



Brussels, 10 December 2021
(OR. en)

14889/21
CRS CRP 43

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
24 November 2021

I. Adoption of the agenda

14159/1/21 REV 1 OJ CRP2 41
14128/21 OJ CRP1 41

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)

General Affairs

6. Exceptional measures on the continuation of decision-making in the Council 14025/21
Approval
Decision to use the written procedure for the adoption

The Committee confirmed its agreement on the text of the Council Decision further extending the temporary derogation from the Council's Rules of Procedure until 28 February 2022 and agreed to submit it to the Council for adoption.

7. Meeting of the Council (General Affairs) on 14 December 2021:
Agenda

The Presidency presented the main items on the agenda.

8. Meeting of the Council (General Affairs) on 23 November 2021:
Follow-up

The above-mentioned item was withdrawn.

Foreign Affairs

10. Eastern Partnership Summit (Brussels, 15 December 2021) 12614/5/21 REV 5
State of play

The Committee held an exchange of views on the text of the revised annex of the joint statement and agreed to share it with Eastern Partners for discussion.

Statement by Ireland, joined by Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Germany, Greece, Finland, France, Italy, Luxembourg, Malta, the Netherlands, Portugal, Spain and Sweden

"Ireland welcomes the progress made in negotiating a draft Joint Declaration for the Eastern Partnership Summit (15 December 2021) and in particular the foregrounding of values in our engagement with the partner countries concerned. Nonetheless, we remain deeply concerned in relation to attempts to erode agreed EU language around human rights, in particular relating to gender and the rights of women and girls. On paragraph 11 of the draft Annex, we are strongly of the view that the term 'gender identity' should be retained in the text, and recall that this term is already agreed EU language as reflected in February 2021 Council Conclusions on EU Priorities in UN Human Rights Fora. On the Third Gender Action Plan (GAP III) we express our strong preference for the use of agreed EU language, as per the April 2021 Council Conclusions on a renewed Partnership with the Southern Neighbourhood. We also recall the important role that the Istanbul Convention plays in combating, preventing and prosecuting all forms of violence against women. We welcome the ambition in the Joint Staff Working Document which made clear the need to sign and ratify this Convention, and as this Convention is open for accession, it is important for the EU to encourage all states, including our Eastern Partnership partners, to become parties."

11. EU-LAC Leaders' Meeting (VTC, 2 December 2021) 14122/21
State of play

The Committee took note of the information provided by the PEC CAB, the Commission and the EEAS.

12. Meeting of the Council (Foreign Affairs/Trade) on
29 November - 3 December 2021: Preparation

- a) Conclusions at the start of the 12th World Trade Organization Ministerial Conference 13920/1/21 REV 1
Approval

The Committee prepared this item for the Council meeting.

- b) Conclusions at the end of the 12th World Trade Organization Ministerial Conference
Approval

13921/21

The Committee prepared this item for the Council meeting.

- c) Council Decision on the position to be taken on behalf of the European Union in the World Trade Organization's 12th Ministerial Conference
Adoption

13524/21

The Committee prepared this item for the Council meeting.

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."

- d) Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency.

13. Meeting of the Council (Foreign Affairs) on 13 December 2021:
Agenda

The EEAS presented the main items on the agenda.

14. Meeting of the Council (Foreign Affairs/Development) on
19 November 2021: Follow-up

The above-mentioned item was withdrawn.

72. Council Decisions on assistance measures under the EPF to support the armed forces of the Republic of Mali in conjunction with the EU Training Mission in Mali, the Ukrainian Armed Forces, the Georgian Defence Forces, and the Armed Forces of the Republic of Moldova
Preparation for the adoption

14285/21

The Committee prepared the item for adoption.

Intervention by the Council Legal Service

"In response to a question by Sweden as to what legal possibilities exist to take account of its position regarding the adoption of the draft Council decision, the Council Legal Service pointed out that the proposed assistance measure to support the armed forces of Mali does not concern lethal equipment, and this fact - i.e. that it concerns non-lethal equipment - is not disputed.

The CLS underlined that it is not possible for a Member State to use a "constructive abstention" under Article 31(1), second subparagraph, TEU as a way to avoid contributing financially to an assistance measure on non-lethal equipment. The only exception to the rule that all Member States contribute financially to assistance measures is the special case foreseen in Article 5(3) of the EPF Decision as regards the supply of lethal equipment, which also provides for a mechanism whereby the financial contribution will go to other - non-lethal - assistance measures.

It is of course always possible for a Member State to abstain when voting - through a "normal" abstention - to convey the political message that it does not vote in favour of a measure for whatever reason it may have."

Economic and Financial Affairs

15. Meeting of the Council (Economic and Financial Affairs) on
7 December 2021: Preparation
Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency.

Justice and Home Affairs

4. Meeting of the Council (Justice and Home Affairs) on
9-10 December 2021: Preparation
Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency.

5. External aspects of migration - financing
Presentation by the Commission
Exchange of views

The Committee took note of the presentation by the Commission and held an exchange of views.

COREPER (PART 1)

Transport, Telecommunications and Energy

50. Meeting of the Council (Transport, Telecommunications and Energy) on 2 and 3 December 2021: Preparation

1. Directive on measures for high common level of cybersecurity across the Union
General approach 13942/21 + COR 1

The Committee prepared the item for the Council.

2. Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)
Progress report 13802/1/21 REV 1

The Committee prepared the item for the Council.

3. Regulation on the framework for a European Digital Identity
Progress report 13806/1/21 REV 1

The Committee prepared the item for the Council.

4. Decision on the Path to the Digital Decade
Progress report 13809/1/21 REV 1

The Committee prepared the item for the Council.

5. Digital rights and principles
Policy debate 13816/21

The Committee prepared the item for the Council.

Telecommunications

51. Regulation on roaming on public mobile communications networks within the Union
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 23 November 2021.

52. Regulation on European data governance (Data Governance Act)
Preparation for the trilogue 14021/21

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

Environment

53. Decision on the 8th Environment Action Programme (EAP) 14009/21
Preparation for the trilogue

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

Agriculture and Fisheries

54. Meeting of the Council (Agriculture and Fisheries) on 12 and 13 December 2021: Agenda
(For the items in the remit of the Permanent Representatives Committee)

The Presidency presented the main items on the agenda.

Employment, Social Policy, Health and Consumer Affairs

55. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs)
on 6 and 7 December 2021: Preparation

1. Directive on adequate minimum wages in the European Union 13872/21
General approach

The Committee prepared the item for the Council.

2. Conclusions on sustainable work over the life course 13994/1/21 REV 1
Approval + REV 1 ADD 1

The Committee prepared the item for the Council.

3. Conclusions on Strengthening the European Health Union 14028/21
Approval

The Committee prepared the item for the Council.

Transport, Telecommunications and Energy

56. Meeting of the Council (Transport, Telecommunications and Energy) on 9 December 2021:
Preparation

1. Overview of the Fit for 55 package 13977/21
Progress report

The Committee prepared the item for the Council.

2. Regulation on sustainable air transport (ReFuelEU Aviation) 13853/21 + COR 1
Progress report
Policy debate

The Committee prepared the item for the Council.

3. Regulation on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU (AFIR) 13896/21
Progress report
Policy debate

The Committee prepared the item for the Council.

4. Regulation on the use of renewable and low-carbon fuels in maritime transport (FuelEU Maritime) 13897/21
Progress report
Policy debate

The Committee prepared the item for the Council.

Transport

57. Single European Sky 2 +
Regulation on the implementation of the Single European Sky (recast)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 22 November 2021.

Energy

58. Revision of the TEN-E Regulation
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 23 November 2021.

Transport, Telecommunications and Energy

50. (continuation) Meeting of the Council (Transport, Telecommunications and Energy) on 2 and 3 December 2021: Preparation

6. Fit for 55 package (legislative initiatives for the implementation of the updated 2030 climate target)

a) Overview of the Fit for 55 package 13977/21
Progress report

b) Directive 2012/27/EU on energy efficiency to 13725/21
implement the ambition of the new 2030 climate 13894/21
target (recast)

c) Amendment of Directive (EU) 2018/2001 on the 13670/21
promotion of the use of energy from renewable 13894/21
sources to implement the ambition of the new 2030
climate target
Policy debate
Progress report

The Committee prepared the item for the Council.

7. Tackling rising energy prices 13928/21
Exchange of views

The Committee prepared the item for the Council.

IV. Any other business

COREPER (PART 2)

None.

COREPER (PART 1)

None.

"I" items approved

COREPER (PART 2)

Judicial Affairs

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| 16. | Case T-503/21 (Lagardère ASBL v. European Commission)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 13798/21
JUR
JAI |
| 17. | Case T-556/21 (LYUBETSKAYA v. Council)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 14024/21
JUR |
| 18. | Case T-682/21 (ClientEarth v. Council)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 13836/21
JUR |
| 19. | Case T-683/21 (Leino-Sandberg v. Council)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 13838/21
JUR |

Institutional Affairs

Other

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| 20. | Attendance of a third party at the informal videoconference of the members of the Working Party on Development cooperation and international partnerships on 25 November 2021
<i>Approval</i> | 13947/1/21 REV 1
DEVGEN |
| 21. | Attendance of a third party at the Mashreq/Maghreb Working Party on 25 November 2021
<i>Approval</i> | 14030/21
MAMA |
| 22. | Attendance of a third party at the Middle East/Gulf Working Party on 26 November 2021
<i>Approval</i> | 14033/21
MOG |
| 23. | Attendance of a third party at an informal videoconference of the members of the Political and Security Committee on 25 November 2021
<i>Approval</i> | 14124/21
COPS |
| 24. | Attendance of third parties at the informal videoconference of the members of the ACP Working Party on 30 November 2021
<i>Approval</i> | 13997/21
ACP |

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| 25. | Attendance of a third party at the Working Party on Human Rights on 1 December 2021
<i>Approval</i> | 14121/21
COHOM |
| 26. | Attendance of third parties at the Working Party on Humanitarian Aid and Food Aid on 8 December 2021
<i>Approval</i> | 14123/21
COHAFA |
| 27. | Attendance of third parties at the Working Party on Terrorism (International Aspects) on 9 December 2021
<i>Approval</i> | 14105/21
COTER |
| 28. | Attendance of a third party at Politico-Military Working Party meetings on the Strategic Compass
<i>Approval</i> | 14160/21
POLMIL |

Economic and Financial Affairs

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| 29. | Digital Finance package | 14066/21
EF |
| a) | Regulation on Markets in Crypto-assets | 14067/21 + ADD 1 |
| b) | Regulation on digital operational resilience act | 14068/21 |
| c) | Amending Directive accompanying the Digital Finance package proposals (partial) | 14069/21 |
- Mandate for negotiations with the European Parliament*

Statement by Poland

on 29b): Regulation on digital operational resilience act

"In general Poland supports the proposed regulation. We believe that it can be a good basis for further negotiations with the EP.

Nevertheless, we would like to highlight an area that we believe needs to be worked out in the negotiations with the EP. PL would like to underline the necessity of alignment between DORA and the NIS2 provisions regarding the relation with sectorial regulation (lex specialis rules). When the NIS2 provisions on the lex specialis are agreed a thorough analysis should be made whether these two legal acts are aligned in a way ensuring that the DORA is considered as lex specialis to the NIS2, and if needed the appropriate amendments to DORA made. Poland, as well as several Member States, believes that NIS2 should be the main cybersecurity framework and any sectoral legislation should be aligned with the NIS2 provisions."

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| 30. | Transfer No DEC 27/2021 (Section III - Commission)
<i>Approval</i> | 13963/21
13597/21
FIN |
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| 31. | Decision on the mobilisation of the EGF (EGF/2021/004
ES/Aragon automotive)
<i>Approval</i> | 13961/21
13962/21
FIN |
| 32. | Interinstitutional exchange of views (Art. 16 OLAF Regulation):
Mandate for the meeting on 2 December 2021
<i>Endorsement</i> | 13989/21 + COR 1
GAF |

Justice and Home Affairs

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| 33. | Conclusions on Stepping Up Cross-Border Police Cooperation
in the Area of Missing Persons
<i>Approval</i> | 13996/21 + COR 1
ENFOPOL |
| 34. | Conclusions on ECA Special Report No 19/2021 on Europol
support to fight migrant smuggling
<i>Approval</i> | 13998/21
ENFOPOL |
| 35. | Council position and findings on the application of the Directive
on the processing of personal data by police and judicial
authorities
<i>Approval</i> | 13943/21
DATAPROTECT |

Foreign Affairs

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|-----|---|---------------------------------------|
| 36. | Council Decision on the conclusion of an Agreement with
Australia regarding the modifications in the EU's TRQs in the
WTO schedule following Brexit
<i>Adoption</i> | 14091/21
6102/21
6103/21
WTO |
| 37. | International Rubber Study Group – Extension of the Secretary
General's mandate
<i>Approval</i> | 14087/21
PROBA |
| 38. | International Cotton Advisory Committee – Extension of the
Executive Director's contract
<i>Approval</i> | 14114/21
PROBA |
| 39. | PSC Decision EUNAVFOR MED IRINI/5/2021 –
reconfirmation of the authorisation
<i>Decision to publish in the Official Journal</i> | 13862/21
13661/21
PSC DEC |
| 40. | Council Decision in support of the development of an
internationally recognized system for the validation of arms and
ammunition management according to open international
standards
<i>Adoption</i> | 14044/21
13737/21
CORLX |

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| 41. | Council Decision in support of the Hague Code of Conduct and ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction
<i>Adoption</i> | 13279/21
13277/21
CORLX |
| 42. | Council Decision in support of building resilience in biosafety and biosecurity through the Biological and Toxin Weapons Convention
<i>Adoption</i> | 11397/21
11396/21
+ ADD 1 REV 1
CORLX |
| 43. | Council Decision in support of enhancing the OPCW operational effectiveness through satellite imagery
<i>Adoption</i> | 13874/21
12957/21 +ADD 1
CORLX |
| 44. | Support of SEESAC amending Decision (CFSP) 2018/1788 of 19 November 2018 for the implementation of the Regional Roadmap on combatting illicit arms trafficking in the Western Balkans
<i>Adoption</i> | 13905/21
13904/21
CORLX |
| 45. | Council Decision and Implementing Regulation concerning restrictive measures against serious human rights violations and abuses
<i>Adoption</i> | 13633/21
13630/21
13632/21
CORLX |
| 46. | Council Implementing Regulation concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine
<i>Adoption</i> | 14101/21
13891/21
CORLX |
| 73. | Restrictive measures in view of the situation in Syria
<i>Approval</i> | 13951/21
CORLX |
| 74. | ASEM13 Summit - Chair's Statement
<i>Approval of an NBI</i> | 14289/21
COASI |

Statement by Poland, joined by Hungary

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. Therefore, reasons Poland understands wording "gender" as referring to "sex" in line with Article 10, Article 19 para 1 and Art. 157 para 2 and 4 of the Treaty on the Functioning of the European Union."

EU positions for international negotiations

47. Council Decision on the EU position to be taken under the EU UK TCA as regards the establishment of a Working Group on Fisheries
Adoption
- 13718/21
13716/21
UK

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."

48. Council Decision on the EU position in the ACP-EU Committee of Ambassadors regarding transitional measures to the ACP-EU Partnership Agreement
Adoption
- 14015/21
13542/21
ACP

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."

75. Council Decision on the EU position to be adopted within the EEA Joint Committee concerning an amendment to Protocol 32 to the EEA Agreement, on financial modalities for implementation of Article 82
Adoption
- 13510/21
13508/21
13509/21
AELE

Other items

49. 2022 EU security assessment visit programme
Approval
- 13939/21
CSC

COREPER (PART 1)

Institutional Affairs

Appointments

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| 59. | One alternate member (ES) of the Advisory Committee on Freedom of Movement for Workers
<i>Adoption</i> | 14055/21
SOC |
| 60. | One member (IE) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Adoption</i> | 14056/21
SOC |
| 61. | One alternate member (DE) of the Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 14052/21
SOC |
| 62. | One member (ES) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Adoption</i> | 14063/21
SOC |
| 63. | One alternate member (ES) of the Management Board of the European Foundation for the Improvement of Living and Working Conditions
<i>Adoption</i> | 14064/21
SOC |

Other

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| 64. | Attendance of a third party at the informal videoconference of the members of the COMPCRO (Public Procurement) Working Party on 3 December 2021
<i>Approval</i> | 13969/21
MAP |
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Judicial Affairs

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| 65. | Case T-653/21 (James C. Callaway v European Commission)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 13849/21
JUR |
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EU positions for international negotiations

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| 66. | Council Decision on the EU position within the Joint Committee established by the Agreement on civil aviation safety between the EU and China
<i>Adoption</i> | 13291/21
13546/21
13626/21
AVIATION |
| 67. | Council Decision on the EU position in the Energy Community
<i>Adoption</i> | 13863/21
13824/21 + ADD 1
ENER |
| 68. | Energy Community Ministerial Council (Belgrade, Serbia, 30 November 2021)
<i>Establishment of the EU position</i> | 13876/21
ENER |

Energy

- | | | |
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| 69. | Political Declaration on energy cooperation between the North Seas Countries and the European Commission, on behalf of the EU
<i>Authorisation to sign an NBI</i> | 13941/21
ENER |
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Transport

- | | | |
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| 70. | IMO - Joint submission - SDC 8 to revise the Guidelines for the reduction of underwater noise
<i>Endorsement</i> | 13991/21 + ADD 1
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."

Health

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| 71. | Proposal for a Regulation amending Regulation (EU) 2017/746 on in vitro diagnostic medical devices (IVDR)
<i>Mandate for negotiations with the European Parliament</i> | 14000/21
12884/21
PHARM |
|-----|---|-------------------------------|