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Non-legislative activities

3. Current Affairs

Ministers marked the International Human Rights Day (10 December) and welcomed the adoption of EU Global Human Rights Sanctions Regime (A item).

On Venezuela, the Council discussed the situation in the country following the legislative elections on 6 December, considered neither free, fair nor democratic. The Council stressed that Venezuela needed a political solution to end the current impasse and to allow for the delivery of the urgently required humanitarian assistance to its people.

On Turkey, the Council took note of continued provocations and threats by Turkey and discussed the issue in view of EUCO.

On Georgia, the Council expressed continued support for democratic process in Georgia and mediation efforts by EU Delegation.

4. Transatlantic relations

Exchange of views

The Council held an exchange of views on EU priorities for cooperation with the United States of America. The Council adopted conclusions on European Union - United States relations as set out in doc. 13724/20.

5. Strategic autonomy

Exchange of views

The High Representative presented the issue and the main elements for the discussion. An exchange of views continued over lunch in an informal setting.

6. Any other business

Ministers reviewed the implementation of the National Security Law imposed on **Hong Kong** on 30 June 2020. The EU will continue to implement the measures agreed in July 2020.

The European Commission informed Ministers of the successful completing of negotiations on a new partnership agreement to succeed the **Cotonou Agreement**.

Sweden informed Ministers about the outcome of the **OSCE Ministerial Council** on 3-4 December 2020.

Ministers called for immediate cease of hostilities in **Ethiopia** and continued mediation efforts by AU, and the need for humanitarian access.

The Council took note of the outcome of the International conference in support of the **Lebanese people** that took place on 2 December.

Hungary informed about the recent attacks on the Hungarian community in Trans-Carpathia.

The Council had an exchange of views on the situation in **Belarus** and on the continued EU support.

The Council took note of the High Representative intention to discuss the **External aspects of migration** at the next Foreign Affairs Council meeting.

The Council took note of the **EU27 - Latin America and Caribbean** Informal Ministerial Meeting to be hosted by the Foreign minister of Germany on 14 December.

Statement to the non-legislative "B" items 4 and 5 set out in 13600/20

Ad "B" item 4: Transatlantic relations

STATEMENT BY POLAND AND HUNGARY

In relation to the Council Conclusions on European Union – United States relations, Poland and Hungary understand the formulation “gender equality” (para 1) as referring to the equality between men and women, in line with art. 2 and art. 3 of the Treaty on European Union.

Ad "B" item 5: Strategic autonomy

STATEMENT BY DENMARK

"Denmark underlines the importance of a clear separation between formal and informal discussions at Council level. As mentioned at the time of adoption of the agenda, this has to be communicated clearly well in advance of Council meetings and in full respect of the deadlines set in the Council Rules of Procedure. Changing the status of an agenda item just before a Council meeting creates difficulties for some Member States vis-à-vis obligations towards national parliaments and should be avoided."

Statements to the non-legislative "A" items set out in 13602/20

Ad "A" item 5: **Conclusions on Civilian CSDP Compact**
Approval

STATEMENT BY POLAND AND HUNGARY

"In relation to the draft Council Conclusions on Civilian CSDP Compact, Poland and Hungary understand that the formulations: "to mainstream [...] gender into all activities" (para 8) and "to provide a more in-depth and systematic mainstreaming of [...] gender aspects" (para 9, tiret 8) as referring to mainstreaming of equality between women and men, in line with art. 2 and art. 3 of the Treaty on European Union.

With this clarification, Poland and Hungary accept the proposal concerning Council Conclusions on Civilian CSDP Compact."

Ad "A" item 6: **Conclusions on EU Peace Mediation**
Approval

STATEMENT BY POLAND AND HUNGARY

"In relation to the Council Conclusions on EU Peace Mediation, Poland and Hungary understand the formulations "The EU and its Member States will promote [...] gender equality [...]. In this context gender mainstreaming [...] are a specific priority for the EU, therefore the Council stresses the need for specific measures in this regard" (para 6) as referring to the mainstreaming of equality between men and women, in line with art. 2 and art. 3 of the Treaty on European Union.

With this clarification, Poland and Hungary accept the proposal concerning Council Conclusions on EU Peace Mediation."

STATEMENT BY BELGIUM

regarding the primary responsibility of states concerning human rights

"Belgium welcomes the adoption of the Council Decision and Council Regulation concerning restrictive measures against serious human rights violations and abuses, thus creating a EU human rights sanctions regime. The EU is founded on respect for human rights and is committed to protect those rights both within the EU and globally. Human rights play a key role in ensuring peace and sustainable security and are a cornerstone of the external action of the EU.

It should be clear that States bear the primary responsibility to ensure human rights and protect their population from human rights violations. Belgium therefore welcomes Recital 2 of the Council Decision, indicating that "States have primary responsibility to respect, protect and fulfil human rights, including ensuring compliance with international human rights law."

International human rights law obliges States to protect individuals and groups against human rights abuses, to refrain from interfering with or curtailing the enjoyment of human rights and to take positive action to facilitate the enjoyment of human rights.

In the long run, the best way to prevent serious human rights violations is to tackle the root causes of conflict, to promote human rights and the rule of law and to strengthen governance and institutions. States should therefore not only sign, ratify and implement the basic instruments of international law relating to the prohibition and prevention of atrocity crimes and the protection of (vulnerable) populations, but they should put in place legislative and institutional arrangements to address the violations of international humanitarian and human rights law and to bring perpetrators to justice.

However when a State is unable or even manifestly unwilling to protect its population, the international community must step in through timely and appropriate action.

These different dimensions are also reflected by the Responsibility to Protect (R2P) concept developed at UN level. The EU and its Member States are staunch supporters of the R2P concept.

The EU actively supports States in their efforts to protect and fulfil human rights, including through its Action Plan on Human Rights and Democracy 2020-2024, bilateral human rights dialogues and the European Instrument for Democracy and Human Rights (EIDHR). However this also implicates that we cannot remain silent when there are serious human rights violations. The global EU human rights sanctions regime should therefore be seen in this light."

STATEMENT BY BELGIUM
regarding QMV

"Belgium welcomes the adoption of the Council Decision and Council Regulation concerning restrictive measures against serious human rights violations and abuses, thus creating a EU human rights sanctions regime. The EU is founded on respect for human rights and is committed to protect those rights both within the EU and globally. Human rights play a key role in ensuring peace and sustainable security and are a cornerstone of the external action of the EU.

The human rights sanctions regime will be an additional instrument in the EU toolbox in order to protect and promote human rights around the world. The sanctions regime should be effective in order to contribute to tackling serious human rights violations and abuses.

In that regard, Belgium regrets that following Article 5(1) of the Council Decision, decisions to establish and amend the sanction lists will need to be taken by unanimity. This requirement will hamper the impact of the sanctions regime as part of our human rights toolbox and as a CFSP policy instrument.

Belgium believes a careful and well-designed expansion of qualified majority voting in CFSP matters, including regarding human rights and sanctions, would contribute to a more effective and credible EU CFSP in defence of our interests and values, without forsaking Member States' fundamental interests. In that regard, Belgium proposes an open, horizontal discussion on this issue under appropriate conditions, not linked to any specific proposal at hand."

STATEMENT BY THE COMMISSION

The Commission notes that the Council has reserved implementing powers for itself on the restrictive measures against serious human rights violations and abuses in order to ensure consistency with the process for amending and reviewing the Annex to Decision (CFSP) 2020/1999. With reference to Article 291(2) of the Treaty, the Commission maintains its view that it would have been more appropriate to confer implementing powers upon the Commission. In Case C-440/14 P, National Iranian Oil Company ('NIOC') v Council and Commission, the Court of Justice confirmed that implementing powers may be attributed to the Council in "duly justified specific cases." The Commission considers, therefore, that the 'NIOC' case cannot be considered a precedent for all arrangements on implementing powers in respect of Council regulations imposing restrictive measures. Further, given that the concept of 'implementation' comprises the application of rules to specific cases by means of acts of individual application, it is imperative that the implementing authority is able to guarantee compliance with all the procedural safeguards such as individuals are entitled to.

STATEMENT BY THE COMMISSION

regarding QMV

EU sanctions regimes are established by Council Decisions established by unanimity (Articles 29 and 31(1) of the Treaty on the EU). According to the Treaty, Article 31(2) TEU (third indent), the Council shall act by qualified majority when adopting "any decision implementing a decision defining a Union action or position". This is the case for Council implementing decisions amending the annexes of designated persons under the Council Decision establishing the sanctions regime.

In line with the Commission's position expressed in its Communication of September 2018, the Commission calls on the Council to use qualified majority voting for amending the annexes of EU sanctions regimes in accordance with the procedures under Article 31(2) TEU (third indent).
