

Brussels, 18 July 2022  
(OR. en)

11473/22  
CRS CRP 29

**SUMMARY RECORD**  
PERMANENT REPRESENTATIVES COMMITTEE  
20, 22, 24 and 25 June 2022

**I. Adoption of the agenda**

10389/3/22 REV 3 OJ CRP2 25 COMIX 333  
10430/22 REV 2 OJ CRP1 25 + REV 2 ADD 1

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)**

**MONDAY 20 JUNE 2022**

#### **General Affairs**

21. Meeting of the Council (General Affairs) on 21 June 2022:  
preparation

Preparation for the European Council meeting on 23 and 24 June 2022: conclusions	8238/22
- Commission Opinion on Ukraine's application for membership of the European Union	10321/22 + ADD 1
- Commission Opinion on the Republic of Moldova's application for membership of the European Union	10322/22 + ADD 1
- Commission Opinion on Georgia's application for membership of the European Union	10323/22 + ADD 1

*Exchange of views*

The Committee prepared this item for the Council meeting.

5. Enlargement – accession negotiations with North Macedonia 10393/22
- (i) General EU position
  - (ii) Procedure for accession negotiations (internal arrangements) 10373/22  
10374/22
  - (iii) Draft Council conclusions
- Exchange of views* 10381/22

The Committee held an exchange of views.

6. Enlargement – accession negotiations with the Republic of Albania
- (i) General EU position 10375/22
  - (ii) Procedure for accession negotiations (internal arrangements) 10380/22
- Exchange of views*

The Committee held an exchange of views.

22. Euro Summit on 24 June 2022  
*Exchange of views*

The Committee held an exchange of views.

**Justice and Home Affairs**

7. Screening Regulation

9726/1/22 REV 1

*Mandate for negotiations with the European Parliament*

The Committee agreed on a mandate for negotiations with the European Parliament.

Joint statement by Cyprus, Greece, Italy, Malta and Spain

"Cyprus, Greece, Italy, Malta and Spain welcome the outcome of the JHA Council meeting which took place on June 10th in Luxembourg as a remarkable political breakthrough in a spirit of compromise, confirming the potential of a pragmatic approach to the negotiations on the New Pact on Migration and Asylum and the importance to continue to uphold this approach to make further balanced progress, in parallel, on all the key components of the Pact.

We look forward to the preliminary review which, as per the political declaration on solidarity endorsed by JHA Ministers in Luxembourg, will take place six months after the adoption of the general approach on the EURODAC and Screening regulations and the simultaneous start of the solidarity operations.

The flexibility we have shown in the context of negotiations on the Pact is contingent on the temporary solidarity mechanism effectively alleviating the burden faced by the frontline Member States.

Recalling the position that we expressed on the concept of pre-entry phase, we reiterate that the maintenance of the legal fiction of non-entry in the Screening text does not pre-empt the result of the negotiations on the APR proposal.

We highlight that the political declaration should be viewed as a first step towards the establishment of a stable and durable solidarity mechanism, which should be soon discussed and agreed in the context of the AMMR proposal, on the basis of re-energised negotiations, the ultimate goal still being the adoption of a fully integrated and coherent set of rules, ensuring the most effective application of the principles of solidarity and fair sharing of responsibility in the management of migration."

Statement by Hungary

"Hungary would like to recall that the goal of the EU's asylum and migration policy should be to develop an effective system that can address the challenges, which have already existed for many years. Taking into account these long-lasting challenges, in our view, the focus of the reform must be on tackling the root causes of migration, the protection of our external borders and on eliminating the systematic abuses of the asylum system.

The first step towards a fully functioning Common European Asylum System is the screening and registration of illegally arriving persons and asylum seekers, in order to prevent the misuses of our asylum systems and to guarantee the internal security of the EU and the Schengen area. Irregular migrants arriving at the external borders shall be subject to procedures which would enable us to ensure that only those who are entitled to enter the European Union are actually allowed to do so, and to avoid the secondary movement of illegal migrants within the Schengen area. Additionally we are still convinced that persons

attempting to cross the borders of the EU by sea should not be treated differently as those who commit similar attempts at other types of external borders.

Hungary has consistently emphasized that the prerequisite of a crisis-resistant common asylum system is a preliminary consensus on the main pillars of the reform, which must be decided at the highest political level. The 'package approach' ensures that the final decision on the reform of the Common European Asylum System would be taken with the respect of the interest of every Member State, which contributes to the implementation of the adopted measures. The legislative proposals constituting the reform of CEAS are closely interlinked with each other, any separate adoption of a general approach in one or more of the proposals renders the final adoption of the politically sensitive reform package.

Taking into account the aforementioned arguments Hungary is not in a position to accept the general approach of the proposal for a Regulation introducing screening of third country nationals at the external borders, and the amended proposal for a Regulation on the establishment of 'Eurodac'."

8. Amended proposal for Eurodac Regulation 9670/22  
*Mandate for negotiations with the European Parliament*

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We highlight that the political declaration should be viewed as a first step towards the establishment of a stable and durable solidarity mechanism, which should be soon discussed and agreed in the context of the AMMR proposal, on the basis of re-energised negotiations, the ultimate goal still being the adoption of a fully integrated and coherent set of rules, ensuring the most effective application of the principles of solidarity and fair sharing of responsibility in the management of migration."

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## **COREPER (PART 1)**

**WEDNESDAY 22 JUNE 2022**

### **Telecommunications**

24. Directive on measures for a high common level of cybersecurity across the Union 10193/22  
*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.

#### **Statement by Germany, the Netherlands, Italy, Poland and Sweden**

"We would like to highlight, that the present final compromise text includes a well-balanced compromise on the inclusion of public administration into the scope of the NIS 2-Directive. However, the negotiations by the co-legislators on the proposed Directive on the resilience of critical entities (CER-Directive) have not concluded and we would like to point out that any entity identified under the CER-Directive is automatically included as an essential entity under the NIS 2-Directive, cf. Article 2 (1), (2) (g), Article 2a (1) (e).

In light of this link between the scope of the CER-Directive and the one of the NIS 2-Directive, we would like to emphasize that the compromise should not be circumvented by introducing an inclusion of public administration in the CER-Directive that goes even further. Otherwise, the provisions in the NIS 2-Directive and the CER-Directive would become incoherent."

### **Internal Market and Industry**

25. Directive amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 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 21 June 2022.

### **Health**

26. Regulation on serious cross-border threats to health and repealing Decision No 1082/2013/EU 9521/22  
*Preparation for the trilogue*

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

## Environment

28. Regulation amending Annexes IV and V to Regulation (EU) 2019/1021 on persistent organic pollutants (POPs)  
*Presidency debriefing on the outcome of the trilogue*

The Presidency debriefed on the trilogue which took place on 20 June 2022.

## Transport, Telecommunications and Energy

29. Meeting of the Council (Transport, Telecommunications and Energy) on 27 June 2022:  
preparation

Fit for 55 package

- (a) Revision of the Energy Efficiency Directive (recast) 10420/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

- (b) Revision of the Renewable Energy Directive 10347/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

### Statements by Germany

#### On Article 15 of the Renewable Energy Directive

"Germany supports the General Approach on the RED today in the spirit of compromise and in the common understanding that we will revert to the issues raised in our non-paper on permitting in the context of the negotiations on the REPowerEU proposals and the Trilogue negotiations on the RED.

In particular, Germany would like to underline that we do not support that the provision in Article 15 (8b) on considering that renewables and the related grid infrastructure are in the overriding public interest and serve the public safety is limited to the mentioned Directives and Articles mentioned in the current version of the compromise text. The provision needs to also apply to other relevant provisions for the balancing of legal interests in the planning and permit-granting procedures.

If the EU is to achieve ambitious renewable energy targets by 2030, renewables and the related grid infrastructure need to be considered as being in the overriding public interest more broadly. The legal reasoning behind the limitation of the overriding public interest needs further assessment. "

#### On Article 25 and Annex V and VI of the Renewable Energy Directive

"Germany would have preferred an EU-wide GHG-approach for the overall target in the transport sector and supported the RFNBO sub-quota as contained in the previous version of the text (REV-5).

Furthermore, we regret that the changes in the room document of today's Coreper were made to Annex V and VI. In order for biofuels to have a real benefit on GHG mitigation robust rules are needed."

## Environment

30. Meeting of the Council (Environment) on 28 June 2022: preparation

1. Fit for 55 package

- (a) Revision of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading (ETS BRT) 10282/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

- (b) Regulation establishing a Social Climate Fund 10395/22  
*(poss.) General approach*

The Committee continued preparing this item for the Council meeting.

- (c) Revision of Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF) 10330/1/22 REV 1  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

2. Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation 9893/22  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

## **FRIDAY 24 JUNE 2022**

### **Internal Market and Industry**

31. Regulation on machinery products 9801/1/22 REV 1  
*Mandate for negotiations with the European Parliament* + REV 1 COR 1

The Committee agreed on a mandate for negotiations with the European Parliament and agreed to make the mandate public.

### **Health**

26. (cont.) Regulation on serious cross-border threats to health and  
repealing Decision No 1082/2013/EU  
*Presidency briefing on the outcome of the trilogue*

The Presidency briefed on the trilogue which took place on 23 June 2022.

### **Telecommunications**

32. Decision on the Path to the Digital Decade  
*Presidency briefing on the outcome of the trilogue*

The Presidency briefed on the trilogue which took place on 23 June 2022.

33. European Declaration on Digital Rights and Principles for the 10326/22  
Digital Decade  
*Consideration of the Presidency proposal in order to prepare  
interinstitutional discussions*

The Committee agreed to the Presidency's proposal as the basis on which to engage in interinstitutional negotiations.

### **Environment**

30. (cont.) Meeting of the Council (Environment) on 28 June 2022: preparation

1. (cont.) Fit for 55 package

- (d) Revision of Regulation (EU) 2019/631 setting CO2 9983/22  
emission performance standards for new passenger  
cars and for new light commercial vehicles  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

- (e) ETS revision (excluding BRT) 10479/22  
+ ADD 1-3
- (i) Revision of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading (ETS)
- (ii) Revision of Directive 2003/87/EC as regards aviation's contribution (ETS Aviation)
- (iii) Revision of Decision (EU) 2015/1814 (market stability reserve)  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

## **SATURDAY 25 JUNE 2022**

### **Environment**

30. (cont.) Meeting of the Council (Environment) on 28 June 2022: preparation

1. Fit for 55 package

- (b) Regulation establishing a Social Climate Fund 10395/1/22 REV 1  
*(poss.) General approach*

The Committee prepared this item for the Council meeting.

**IV. Any other business**

**COREPER (PART 2)**

Kaliningrad

The Committee took note of the information provided by Lithuania.

Instrumentalisation of migrants

The Committee took note of the information provided by Greece.

**COREPER (PART 1)**

None.

Non-discussion items (I)COREPER (PART 2)MONDAY 20 JUNE 2022Institutional affairs**Appointments**

10. A member and two alternate members (ES) of the Committee of the Regions  
*Adoption*
- 9572/22  
9497/22  
CDR

**Letters**

11. Reply to the letter of the European Parliament on the format of trilogues  
*Approval of a letter*
- 10270/22  
INST

Economic and Financial Affairs

12. European Court of Auditors Special Report 12/2022: Sustainability of rural development projects  
*Designation of a working party*  
*Attendance of the European Court of Auditors at the working party meeting*
- 10272/22  
FIN
13. European Court of Auditors Special Report 15/2022: Measures to widen participation in Horizon 2020  
*Designation of a working party*  
*Attendance of the European Court of Auditors at the working party meeting*
- 10280/22  
FIN

General Affairs

14. Regulation amending Regulation (EU) 2021/953 on the EU Digital COVID Certificate  
*Adoption of the legislative act*
- 10277/22 + ADD 1  
COVID-19

Statement by Hungary

"Hungary expresses its deep regret that throughout the legislative process the legitimate interest of many Hungarian citizens was not duly considered, and the regulation still does not guarantee the recognition of vaccines granted emergency authorisation by the Member States even if they are followed by the administration of vaccines authorized by the European Commission.

On the other hand, before the autumn-winter season when new waves may arise, Hungary recognizes the importance of extending the EU digital COVID certification scheme.

Therefore, Hungary acknowledges the adoption of the regulation while calling on the Member States that they equally recognize vaccination certificates issued upon all vaccines used in accordance with the EU legislation, including vaccines administered under emergency use authorisations."

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|-----|---|--|
| 15. | Regulation amending Regulation (EU) 2021/954 on the EU Digital COVID Certificate for third-country nationals<br><i>Adoption of the legislative act</i>                    | 10276/22<br>COVID-19                       |
| 16. | Regulation on the alignment of the RPS in the area of justice<br><i>Adoption of the Council's position at first reading and of the statement of the Council's reasons</i> | 10274/22<br>9279/22 + ADD 1<br>INST<br>JUR |

### **Justice and Home Affairs**

- |     |  |                                    |
|-----|--|------------------------------------|
| 17. | Regulation amending Regulation (EU) 2018/1862 on the Schengen Information System (SIS)<br><i>Adoption of the legislative act</i> | 10187/22<br>PE-CONS 16/22<br>SIRIS |
|-----|--|------------------------------------|

## **WEDNESDAY 22 JUNE 2022**

### **Institutional affairs**

#### **Other**

- |     |  |                   |
|-----|--|-------------------|
| 18. | Attendance of a third party at the meeting of the Working Party on Dual-Use Goods on 29 June 2022<br><i>Approval</i> | 10392/22<br>COMER |
| 23. | Attendance of a third party at the meeting of the Working Party on Human Rights on 13 July 2022<br><i>Approval</i>   | 10005/22<br>COHOM |

### **Justice and Home Affairs**

- |     |   |                             |
|-----|---|-----------------------------|
| 19. | Political declaration on the protection of displaced children from Ukraine<br><i>Approval</i> | 10145/2/22 REV 2<br>JUSTCIV |
|-----|---|-----------------------------|

### **Foreign Affairs**

- |     |  |                             |
|-----|--|-----------------------------|
| 20. | Council Decision on EDF contributions: second instalment 2022<br><i>Adoption</i> | 10258/22<br>10132/22<br>ACP |
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- |     |   |  |
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| 53. | Concept note for an assistance measure under the EPF to support the deployment of the Rwanda Defence Force in Mozambique<br><i>Approval</i>   | 10391/22<br>8539/22 + COR 1<br>8546/22 <b>R-UE</b><br>COPS |
| 54. | Democratic People's Republic of Korea restrictive measures – amended statements of reasons: pre-notifications<br><i>Approval</i>  | 10331/22<br>CORLX  |
| 55. | Libya restrictive measures – pre-notifications<br><i>Approval</i>   | 10388/22<br>CORLX  |
| 56. | Council Decision and Implementing Regulation concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine<br><i>Approval</i><br><i>Decision to use the written procedure for the adoption</i> | 10545/22<br>10541/22<br>10544/22<br>CORLX                  |

## **COREPER (PART 1)**

**WEDNESDAY 22 JUNE 2022**

### **Institutional affairs**

#### **Written questions**

34. Replies to questions for written answer submitted to the Council by Members of the European Parliament  
*Adoption by silence procedure*
- 10232/1/22 REV 1  
PE-QE
- (a) Eugen Tomac (PPE)  
‘Romanian accession to the Schengen area’
- 10230/22
- (b) Jean-Paul Garraud (ID)  
‘Sanitary requirements for media representatives attending the European Council meeting of 16 December 2021’
- 9381/22
- (c) Gianantonio Da Re (ID)  
‘Parliament’s dual seat: inevitable rise in running costs as a result of the Russia-Ukraine conflict’
- 9569/22
- (d) Beata Kempa (ECR)  
‘Actions of the previous President of the Council in relation to Nord Stream’
- 9592/22

#### **Appointments**

35. A member (EE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions  
*Adoption*
- 10223/22  
SOC
36. An alternate member (EE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions  
*Adoption*
- 10224/22  
SOC

#### **Other**

37. List of Working Parties and Committees, which will be officially organised in the Czech Republic under the Czech Presidency (second half of 2022)  
*Information note for the Permanent Representatives Committee (Part 1)*
- 10257/22  
POLGEN
38. Attendance of a third party at the meeting of the Working Party on Space on 28 June 2022  
*Approval*
- 10243/22  
ESPACE

- |     |  |                          |
|-----|--|--------------------------|
| 39. | Attendance of a third party at the meeting of the Working Party on the Environment on 1 July 2022<br><i>Approval</i> | 10311/22<br>ENV<br>CLIMA |
|-----|--|--------------------------|

**EU positions for international negotiations**

- |     |  |                   |
|-----|--|-------------------|
| 40. | Position of the EU and its Member States concerning a written procedure following the second session of the OTIF Ad hoc Committee on Legal Affairs and International Cooperation (Geneva, 5-7 April 2022)<br><i>Approval</i> | 10296/22<br>TRANS |
|-----|--|-------------------|

**Transport**

- |     |  |                                   |
|-----|--|-----------------------------------|
| 41. | Preparation of the 41st Session of the ICAO Assembly (Montreal, 18 September - 14 October 2022)<br><i>Approval</i> | 10057/22<br>+ ADD 1-9<br>AVIATION |
|-----|--|-----------------------------------|

**Space**

- |     |   |                               |
|-----|---|-------------------------------|
| 43. | Council Decision on the extension of the Agreement on the Galileo and GPS satellite-based navigation systems between the European Community and its Member States and the United States of America<br><i>Adoption</i> | 10239/22<br>6531/22<br>ESPACE |
|-----|---|-------------------------------|

**Research**

- |     |   |                  |
|-----|---|------------------|
| 44. | Declaration to be signed on behalf of the European Union for the All-Atlantic Ocean Research Forum (Washington DC, 13 July 2022)<br><i>Authorisation to sign a non-binding instrument</i> | 10222/22<br>RECH |
|-----|---|------------------|

**Fisheries**

- |     |  |                               |
|-----|--|-------------------------------|
| 45. | Regulation laying down management, conservation and control measures applicable in the Indian Ocean Tuna Commission (IOTC) Area of Competence<br><i>Confirmation of the final compromise text with a view to agreement</i> | 10266/22<br>10146/22<br>PECHE |
|-----|--|-------------------------------|

**Statement by the Commission**

"The European Parliament and the Council underlined on several occasions the need to further improve the process of implementation of conservation measures adopted by Regional Fisheries Management Organisations (RFMOs), notably in a timely manner. The Commission regrets that its attempt to streamline the implementation process has not been fully retained by the European Parliament and the Council. The Commission will continue to work together with the European Parliament and the Council on further improvements to the implementation process."

## **Energy**

46. Regulation on gas storage 10286/22  
*Adoption of the legislative act* ENER

## **Agriculture**

47. Amending Regulation regarding exceptional EAFRD support in response to Russia's invasion of Ukraine 10281/22 + ADD 1  
*Adoption of the legislative act* AGRI  
*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*

## **Delegated or Implementing Acts**

### **Internal Market and Industry**

48. Commission Regulation (EU) .../... of XXX amending Regulation (EC) No 1223/2009 of the European Parliament and of the Council as regards the use in cosmetic products of certain substances classified as carcinogenic, mutagenic or toxic for reproduction and correcting that Regulation 10265/22  
*Decision not to oppose adoption* 8662/22 + ADD 1  
ENT
49. Commission Delegated Regulation (EU).../... of 5.5.2022 supplementing Regulation (EU) 2018/858 of the European Parliament and of the Council as regards the procedure for the imposition of administrative fines and the methods for their calculation and collection 10267/22  
*Delegated act – Intention not to raise objections* 8830/22  
MI
50. Commission Delegated Regulation (EU).../... of 5.5.2022 amending Regulation (EU) 2019/1009 of the European Parliament and of the Council as regards the requirements applicable to EU fertilising products containing inhibiting compounds and the post processing of digestate 10264/22  
*Delegated act – Intention not to raise objections* 8838/22 + ADD 1  
ENT

## FRIDAY 24 JUNE 2022

### Transport

*The following item has been moved from the Wednesday meeting and reads as follows:*

42. Contributions to the International Civil Aviation Organization's high-level meeting on long-term objectives
- |  |                  |
|--|------------------|
| (a) General considerations             | 10553/22 + ADD 1 |
| <i>Approval</i>                        | AVIATION         |
| (b) Presentation of funding mechanisms | 10555/22 + ADD 1 |
| <i>Approval</i>                        | AVIATION         |
51. Council Decision authorising the signing and provisional application of the agreement on the carriage of goods by road between the European Union and the Republic of Moldova
- |                 |          |
|-----------------|----------|
|                 | 10148/22 |
|                 | 10152/22 |
|                 | 10409/22 |
| <i>Adoption</i> | TRANS    |

#### Statement by the Commission

"In line with the Commission statement at the time when the Council adopted the decisions authorising the opening of negotiations with Ukraine and Moldova for an Agreement on the carriage of goods by road, the Commission would like now to state the following:

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. 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<sup>1</sup>). 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<sup>2</sup>. 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 Court has stated<sup>3</sup> that Protocol 25 does not apply to Article 3(2) TFEU and cannot be read to limit its scope. Thus, the principle of pre-emption under that article is broader than under Article 2(2) TFEU.

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<sup>1</sup> 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, OJ L 300, 14.11.2009, p. 72.

<sup>2</sup> ECJ Opinion 2/15 of 16 May 2017 in the "Singapore" case, paragraph 201.

<sup>3</sup> Case C-114/12, Commission v Council (Neighbouring Rights of Broadcasting Organisations), paragraph 73.

3. 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 have included *ad cautelam*, specific provisions applicable after the termination of these agreements.
4. The Commission further considers that the Decisions on the signing and provisional application of the agreements should refer to the person designated by the negotiator as the one to be empowered to sign. Therefore, the changes that provide for the President of the Council to designate the person who is to sign the agreement on behalf of the Union are not in accordance with the Treaties. All acts of external representation in the process of treaty-making, including the signature of an international agreement and the subsequent expression of the consent to be bound by it are in accordance with Article 17(1) TEU the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union, where it is the High Representative who represents the Union externally according to Article 27(2) TEU. Without prejudice to this exception, when the Commission and another actor designated by the Council, co-sign an international agreement on behalf of the Union, only the signature of the Commission commits the Union. 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.
5. The Commission reserves all its rights as regards the above. "

52. Council Decision authorising the signing and provisional application of the agreement on the carriage of goods by road between the European Union and Ukraine	10147/22 10151/22 10407/22
<i>Adoption</i>	TRANS

#### Statement by the Commission

"In line with the Commission statement at the time when the Council adopted the decisions authorising the opening of negotiations with Ukraine and Moldova for an Agreement on the carriage of goods by road, the Commission would like now to state the following:

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. 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<sup>1</sup>). 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<sup>2</sup>. 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 Court has stated<sup>3</sup> that Protocol 25 does not apply to Article 3(2) TFEU and cannot be read to limit its scope. Thus, the principle of pre-emption under that article is broader than under Article 2(2) TFEU.
3. 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 have included *ad cautelam*, specific provisions applicable after the termination of these agreements.
4. The Commission further considers that the Decisions on the signing and provisional application of the agreements should refer to the person designated by the negotiator as the one to be empowered to sign. Therefore, the changes that provide for the President of the Council to designate the person who is to sign the agreement on behalf of the Union are not in accordance with the Treaties. All acts of external representation in the process of treaty-making, including the signature of an international agreement and the subsequent expression of the consent to be bound by it are in accordance with Article 17(1) TEU the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union, where it is the High Representative who represents the Union externally according to Article 27(2) TEU. Without prejudice to this exception, when the Commission and another actor designated by the Council, co-sign an international agreement on behalf of the Union, only the signature of the

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<sup>1</sup> 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, OJ L 300, 14.11.2009, p. 72.

<sup>2</sup> ECJ Opinion 2/15 of 16 May 2017 in the "Singapore" case, paragraph 201.

<sup>3</sup> Case C-114/12, Commission v Council (Neighbouring Rights of Broadcasting Organisations), paragraph 73.

Commission commits the Union. 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.

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

## **Institutional affairs**

### **Other**

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| 57. | Attendance of third parties at a meeting of the members of the Political and Security Committee on 28 June 2022 | 10600/22 |
|     | <i>Approval</i>   | COPS     |
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