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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	6712/22; 8087/22; 8632/22
Subject:	Complaint 717/2021/DL to the European Ombudsman – Recommendation of the European Ombudsman – approval of the reply = statements

Joint statement from the Netherlands, Belgium, Denmark, Estonia, Latvia and Finland

The Netherlands, Belgium, Denmark, Estonia, Latvia, and Finland cannot concur with the draft reply to the recommendation by the European Ombudsman in case 717/2021/DL. We agree with the European Ombudsman that the widest possible access should be granted to the CLS opinion in document 5591/21 and would like to reiterate our view that there is no reasonably foreseeable and not purely hypothetical risk that full disclosure of the CLS opinion would specifically and actually undermine the institution's ongoing decision-making process, the protection of legal advice and the protection of the public interest as regards the international relations (in light of the case law of the Court of Justice and in particular joined cases C-39/05 P and C-52/05, Kingdom of Sweden and Turco/Council and case C-350/12 P, Council/in 't Veld).

Moreover, in the case that, contrary to our view, full disclosure would undermine the decision-making process and the protection of legal advice, the Netherlands, Belgium, Denmark, Estonia, Latvia and Finland believe there would be an overriding public interest in full disclosure of the CLS opinion on the nature of the TCA and the exercise of the EU of its competence. Such openness contributes to proving the legitimacy of the decision-making process in the Council with regard to the TCA, while reflecting the unusual circumstances under which it has taken place (e.g. joined Cases C-39/05 P and C-52/05 and Case C-506/08 P, Sweden/My Travel Group and Commission).

Statement from Sweden

Considering that the TCA negotiations are concluded and that the TCA is now in force, Sweden is of the opinion that the document now can be disclosed in full. Sweden therefore joins the statement of the Netherlands, Belgium, Denmark, Estonia, Latvia and Finland.