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European Union

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Non-legislative activities

3. Current Affairs

The Council exchanged views on the **EU strategy on sharing vaccines with third countries**, taking note of the fact that donations could start on a smaller scale due to the delays in providing vaccines to Member States. The Council also took note of the EEAS approach to vaccinate EU diplomats in third countries.

The Council called for immediate release of **Navalny** and invited the High Representative to pass strong united EU messages during his visit to Moscow on 4 February.

The Council exchanged views on **EU-Turkey relations** following a positive outcome of the meeting between the High Representative Borrell and Turkish Foreign Minister Çavuşoğlu.

On the **transatlantic relations**, the Council took note of positive early actions by President Biden and welcomed the High Representative's intention to invite the new SoS to a next Foreign Affairs Council.

The Council took note of EU efforts to mobilise the **Bosnia-Herzegovina** authorities to tackle the related humanitarian crisis.

The Council expressed solidarity with Italy and called on Egypt to ensure full cooperation with Italian authorities on the **Regeni case** in order to carry out a fair and balanced trial.

The Council shared concerns on recent **Iranian activities**, and expressed full support to the High Representative in his role as the JCPOA coordinator.

The Council deplored the deteriorating political developments in **Hong Kong** and called for continued coordinated EU response in line with Council conclusions of July 2020, as well as the need to coordinate our approach with likeminded partners (US, UK, AUS).

On **Venezuela**, the Council reiterated the need to support the efforts of democratic opposition. The High Representative called for a full respect of the EU Declaration of 6 January.

The Council took note of the worrying security situation in the wider **Gulf region** and of proposals by Russia, China and Iran on how to prevent further escalations, and called for a pro-active role by the EU.

On the **Horn of Africa** situation, the Council shared concerns over the developments in Ethiopia, in particular in the Tigray region and on the border with Sudan, and emphasised the need to engage with the Ethiopian government to prevent further destabilisation, within Ethiopia and more broadly in the region.

4. Climate and Energy Diplomacy - Promoting the external dimension of the European Green Deal

Exchange of views

Conclusions

5153/21

Approval

The Council had an exchange of views on the operational planning ahead of COP26 and on the geopolitical impact of energy transition, and approved Conclusions on Climate and Energy Diplomacy- Promoting the external dimension of the European Green Deal, as set out in doc. 5263/21.

France presented a statement, as well as Poland and Hungary.

5. Any other business

Romania informed on the establishment of the Euro-Atlantic Resilience Centre (E-ARC) in Bucharest.

Portuguese Foreign Minister informed on the outcome of his recent visit to Mozambique where a request for a timely EU support in the field of development, humanitarian assistance and security was made, most urgently in providing training and equipment against terrorism.

Hungary drew attention to the continued violations of rights against the Hungarian community in Trans-Carpathia and reiterated the need to discuss the protection of EU national minorities in third countries.

The High Representative urged Member States to submit candidates for EUSR for MEPP.

Statements to the non-legislative "B" items set out in doc. 5391/21

Climate and Energy Diplomacy - Promoting the external dimension of the European Green Deal

Ad "B" item 4:

Exchange of views

Conclusions

Approval

STATEMENT BY FRANCE

"France took note of the confirmation by the EEAS of the interpretation to be given to the term "unabated coal", which only excludes installations that currently have carbon capture and storage facilities. As a result, almost all coal production worldwide is affected by the call for it to be phased out as quickly as possible in the energy production sector.

Furthermore, this expression should be reserved for international action taken by the European Union."

STATEMENT BY POLAND AND HUNGARY

"In relation to the Council conclusions on Climate and Energy Diplomacy – Delivering on the external dimension of the European Green Deal, Poland and Hungary understand the wording "gender equality" as referring to "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 Council conclusions on Climate and Energy Diplomacy – Delivering on the external dimension of the European Green Deal to be adopted by the Foreign Affairs Council on 25 January 2021."

Statements to the non-legislative "A" items set out in doc. 5218/21

Ad "A" item 16: **Council Decision on the conclusion of the Fisheries Partnership Agreement in the form of an exchange of letters between the European Union and Mauritania**
Adoption

STATEMENT BY THE COMMISSION

“By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)(a)(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU.

In relation to the Decision on the conclusion of the Agreement in the form of an exchange of letters between the European Union and the Islamic Republic of Mauritania on an extension to the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Islamic Republic of Mauritania expiring on 15 November 2020, the Commission regrets the Council’s amendment replacing the substantive legal basis of Article 43(2) TFEU with Article 43 (without mentioning the paragraph).

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.”

Ad "A" item 17: **Council Decision on the conclusion of the Agreement in the form of an exchange of letters between the European Union and the Cook Islands on an extension of the Fisheries Protocol**
Adoption

STATEMENT BY THE COMMISSION

“By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)(a)(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU.

In relation to the Decision on the conclusion of the Agreement in the form of an exchange of letters between the European Union and the Government of the Cook Islands on an extension of the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands, the Commission regrets the Council's amendment replacing the substantive legal basis of Article 43(2) TFEU with Article 43 (without mentioning the paragraph).

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."

Ad "A" item 18: **Council Decision authorising negotiations with the UK and Norway for a fisheries agreement**
Adoption

STATEMENT BY THE COMMISSION

"The Commission considers that the present authorisation should not, in light of the urgency to start the negotiations for the year 2021 and the fulfilment of the obligations under UNCLOS, constrain the Commission to start negotiations on the trilateral mandate at the moment it sees appropriate in light of the state of play of the negotiations with the United Kingdom on the overall economic partnership and the future fisheries relation with the UK.

The Commission considers that the introduction of the consultation and reporting requirement procedurally burdens the Commission's negotiations powers and risks to adversely impact the outcome of the negotiations. Such requirements are not procedural practice under the negotiating directives for other fisheries agreements with third countries in the North-east Atlantic.

In view of the addition of Article 43 TFEU in addition to Article 218 (3&4) TFEU as a legal basis, 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."
