeting.

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| (i) | Prüm II Regulation<br><i>General approach</i> | 9037/22 |
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The Committee prepared this item for the Council meeting.

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| (j) | Directive on information exchange<br><i>General approach</i> | 9040/22 |
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The Committee prepared this item for the Council meeting.

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| (k) | Council Recommendation on operational law enforcement<br>cooperation<br><i>Adoption</i> | 9138/22<br>8720/22 |
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The Committee prepared this item for the Council meeting.

- (l) Other items in connection with the Council meeting

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

### **Foreign Affairs**

32. Meeting of the Council (Foreign Affairs/Development)  
on 20 May 2022: follow-up

The Committee took note of the main outcomes of the Council and the intended next steps.

### **General Affairs**

33. Meeting of the Council (General Affairs) on 23 May 2022:  
follow-up

The above-mentioned item was withdrawn.

### **Economic and Financial Affairs**

34. Meeting of the Council (Economic and Financial Affairs)  
on 24 May 2022: follow-up

The Committee took note of the main outcomes of the Council and the intended next steps.

35. Meeting of the Council (Economic and Financial Affairs)  
on 17 June 2022: agenda

The Presidency presented the main items on the agenda.

### **Foreign Affairs**

36. Meeting of the Council (Foreign Affairs/Trade)  
on 12-15 June 2022: agenda

The Presidency presented the main items on the agenda.

#### **IV. Any other business**

##### **COREPER (PART 1)**

None.

##### **COREPER (PART 2)**

Commission HR strategy

The Committee took note of the information provided by Poland.

PEC visits to the Western Balkans

The Committee took note of the information provided by the PEC Cabinet.

Running competition

The Committee took note of the information provided by the incoming Czech Republic Presidency.

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**"I" items approved**

**COREPER (PART 1)**

**Institutional affairs**

**Written questions**

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| 14. | Replies to questions for written answer submitted to the Council by Members of the European Parliament<br><i>Adoption by silence procedure</i>   | 9240/22<br>PE-QE           |
| (a) | Cornelia Ernst (The Left)<br>‘Improper use of Interpol alerts’   | 8579/22                    |
| (b) | Sylwia Spurek (Verts/ALE), Terry Reintke (Verts/ALE), Saskia Bricmont (Verts/ALE), Magdalena Adamowicz (PPE), Gwendoline Delbos-Corfield (Verts/ALE), Evin Incir (S&D), Monika Vana (Verts/ALE), Arba Kokalari (PPE), Frances Fitzgerald (PPE), Maria-Manuel Leitão-Marques (S&D), Maria Noichl (S&D), Ewa Kopacz (PPE)<br>‘State of play regarding the ratification of the Istanbul Convention by the EU’ | 8583/22                    |
| (c) | Jaak Madison (ID), Gunnar Beck (ID)<br>‘Lack of transparency and accountability during the Conference on the Future of Europe’<br>‘Conference on the Future of Europe and democratic principles’   | 8613/22                    |
| 15. | <b>Minutes of Council meetings</b><br><i>Approval</i>  |                            |
| (a) | Environment Council meeting of 17 March 2022   | 7326/22 + ADD 1            |
| (b) | Agriculture and Fisheries Council meeting of 21 March 2022   | 7409/22 + ADD 1            |
| (c) | Employment, Social Policy, <u>Health</u> and Consumer Affairs Council meeting of 29 March 2022   | 7752/1/22 REV 1<br>+ ADD 1 |

**Appointments**

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| 16. | An alternate member (CY) of the Advisory Committee on Safety and Health at Work<br><i>Adoption</i>            | 9253/22<br>SOC |
| 17. | A member (CY) of the Management Board of the European Agency for Safety and Health at Work<br><i>Adoption</i> | 9097/22<br>SOC |

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| 18. | An alternate member (CY) of the Management Board of the European Agency for Safety and Health at Work<br><i>Adoption</i>                            | 9254/22<br>SOC |
| 19. | A member (DE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions<br><i>Adoption</i>            | 8864/22<br>SOC |
| 20. | An alternate member (FI) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions<br><i>Adoption</i> | 8866/22<br>SOC |
| 21. | A member (FR) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions<br><i>Adoption</i>            | 8863/22<br>SOC |

#### **Judicial Affairs**

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| 22. | Case C-99/22 ( <i>Kapniki A. Michailidis A.E. v Greek Payment Authority for Common Agricultural Policy Aid Schemes (OPEKEPE) and the Minister for Rural Development and Foodstuffs</i> )<br><i>Information note for the Permanent Representatives Committee (Part I)</i> | 9189/22<br>JUR |
| 23. | Joined cases C-91/22, C-92/22, C-93/22, C-94/22<br>( <i>Fenice v Qualità Per L'ambiente</i> )<br><i>Information note for the Permanent Representatives Committee (Part I)</i>  | 9204/22<br>JUR |

#### **EU positions for international negotiations**

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| 24. | Council Decision on the EU position at COP 15 to the Basel Convention regarding certain amendments to Article 6(2) of that Convention<br><i>Adoption</i> | 9045/22<br>8816/22<br>ENV |
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#### **Statement by the Commission**

“The Commission considers that the Council Decision should be addressed to the Commission, and therefore considers the changes to Article 3 to be inappropriate. The expression of the Union position in a body set up by an 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 Commission reserves all its rights in this regard.”

## **Internal Market and Industry**

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| 25. | Conclusions on the development of sustainable public procurement<br><i>Approval</i> | 9145/22<br>MAP |
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## **Transport**

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| 26. | Council Decision authorising the opening of negotiations with Ukraine for an agreement on the carriage of goods by road<br><i>Adoption</i> | 8405/22 + ADD 1<br>8467/22<br>8524/22<br>TRANS |
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### **Statement by the Commission**

“The Commission acknowledges the swift action of the Council for opening the negotiations with Ukraine and Moldova to meet the exceptional and urgent need to conclude swiftly road transport agreements to facilitate transport of goods, including agricultural perishable products, in the context of Russia’s military aggression against Ukraine.

1. The Commission considers that any agreement on the carriage of goods between the European Union and Ukraine or Moldova aimed at regulating mutual access to road freight transport market falls within the exclusive external competence of the Union referred to in Article 3(2) TFEU, even where that agreement may be limited in time. First, the conclusion of international agreements on road transport of goods is explicitly provided for in a legislative act of the Union (Article 1 of Regulation (EC) No 1072/2009 ). Second, the conclusion of such agreement may affect common rules or alter their scope, in line with Article 3(2) TFEU, as interpreted by the ECJ jurisprudence . The fact that the envisaged agreements are intended to be limited in time and directly aim to specifically address repercussions of Russia’s unprovoked and unjustified military aggression against Ukraine does not change the nature of the competence exercised by the Union.

2. The Decisions of the Council empower the Commission to open negotiations with a view to swiftly conclude temporary road transport agreements as urgent emergency measures to redirect and facilitate freight transport in light of Russia’s aggression against Ukraine. If concluded, these agreements will cease to apply before Union comprehensive road transport agreements will be concluded. In order to avoid a deterioration of the status quo resulting from existing bilateral agreements between Member States and Ukraine and Moldova after these temporary agreements have ceased to apply, the Commission considers that in this unique situation the Union temporary agreements should include ad cautelam a provision confirming the intention of the parties that existing bilateral agreements may again apply in full as of that moment, in conformity with Article 1(3) of Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market and the relevant case-law of the Court of Justice.

The approach suggested above is warranted in this very specific and exceptional context in order to ensure access to the market on the same terms as currently set under the existing bilateral agreements.

3. The Commission further notes that the decision of the Council includes provisions on the exercise of competence by the Union and very specific negotiating directives, such as the ones concerning the envisaged scope of the agreement, its duration and the inclusion of a specific clause on extension.

The rules concerning the conferral of competences upon the Union and their exercise and the powers and institutional prerogatives of the institutions as regards the conclusion of international treaties are laid down in the EU Treaties. The Commission considers it legally incorrect that the Council sets rules concerning the exercise of Union competences in its Decisions authorising the opening of negotiations and recalls that negotiating directives may not be established with the intent to restrict the prerogatives of the Commission acting in its capacity as negotiator for the Union. As clarified by the Court of Justice, it is contrary to Article 218(4) TFEU and the principle of institutional balance for the negotiating positions established by the Council to have binding effects on the Union negotiator. Therefore, the Commission understands the negotiating directives as setting political objectives and reserves to interpret the Decision of the Council accordingly.

4. The Commission also considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decisions authorising the opening of negotiations are premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Their effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

5. The Commission reserves all its rights as regards the above.”

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| 27. Council Decision authorising the opening of negotiations with the Republic of Moldova for an agreement on the carriage of goods by road<br><i>Adoption</i> | 8407/22 + ADD 1<br>8468/22<br>8525/22<br>TRANS |
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#### Statement by the Commission

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1. The Commission considers that any agreement on the carriage of goods between the European Union and Ukraine or Moldova aimed at regulating mutual access to road freight transport market falls within the exclusive external competence of the Union referred to in Article 3(2) TFEU, even where that agreement may be limited in time. First, the conclusion of international agreements on road transport of goods is explicitly provided for in a legislative act of the Union (Article 1 of Regulation (EC) No 1072/2009 ). Second, the conclusion of such agreement may affect common rules or alter their scope, in line with Article 3(2) TFEU, as interpreted by the ECJ jurisprudence . The fact that the envisaged agreements are intended to be limited in time and directly aim to specifically address repercussions of Russia’s unprovoked and unjustified military aggression against Ukraine does not change the nature of the competence exercised by the Union.

2. The Decisions of the Council empower the Commission to open negotiations with a view to swiftly conclude temporary road transport agreements as urgent emergency measures to

redirect and facilitate freight transport in light of Russia's aggression against Ukraine. If concluded, these agreements will cease to apply before Union comprehensive road transport agreements will be concluded. In order to avoid a deterioration of the status quo resulting from existing bilateral agreements between Member States and Ukraine and Moldova after these temporary agreements have ceased to apply, the Commission considers that in this unique situation the Union temporary agreements should include *ad cautelam* a provision confirming the intention of the parties that existing bilateral agreements may again apply in full as of that moment, in conformity with Article 1(3) of Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market and the relevant case-law of the Court of Justice.

The approach suggested above is warranted in this very specific and exceptional context in order to ensure access to the market on the same terms as currently set under the existing bilateral agreements.

3. The Commission further notes that the decision of the Council includes provisions on the exercise of competence by the Union and very specific negotiating directives, such as the ones concerning the envisaged scope of the agreement, its duration and the inclusion of a specific clause on extension.

The rules concerning the conferral of competences upon the Union and their exercise and the powers and institutional prerogatives of the institutions as regards the conclusion of international treaties are laid down in the EU Treaties. The Commission considers it legally incorrect that the Council sets rules concerning the exercise of Union competences in its Decisions authorising the opening of negotiations and recalls that negotiating directives may not be established with the intent to restrict the prerogatives of the Commission acting in its capacity as negotiator for the Union. As clarified by the Court of Justice, it is contrary to Article 218(4) TFEU and the principle of institutional balance for the negotiating positions established by the Council to have binding effects on the Union negotiator. Therefore, the Commission understands the negotiating directives as setting political objectives and reserves to interpret the Decision of the Council accordingly.

4. The Commission also considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decisions authorising the opening of negotiations are premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Their effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

5. The Commission reserves all its rights as regards the above.”



## **Delegated or implementing acts**

### **Environment**

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|-----|---|-----------------------------------|
| 28. | Commission Decision of XXX establishing the EU Ecolabel criteria for growing media and soil improvers<br><i>Decision not to oppose adoption</i>   | 9003/22<br>7733/22 + ADD 1<br>ENV |
| 29. | Commission Decision of XXX amending Decisions 2014/312/EU, 2014/391/EU, 2014/763/EU, (EU) 2016/1332 and (EU) 2017/176 as regards the period of validity of the EU Ecolabel criteria and of the related assessment and verification requirements<br><i>Decision not to oppose adoption</i> | 9004/22<br>7734/22<br>ENV         |

## **COREPER (PART 2)**

### **Judicial Affairs**

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|---|----------------|
| 37. Case T-117/22 (Open Joint Stock Company ‘Grodno Azot’ and Branch ‘Khimvolokno Plant’ of Open Joint Stock Company ‘Grodno Azot’ v Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i> | 9067/22<br>JUR |
| 38. Case T-212/22 Violetta Prigozhina v Council of the European Union<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9196/22<br>JUR |
| 39. Case T-215/22 (LCC Synesis v Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9234/22<br>JUR |
| 40. Case T-216/22 (Alexander (Alexandr) Evgenevich Shatrov v Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9235/22<br>JUR |
| 41. Cases T-234/22 and T-234/22 R (Gulbakhor Ismailova v Council of the European Union)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9251/22<br>JUR |
| 42. Cases T-237/22 and T-237/22 R (Alisher Usmanov v Council of the European Union)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9201/22<br>JUR |
| 43. Cases T-238/22 and T-238/22 R (Saodat Narzieva v Council of the European Union)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9248/22<br>JUR |

## **Institutional affairs**

### **44. Minutes of Council meetings**

*Approval*

- |     |   |                                  |
|-----|---|----------------------------------|
| (a) | FAC/FAC (Defence) on 21 March 2022                        | 7410/22 + ADD 1<br>+ ADD 1 COR 1 |
| (b) | GAC on 22 March 2022                                      | 7411/2/22 REV 2<br>7411/22 ADD 1 |
| (c) | Extraordinary meeting of the JHA Council on 28 March 2022 | 7675/22 + ADD 1                  |

### **Other**

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|-----|--|-------------------|
| 45. | Attendance of a third party at the meeting of the Working Party on Human Rights on 1 June 2022<br><i>Approval</i>  | 8965/22<br>COHOM  |
| 46. | Attendance of a third party at the meeting of the Working Party on Financial Services and the Banking Union (Basel III finalisation) on 2 June 2022<br><i>Approval</i> | 9283/22<br>EF     |
| 47. | Attendance of additional third parties at the meeting of the Working Party on Humanitarian Aid and Food Aid on 2 and 3 June 2022<br><i>Approval</i>                    | 9205/22<br>COHAFA |
| 48. | Attendance of a third party at the meeting of the Working Party on OSCE and the Council of Europe on 3 June 2022<br><i>Approval</i>                                    | 9148/22<br>COEST  |
| 49. | Attendance of a third party at the meeting of the ACP Working Party on 26 April 2022<br><i>Approval</i>  | 9031/22<br>ACP    |
| 50. | Attendance of a third party at the meeting of the Working Party on Public International Law on 9 June 2022<br><i>Approval</i>  | 9293/22<br>COJUR  |
| 51. | Attendance of a third party at the meeting of the Working Party on Financial Services and the Banking Union (Insurance) on 10 June 2022<br><i>Approval</i>             | 9275/22<br>EF     |
| 52. | Attendance of a third party at the meeting of the Working Party on Atomic Questions on 15 June 2022<br><i>Approval</i>   | 8791/22<br>ATO    |

## **Economic and Financial Affairs**

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|-----|---|----------------------------|
| 53. | Proposal for the extension of the application period of the VAT reverse charge mechanism, amending Directive 2006/112/EC<br><i>Adoption</i> | 9047/22<br>7137/22<br>FISC |
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## **General Affairs**

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|-----|--|------------------------|
| 54. | EP resolutions and decisions (May 2022 extraordinary session)  | 8964/22<br>PE-RE       |
| 55. | Regulation on the alignment of the RPS in the area of justice<br><i>Confirmation of the final compromise text with a view to agreement</i> | 9280/22<br>INST<br>JUR |

## **Justice and Home Affairs**

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|-----|--|---------------------------------------|
| 56. | Council Decision authorising the opening of negotiations on the judicial sales of ships in the framework of the United Nations Commission on International Trade Law (UNCITRAL)<br><i>Adoption</i> | 9026/22<br>8926/22 + ADD 1<br>JUSTCIV |
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### **Statement by the Commission**

“The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decision authorising the opening of negotiations is premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Its effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

The Commission reserves all its rights in this regard.”

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| 57. | Council Decision on the signing of the Protocol on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol, UNIDROIT)<br><i>Adoption</i> | 9028/22<br>5230/22 + ADD 1<br>JUSTCIV |
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### **Statement by the Commission**

“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.”

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| 58. | Amendment to Regulation (EU) 2018/1727 as regards the collection, preservation and analysis of evidence relating to war crimes at Eurojust<br><i>Decision to use the written procedure for the adoption of the legislative act</i><br><i>Decision to derogate from the eight-week period provided for in Article 4 of Protocol 1 on the role of national parliaments in the EU</i> | 9324/22<br>PE-CONS 18/22<br>COPEN |
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### **Foreign Affairs**

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| 59. | PSC Decision EUBAM Libya/1/2022 – extension of the mandate of the Head of Mission of EUBAM Libya<br><i>Decision to publish in the Official Journal</i>   | 8986/22<br>8368/22<br>PSC DEC                       |
| 60. | Council Decision and Implementing Regulation concerning restrictive measures against ISIL (Da’esh) and Al-Qaeda and persons, groups, undertakings and entities associated with them<br><i>Decision to use the written procedure for the adoption</i>       | 8620/22<br>8621/22<br>8617/22<br>8619/22<br>CORLX   |
| 61. | Council Decision in support of efforts to prevent and combat illicit proliferation and trafficking of small arms and light weapons (SALW) and ammunition and their impact in the Americas<br><i>Decision to use the written procedure for the adoption</i> | 8652/22<br>8651/22 + ADD 1<br>+ ADD1 COR 1<br>CORLX |
| 62. | Council Decision on the promotion of effective arms export controls<br><i>Decision to use the written procedure for the adoption</i>   | 8711/22<br>8710/22<br>CORLX                         |
| 63. | Council Implementing Decision and Regulation concerning restrictive measures in view of the situation in Syria<br><i>Decision to use the written procedure for the adoption</i>  | 8915/1/22 REV 1<br>8912/22<br>8914/22<br>CORLX      |

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| 64. | World Trade Organization (WTO): 12th ministerial conference in Geneva<br><i>Decision to hold a Council meeting in a place other than Brussels or Luxembourg</i> | 9207/22<br>WTO   |
| 65. | Angola-EU ministerial meeting (Luanda, 7 June 2022) – joint communiqué<br><i>Information note</i>   | 9277/22<br>COAFR |
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