

Brussels, 15 October 2021
(OR. en)

12858/21
CRS CRP 35

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
27, 29 September, 1 and 4 October 2021

I. Adoption of the agenda

12274/3/21 REV 3 OJ CRP2 33 + CM 4825/21
12248/1/21 REV 1 OJ CRP1 33

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 27 SEPTEMBER 2021

Foreign Affairs

2. EU-US Trade and Technology Council (Pittsburgh,
29 September 2021)

- a) Preparation
Exchange of views
- b) Draft Joint Statement
Approval

11914/21

The Committee prepared the text for approval and exchanged views.

WEDNESDAY 29 SEPTEMBER 2021

General Affairs

3. Meeting of the Council (General Affairs) on 19 October 2021:
Agenda - Preparation

The Committee took note of the agenda.

- a) Preparation of the European Council on 21 and 22 October 2021: Guidelines 11569/21
Exchange of views

The Committee exchanged views on the draft guidelines.

Foreign Affairs

4. Meeting of the Council (Foreign Affairs) on 18 October 2021:
Agenda

The EEAS presented the main items on the agenda.

6. EU-Ukraine Summit (Kyiv, 12 October 2021) 11505/4/21 REV 4
Exchange of views

The Committee exchanged views and agreed to revert.

Economic and Financial Affairs

7. Meeting of the Council (Economic and Financial Affairs) on 5
October 2021: Preparation

- a) Revision of prudential rules for insurance and reinsurance 11763/21
companies (Solvency II) 11764/21
Policy debate 11992/21

The Committee prepared this item for the Council meeting.

b) Recovery and Resilience Facility

i) Implementation of the RRF

State of play

Exchange of views

ii) Council Implementing Decision under the RRF
Regulation

Adoption

11941/21 + ADD 1

The Committee prepared this item for the Council meeting.

c) European Semester 2021: Lessons learnt and a way
forward in the context of the Recovery and Resilience
Facility

12190/21

12222/21

Exchange of views

The Committee prepared this item for the Council meeting.

d) Implementation of the SURE instrument

12090/21

State of play

12091/21

Exchange of views

The Committee prepared this item for the Council meeting.

e) Preparation of the G20 Finance Ministers and Central
Bank Governors and the IMF Annual meetings of 12-14
October 2021

i) G20 EU Terms of Reference

12039/21

Approval

ii) Statement to the IMFC

12041/21

Approval

The Committee prepared this item for the Council meeting.

f) Conclusions on climate finance in view of the 26th UN
Climate Change Conference of the Parties (COP26) in
Glasgow on 31 October - 12 November 2021

12094/21

Approval

The Committee prepared this item for the Council meeting.

g) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

The Committee took note that the EU list of non-cooperative jurisdictions is now an A item for the Council.

The Committee agreed to the participation of the EIB President in the ECOFIN Council meeting and in the informal breakfast, as well as to the participation of the Managing Director of the ESM in the informal breakfast.

8. Informal videoconference of the Ministers of the Economy and Finance on 28 October 2021: Agenda

The Presidency presented the main items on the agenda.

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| 9. Council position on DAB No 5/2021: Humanitarian support to refugees in Turkey | 12165/21 |
| <i>Adoption</i> | 12166/21 |
| | 10627/21 |
| | FIN |

The Committee agreed to the draft amending budget No 5/2021.

Statement by the Commission

"The Commission confirms that exceeding the NDICI indicative target of 10% dedicated to migration-related actions would not result in the inability of the program to provide further resources. This is due to the fact that 10% is an indicative target and not a specific allocation, and that there is no 'cap' on migration related expenditure in the NDICI. It is indeed the case that by the end of the MFF the migration expenditure could be above the indicative 10% target.

The Commission confirms that DAB 5/2021, while using the full unallocated margin in Heading 6, will not have a negative impact on financing for other migration routes – which will be financed in particular through the NDICI-Global Europe. In the same vein, and in line with the Conclusions adopted by the European Council of 24th and 25th June 2021, the Commission confirms that the 2020-2023 refugees' package set out in the recent non-paper will not have a negative impact on the financing for the needs of all migration routes programmed under the operational lines of the NDICI Global Europe."

FRIDAY 1 OCTOBER 2021

Justice and Home Affairs

10. Meeting of the Council (Justice and Home Affairs) on 7 and 8 October 2021: Preparation

- a) Conclusions on the EU Strategy on the rights of the child 12153/21
Approval

The Committee prepared this item for the Council meeting.

Statement by Bulgaria

"The Republic of Bulgaria attaches great importance to the promotion and protection of human rights, including the rights of the child. The country is and will remain dedicated to its human rights commitments.

In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe's Convention on Preventing and Combatting Violence against Women and Domestic Violence ("Istanbul Convention") promotes legal concepts related to the notion of gender that are incompatible with main principles of the Bulgarian Constitution.

In line with the above-mentioned Decision of the Constitutional Court and with the Bulgarian Constitution, the Republic of Bulgaria declares that expressions containing the term „gender” will be interpreted as referring to women and men."

- b) European Public Prosecutor's Office (EPPO) 12022/21
State of play

The Committee prepared this item for the Council meeting.

- c) Pre-trial detention 12005/21
Policy debate

The Committee prepared this item for the Council meeting.

- d) Challenges of screening and detention at the border 12043/21
Policy debate

The Committee prepared this item for the Council meeting.

- e) Implementation of interoperability
Information from the Commission and eu-LISA
Exchange of views

The Committee prepared this item for the Council meeting.

- f) Situation in Afghanistan¹: follow up
Information from the Presidency, the Commission and the EU CTC

The Committee prepared this item for the Council meeting.

- g) External dimension of migration:
- i) Migration Action plans: state of play
Information from the Commission and the Presidency
 - ii) Migratory situation on various routes
Exchange of views

The Committee prepared this item for the Council meeting.

- h) The digital dimension of investigating Child Sexual Abuse 12060/21
– challenges and way forward
Policy debate

The Committee prepared this item for the Council meeting.

- i) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

11. Council Decision on the EU position in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR) 12272/21
Adoption

The Committee noted that the Council is not in a position to adopt an EU position, especially due to the very late presentation of the proposal by the Commission. Member States will not be able to take positions on behalf of the Union. They will express national positions at the Executive Committee in full compliance with EU acquis.

Foreign Affairs

5. EU-Western Balkans Summit (Brdo, 6 October 2021) 11476/2/21 REV 2
Exchange of views

The Committee exchanged views and agreed to circulate a revised text following delegations' comments.

¹ Exceptionally, in the presence of the Schengen Associated States.

MONDAY 4 OCTOBER 2021

Foreign Affairs

5. EU-Western Balkans Summit (Brdo, 6 October 2021)
Exchange of views

11476/2/21 REV 2

The Committee exchanged views and agreed on a revised text of the declaration.

COREPER (PART 1)

FRIDAY 1 OCTOBER 2021

Transport, Telecommunications and Energy

62. Informal videoconference of the Ministers of Telecommunications on 14 October 2021:
Preparation

Artificial Intelligence Act

- a) Regulatory design of the proposed AI Act
 - b) Challenges of effective implementation of the AI Act
- Policy debate*
(in public session)

The Committee prepared this item for the informal videoconference.

Telecommunications

63. Regulation on European data governance (Data Governance Act) 12124/21
Mandate for negotiations with the European Parliament

The Committee prepared a mandate for a forthcoming trilogue.

Statement by Germany

"An einigen Stellen regt DEU eine ambitioniertere, innovationsfreundliche Ausgestaltung an. Dies gilt insbesondere für die Kriterien zur Qualifizierung von Datenmittlungsdiensten im Anwendungsbereich des DGA. Diese Kriterien sollten so ausgestaltet werden, dass für den wachsenden Markt dieser Dienste ein ‚Level Playing Field‘ mit gleichen Wettbewerbschancen und für alle Anbietenden entsteht, insb. für Start-ups, kleine und mittlere Unternehmen sowie Organisationen aus dem Non-Profit Bereich. Neben der Innovationskraft soll so dem Ziel der auch gemeinwohlorientierten Datenteilung und -nutzung Rechnung getragen werden."

Courtesy translation

"In some areas, GER suggests a more ambitious, innovation-friendly design. This applies in particular to the qualification criteria for data mediation services within the scope of the DGA. The criteria should be designed in a way that a level playing field is created for the growing market for these services - with equal competitive opportunities for all providers, especially for start-ups, small and medium-sized enterprises and organisations from the non-profit sector. This takes into account both innovational strength and the goal of sharing and using data for the common good."

Agriculture and Fisheries

64. Meeting of the Council (Agriculture and Fisheries) on 11 and 12 October 2021: Preparation

The Committee agreed to the Presidency's proposal to handle the AOBs regarding animal welfare and the FAO candidate in public.

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| 1. | Fit for 55 (legislative initiatives for the implementation of the updated 2030 climate target): Contribution of Agriculture and Forestry
<i>Exchange of views</i> | 12235/21 |
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The Committee prepared this item for the Council meeting.

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| 2. | Council Regulation fixing for 2022 the fishing opportunities applicable in the Baltic Sea
<i>Political agreement</i> | 12135/1/21 REV 1
11398/21 + ADD 1 |
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The Committee prepared this item for the Council meeting.

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| 3. | Fishing opportunities 2022: Fish stocks shared with the UK
<i>Exchange of views</i> | 12138/21 |
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The Committee prepared this item for the Council meeting.

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| 4. | EU-Norway and Coastal States: Fisheries consultations for 2022
<i>Exchange of views</i> | 12136/21 |
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The Committee prepared this item for the Council meeting.

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| 5. | ICCAT annual meeting (15-22 November 2021)
<i>Exchange of views</i> | 12137/21 |
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The Committee prepared this item for the Council meeting.

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| 6. | Communication on the New EU Forest Strategy for 2030
<i>Policy debate</i> | 12122/21 |
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The Committee prepared this item for the Council meeting.

Health

65. Regulation on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices

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 30 September 2021.

66. Regulation amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control (ECDC)

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 27 September 2021.

IV. Any other business

COREPER (PART 2)

Situation at PL-BY border

The Committee took note of the information provided by Poland.

EL/FR defence cooperation

The Committee took note of the information provided by EL about the newly signed agreement.

COREPER (PART 1)

None.

"I" items approved

COREPER (PART 2)

WEDNESDAY 29 SEPTEMBER 2021

Judicial Affairs

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| 12. | Case C-551/21 (European Commission v. Council of the European Union)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 12042/21
JUR 503 |
| 13. | Case T-536/21 (Belaeronavigatsia v Council)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 12236/21
JUR |

Institutional Affairs

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| 14. | Minutes of Council meetings
<i>Approval</i> | |
| a) | JHA 7-8.06.2021 | 9630/21 + COR 1
+ ADD 1 + ADD 1
COR 1 |
| b) | ECOFIN 18.06.2021 | 10226/21 + ADD 1 |
| c) | FAC 21.06.2021 | 10227/21 + COR 1
REV 1 + ADD 1 |
| d) | GAC 22.06.2021 | 10228/21 + ADD 1
+ ADD 1 COR 1 |
| e) | FAC 12.07.2021 | 10810/21 + ADD 1 |
| f) | ECOFIN 13.07.2021 | 10812/21 + ADD 1 |
| | Other | |
| 15. | Attendance of third parties at the HWP ERCHT on 30 September 2021
<i>Approval</i> | 12152/21
HYBRID |

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| 16. | Attendance of a third party at the informal videoconference of the members of the Working Party on Own Resources on 8 October 2021
<i>Approval</i> | 12061/21
RESPR |
| 17. | Attendance of a third party at the informal video conference of the members of the Working Party on Trade Questions on 5 October 2021
<i>Approval</i> | 12074/21
COMER |
| 18. | Attendance of third parties at the Working Party on Humanitarian Aid and Food Aid on 13 and 14 October 2021
<i>Approval</i> | 12133/21
COHAFA |
| 19. | Attendance of a third party at the meeting of the Politico-Military Working Party on 29 September
<i>Approval</i> | 12160/21
POLMIL |
| 20. | Attendance of a third party at the informal videoconference of the Financial Services Committee on 6 October 2021
<i>Approval</i> | 12158/21
EF |
| 21. | Attendance of a third party at the informal videoconference of the members of the EUMCWG/HTF on 30 September 2021
<i>Approval</i> | 12256/21
CSDP |
| 59. | Attendance of a third party at the informal videoconference of MOG on 30 September 2021
<i>Approval</i> | 12250/21
MOG |
| 60. | Attendance of a third party at the informal meeting of the members of the RELEX Working Party on 08 October 2021
<i>Approval</i> | 12298/21
CORLX |

Economic and Financial Affairs

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| 22. | OLAF's 2020 report: Outcome of proceedings
<i>Endorsement</i> | 11917/21
GAF |
| 23. | OLAF Supervisory Committee's 2020 activity report: Outcome of proceedings
<i>Endorsement</i> | 11918/21
GAF |

24.	Request of confirmation by the EP of the Chair of the European Securities and Markets Authority (ESMA) <i>Approval</i> <i>Approval of a letter</i>	12157/21 EF
25.	ECA SR No 18/2021 on Commission's surveillance of Member States exiting a macroeconomic adjustment programme <i>Designation of a Working Party</i>	12078/21 FIN
26.	ECA SR No 22/2021 on sustainable finance <i>Designation of a Working Party</i>	12111/21 FIN
27.	Council Implementing Decision authorising Hungary to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax <i>Adoption</i>	12104/21 11645/21 FISC
28.	Council Implementing Decision authorising Hungary to introduce a special measure derogating from point a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax <i>Adoption</i>	12108/21 11621/21 FISC
29.	Council Implementing Decision authorising Italy to apply reduced rates of excise duty to gas oil used for heating purposes and to electricity in Campione d'Italia <i>Adoption</i>	12112/21 11665/21 FISC
30.	Council Implementing Decision amending Decision 2009/791/EC authorising Germany to continue to apply a measure derogating from Article 168 of Directive 2006/112/EC on the common system of value added tax <i>Adoption</i>	12105/21 11662/21 FISC
31.	Council Implementing Decision authorising Germany to apply a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax <i>Adoption</i>	12106/21 11666/21 FISC

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| 32. | Council Implementing Decision amending Implementing Decision 2009/1013/EU authorising the Republic of Austria to continue to apply a measure derogating from Article 168 of Directive 2006/112/EC on the common system of value added tax
<i>Adoption</i> | 12107/21
11667/21
FISC |
| 33. | Council Implementing Decision amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax
<i>Adoption</i> | 12109/21
11668/21
FISC |
| 34. | Conclusions on the revision of the EU list of non-cooperative jurisdictions for tax purposes
<i>Approval</i> | 12101/21 + COR1
FISC |

Joint statement by Austria, Greece and Cyprus

"In order not to jeopardise the update of the list as a whole and to recognise the positive developments in many third countries, Austria, Cyprus and Greece accept the proposed Council conclusions.

Swift and noticeable progress is expected from Turkey, which will be ensured by a regular monitoring of the technical progress concerning the effective exchange of financial account information.

Accordingly, the deadline to solve outstanding technical issues to effectively exchange data as soon as possible, but no later than 31 December 2021 will be closely observed.

Austria, Cyprus and Greece expect that Turkey will carry out the effective exchange of financial account information for fiscal years 2020 and onwards with all Member States in accordance with the CRS, and in this way will comply with its obligation, as laid down in the CRS, to exchange financial account information with all interested appropriate partners."

General Affairs

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| 35. | Conclusions on Commission report on EU Border Regions: Living labs of European integration
<i>Approval</i> | 12149/21
COH |
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36. Blue Card Directive
Adoption of the legislative act

12025/1/21 REV 1
+ ADD 1 REV 1
PE-CONS 40/21
MIGR

Statement by Austria

"Austria welcomes that the compromise achieved allows to maintain national schemes for qualified migration parallel to the Blue Card. The Austrian "Red-White-Red" card is an effective instrument of the Austrian migration law which allows to manage qualified migration effectively and which can be flexibly adapted to the needs of the labor market. Furthermore, Austria welcomes that the scope of the Blue Card has not been extended to applicants for international protection. However, concerns remain that the Blue Card does not clearly distinguish between migration of persons in need of protection and labor migration. Without such a distinction misleading signals are sent.

Austria could have supported the inclusion of beneficiaries of international protection into the scope of the Blue Card under specific conditions, as set out in the Council mandate of 26 July 2017, in order to mitigate incentives for secondary movements.

Concerning the provisions related to acquiring long-term residence status, Austria welcomes that the long-term residence status can be acquired after 5 years of legal residence, as set out in the Long-Term Residents Directive (2003/109/EC), instead of 3 years as foreseen in the original Blue Card proposal by the Commission.

Moreover, concerns remain regarding the shortened 30-day procedural deadline in the cases of intra-EU mobility.

Finally, with regard to equal treatment, Austria supports the inclusion of the provision of the Council mandate laying down that Member States may restrict equal treatment of third-country nationals as regards family benefits in relation to family members who reside in a third country. Unfortunately, this is not reflected in the final text.

Against this backdrop, Austria abstains."

Statement by Hungary

"Hungary would like to emphasize its appreciation to the Presidency's efforts to preserve the core elements of the general approach, however, there are still elements in the proposal that are not in line with our position, especially concerning the protection of the labour market. Hungary opposes any restriction on the application of labour market test beyond the provisions currently in force. We also oppose increasing the minimum period of validity of the Blue Card. Furthermore we would like to stress our strong position according to which Hungary does not consider either necessary or appropriate the further harmonisation of the relevant rules in the field of legal migration, and in this regard we would like to reiterate our position on legal migration in general.

We acknowledge that the reached compromise is the result of long lasting negotiations, however Hungary is not in a position to accept the final compromise, due to the aforementioned reasons."

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| 37. | Appointments in Europol 2021: Council Decision extending the term of office of the Executive Director
<i>Adoption</i> | 11990/21
11877/21
ENFOPOL |
| 38. | Council Decision on the conclusion of the Agreement amending the Visa Facilitation Agreement between EU and Cabo Verde
<i>Adoption</i> | 11927/21
5034/21
5035/21
VISA |
| 39. | Council implementing decision regarding visa measures against The Gambia
<i>Adoption</i> | 11975/21
11748/21
VISA |
| 40. | Schengen evaluation Recommendation – Liechtenstein police cooperation
<i>Adoption</i> | 12050/21
12049/21
SCH-EVAL |
| 41. | Schengen evaluation Recommendation – France return
<i>Adoption</i> | 12053/21
12051/21
SCH-EVAL |
| 42. | Schengen evaluation Recommendation – Cyprus return
<i>Adoption</i> | 12055/21
12054/21
SCH-EVAL |
| 43. | Schengen evaluation Recommendation – Cyprus police cooperation
<i>Adoption</i> | 12057/21
12056/21
SCH-EVAL |
| 44. | Schengen evaluation Recommendation – Cyprus external border
<i>Adoption</i> | 12059/21
12058/21
SCH-EVAL |

Foreign Affairs

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| 45. | PSC Decision EUNAVFOR MED IRINI/3/2021 – appointment of the EU Operation Commander
<i>Decision to publish in the Official Journal</i> | 11853/21
11551/21
PSC DEC |
| 46. | PSC Decision EUNAVFOR MED IRINI/4/2021 – appointment of the EU Force Commander
<i>Decision to publish in the Official Journal</i> | 11766/21
12132/21
PSC DEC |

47.	Council Decision on the Overseas Association, including Greenland <i>Adoption</i>	12089/21 8988/21 ACP
48.	EU-Cabo Verde Joint Statement <i>Approval</i>	11848/21 11961/21 COAFR
49.	Council Decision concerning restrictive measures in view of the situation in Nicaragua - review <i>Adoption</i>	11986/21 11985/21 CORLX
50.	Council Decision concerning restrictive measures against the proliferation and use of chemical weapons <i>Adoption</i>	11785/21 11784/21 CORLX
51.	Council Decision concerning restrictive measures against ISIL (Da'esh) and Al-Qaeda and persons, groups, undertakings and entities associated with them - review <i>Adoption</i>	12048/21 12047/21 12046/21 CORLX
61.	Council Decision and Regulation concerning restrictive measures against the Central African Republic - UN transposition <i>Adoption</i>	11781/21 11778/21 11780/21 CORLX

EU positions for international negotiations

52.	Council Decision on the EU position on amending the definition of 'grain' or 'grains' under the Grains Trade Convention <i>Adoption</i>	11890/21 11629/21 PROBA
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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 2 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."

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| 53. | Council Decision on the EU position to be taken in EU-Ukraine Association Committee in Trade configuration
<i>Adoption</i> | 11967/21
11492/21
11503/21
COEST |
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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 2 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."

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| 54. | Council Decision on the EU position to be adopted within the Specialised Committee on Fisheries
<i>Adoption</i> | 11825/21
11885/21
UK |
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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."

Transport

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| 55. | IMO - Joint submission - MEPC 77 on zero emissions no later than 2050
<i>Endorsement</i> | 12102/21
MAR
OMI |
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Statement by the Commission

"The Commission considers that Union submissions to be sent to the IMO are covered by EU exclusive competence. Submission of proposals to the IMO on issues of EU competence is an act of external representation, which, in accordance with Article 17(1) TEU, is the institutional prerogative of the Commission.
In the Commission's view, the procedural arguments against presenting submissions to the IMO by the Commission on behalf of the EU are not convincing. This is because there is no evidence to suggest that the IMO, as a specialised agency of the United Nations, would be in a position to reject such a submission.
The Treaty provisions on external representation of the Union must be applied. It should therefore be made by the European Commission on behalf of the European Union and sent to the IMO by the Commission.
The Commission reserves all its rights in this regard."

FRIDAY 1 OCTOBER 2021

Institutional Affairs

Other

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| 56. | Attendance of a third party at the meeting of the Politico-Military Working Party on 4 October
<i>Approval</i> | 12244/21
POLMIL |
| 89. | Attendance of a third party at the meeting of the Politico-Military Working Party on 6 October
<i>Approval</i> | 12328/21
POLMIL |
| 90. | Attendance of a third party for an informal exchange at the meeting of the members of the COASI Working Party on 8 October 2021
<i>Approval</i> | 12187/21
COASI |
| 91. | Attendance of the European Investment Bank at the informal videoconference of the Financial Services Committee on 6 October 2021
<i>Approval</i> | 12394/21
EF |

General Affairs

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| 57. | Council Decision authorising the opening of negotiations for an agreement between the EU and UK in respect of Gibraltar
<i>Adoption</i> | 12188/21 + ADD 1
12178/21 + ADD 1
UK |
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Statement by the Commission

related to the determination of the legal basis for the future agreement between the EU and the UK on Gibraltar

"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 in the present case, 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."

Statement by the Commission

related to the procedural arrangements for the conduct of the negotiations

"While Article 3 of the draft Council Decision provides for negotiations to be conducted in consultation with a special committee (which is in line with Article 218(4) TFEU)), points 69 and 70 of the negotiating directives in the addendum to the draft Council Decision foresee different procedural arrangements, which are worded in a manner suggesting that the Commission would be obliged to conduct negotiations "in continuous coordination and permanent dialogue with the Council and its preparatory bodies". However, there is no obligation for the Commission to consult or inform the Council and Coreper separately from and in addition to the special committee designated in accordance with Article 218(4) TFEU. The Commission considers that points 69 and 70 of the negotiating directives are in this respect at odds with Article 3 of the Council Decision and with the requirements of Article 218(4) TFEU."

Justice and Home Affairs

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| 58. | The 1965 Hague Convention on Service Abroad: Line to take concerning the accession of Georgia
<i>Approval</i> | 12284/21
JUSTCIV |
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Joint statement by Czechia, France and Germany

"Czechia, France and Germany abstain from the vote on the Council recommendation to the accession by Georgia to the Hague Convention of 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (hereafter the "Hague Service Convention").

Czechia, France and Germany have remaining doubts whether a recommendation for a line to be taken by the Council of the European Union with regard to the accession by Georgia to this convention as laid down in Documents 11969/21 and 12284/21 JUSTCIV is necessary and correct. It implicitly states that the European Union has exclusive external competence in this field of law, which is doubtful at least in the light of the discussions within the Council.

It is therefore important that a Council recommendation is limited to the matters that may affect common rules or alter their scope and where the EU has external competences already accepted by the Member States, which is not the case for the current text.

Czechia, France and Germany do not consider this recommendation as a precedent for any other accessions to the Hague Service Convention and other measures of the European Union that aim to regulate comparable subject matters, where exclusive external competence of the European Union could play a role but has not yet been agreed upon by the Member States."

Foreign Affairs

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|-----|---|---|
| 92. | Council Decision and Implementing Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine
<i>Adoption</i> | 12269/21
12268/21
12266/21
CORLX |
|-----|---|---|

COREPER (PART 1)

Institutional Affairs

Written questions

68. Replies to questions for written answer submitted to the Council by Members of the European Parliament
Adoption by silence procedure
12097/21
PE-QE
- Jean-Paul Garraud (ID)
"Consideration of extreme left-wing and anarchist terrorism"
11574/21
69. **Minutes of Council Meetings**
Approval
- a) AGRIFISH 26-27.05.2021 9332/21 + ADD 1
- b) COMPET 27-28.05.2021 9333/21 + ADD 1
- c) TTE 3-4.06.2021 9502/21 + ADD 1
- d) ENV 10.06.2021 9700/21 + ADD 1
- e) AGRIFISH 28-29.06.2021 10229/21 + ADD 1
- f) AGRIFISH 19.07.2021 10950/21 + COR 1
+ ADD 1

Appointments

70. One alternate member (SE) of the Management Board of the European Centre for the Development of Vocational Training
Adoption
12121/21
SOC

Other

71. Attendance of a third party at the informal videoconference of the members of the Working Party on Atomic Questions on 6 October 2021
Approval
12295/21
ATO

Transport

72. Council Decision on the conclusion of the Agreement between the EU and the Republic of Korea on certain aspects of air services
Adoption
11906/21
5210/21
15082/19
AVIATION

Agriculture

73. Regulation on the extension of the term of Community plant variety rights
Adoption of the legislative act 11963/21
PE-CONS 50/21
AGRILEG

Environment

74. Regulation amending Aarhus Regulation (EC) No 1367/2006
Adoption of the legislative act 12069/21 + ADD 1
ENV

Joint statement by Luxembourg, Austria and Denmark

"In a spirit of compromise, Luxembourg, Austria and Denmark can accept the agreement on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1367/2006.

However, Luxembourg, Austria and Denmark regret that the issue of State aids was not addressed in this file and that important provisions were introduced at the trilogue phase without proper assessment or analysis.

Luxembourg, Austria and Denmark recall that the Aarhus Convention is an emblematic instrument for environmental democracy.

The European Union and its Member States must continue to show a high level of ambition in this respect, including in the light of pending compliance cases."

75. Ministerial declaration for the International Commission for the Protection of the Danube River (ICPDR)
(Vienna, 8 February 2022)
Approval 12071/21
ENV

Sport

76. Designation of an EU expert at governmental level in the WADA Foundation Board
Approval 11924/21
SPORT

Delegated or Implementing Acts

Agriculture

77. Commission Regulation (EU) .../... of XXX amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for 6-benzyladenine and aminopyralid in or on certain products
Decision not to oppose adoption 12004/21
11251/21
+ ADD 1 REV 1
+ ADD 2
AGRILEG

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| 78. | Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 142/2011 as regards conditions for exports of certain organic fertilisers and soil improvers containing Category 2 materials
<i>Decision not to oppose adoption</i> | 12017/21
10502/21 + ADD 1
AGRILEG |
| 79. | Commission Regulation (EU) .../... of XXX amending certain Annexes to Regulation (EU) No 142/2011 as regards the requirements for placing on the market of certain insect products and the adaptation of a containment method
<i>Decision not to oppose adoption</i> | 12063/21
10820/21 + ADD 1
AGRILEG |
| 80. | Commission Regulation (EU) .../... of XXX amending Annexes XIV and XV to Regulation (EU) No 142/2011 as regards imports into and transit through the Union of animal by-products and derived products
<i>Decision not to oppose adoption</i> | 12067/21
10887/21 + ADD 1
AGRILEG |
| 81. | Commission Regulation (EU) .../... of XXX amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for imidacloprid in or on certain products
<i>Decision not to oppose adoption</i> | 11837/21
11261/21
+ ADD 1-2
AGRILEG |
| 82. | Commission Regulation (EU) .../... of XXX amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorantraniliprole in pulses
<i>Decision not to oppose adoption</i> | 12010/21
11266/21
+ ADD 1-2
AGRILEG |
| 83. | Commission Regulation (EU) .../... of XXX amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for flupyradifurone and difluoroacetic acid in or on certain products
<i>Decision not to oppose adoption</i> | 11838/21
11268/21
+ ADD 1-2
AGRILEG |

Environment

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| 84. | Commission Decision (EU) .../... of XXX on the sectoral reference document on best environmental management practices, environmental performance indicators and benchmarks of excellence for the fabricated metal products manufacturing sector for the purposes of Regulation (EC) No 1221/2009 of the European Parliament and of the Council
<i>Decision not to oppose adoption</i> | 12002/21
10735/21 + ADD 1
ENV |
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| <p>85. Commission Decision (EU) .../... of XXX on the sectoral reference document on best environmental management practices, environmental performance indicators and benchmarks of excellence for the telecommunications and information and communication technologies (ICT) services sector for the purposes of Regulation (EC) No 1221/2009 of the European Parliament and of the Council
<i>Decision not to oppose adoption</i></p> | <p>12001/21
10730/21 + ADD 1
ENV</p> |
| <p>86. Commission Decision of XXX establishing the EU Ecolabel criteria for cosmetic products and animal care products
<i>Decision not to oppose adoption</i></p> | <p>11998/21
10720/21
+ ADD 1-2
ENV</p> |
| <p>87. Commission Decision of XXX amending Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes
<i>Decision not to oppose adoption</i></p> | <p>11999/21
10721/21 + ADD 1
ENV</p> |
| <p>88. Commission Decision of XXX amending Decision (EU) 2017/175 as regards the period of validity of the EU Ecolabel criteria for tourist accommodation and of the related assessment and verification requirements
<i>Decision not to oppose adoption</i></p> | <p>12000/21
10728/21
ENV</p> |
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