



Brussels, 23 February 2022
(OR. en)

6476/22
CRS CRP 6

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
9 and 11 February 2022

I. Adoption of the agenda

5925/22 OJ CRP1 6
6024/1/22 REV 1 OJ CRP2 6

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 1)

Competitiveness

2. Meeting of the Council (Competitiveness (Internal Market, Industry, Research and Space)) on 24 February 2022: preparation

1. The future of the industrial mobility ecosystem in the context of the green transition
Policy debate

5789/22

The Committee prepared this item for the Council meeting.

2. Regulation on foreign subsidies distorting the internal market
Policy debate

5825/22

The Committee prepared this item for the Council meeting.

Internal Market and Industry

3. Regulation on contestable and fair markets in the digital sector
(Digital Markets Act)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 3 February 2022.

Agriculture and Fisheries

4. Meeting of the Council (Agriculture and Fisheries) on 21 February 2022: preparation

1. Regulation on the making available on the Union market
as well as export from the Union of certain commodities
and products associated with deforestation and forest
degradation
Policy debate

5870/1/22 REV 1

The Committee prepared this item for the Council meeting.

2. Strengthening coherence between the Green Deal, the
CAP and trade policy to support the transition towards
sustainable food systems
Exchange of views

5887/22

The Committee prepared this item for the Council meeting.

Employment and Social Policy

5. Directive on adequate minimum wages in the European Union
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 8 February 2022.

COREPER (PART 2)

WEDNESDAY 9 FEBRUARY 2022

Justice and Home Affairs

20. Update on the work of the Operational coordination mechanism for the external dimension of migration (MOCADÉM)
Exchange of views

The Committee took note of the information provided by the Presidency and held an exchange of views.

21. Agenda for the Council meeting (Justice and Home Affairs) on 3 and 4 March 2022

The Committee took note of the main items on the agenda and approved the attendance of the Director of the EU Agency for Fundamental Rights for the agenda item on the conclusions on racism and antisemitism.

Foreign Affairs

22. Regulation on the public procurement reciprocity instrument
Preparation for the trilogue

The Committee prepared the forthcoming trilogue.

General Affairs

23. Preparation for the Council meeting (General Affairs) on 22 February 2022

- (a) Enhancing preparedness, response capability and resilience to future crises 5926/22
Policy debate

The Committee prepared this item for the Council meeting.

- (b) Rule of law in Poland: Article 7(1) TEU (reasoned proposal) 5808/22
Hearing

The Committee prepared this item for the Council meeting.
Taking into account the ongoing COVID-19 situation and the specific measures of social distancing that this currently entails, in accordance with the applicable rules in the host Member State, the number of persons present in the Council meeting room may need to be limited. If the same rules as today are applicable on 22 February 2022, up to eight seats are to be foreseen for the Member State concerned, ensuring that the head of the delegation is assisted by one member of the delegation in the front row.

- (c) Other items in connection with the Council meeting

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

24. Continuation of the Cyber Exercise (EU CyCLES)¹

5517/22

Exchange of views

The Committee continued the EU CyCLES exercise launched on 14 January and held an exchange of views on the first lessons to be drawn.

FRIDAY 11 FEBRUARY 2022

Foreign Affairs

25. EU-AU Summit (Brussels, 17-18 February 2022)

State of play of preparations

The Committee took note of the state of play of the organisation of the summit. The Committee agreed to revert on the joint declaration at its next meeting.

26. Council meeting (Foreign Affairs) on 21 February 2022:
preparation

- (a) Current affairs

The Committee prepared this item for the Council meeting and agreed to revert on it at its next meeting. The Committee also approved the attendance of the Foreign Minister of Ukraine at an informal breakfast.

- (b) Climate diplomacy
Exchange of views

The Committee prepared this item for the Council meeting and agreed to revert on it at its next meeting.

- (c) Bosnia and Herzegovina
Exchange of views

The Committee prepared this item for the Council meeting and agreed to revert on it at its next meeting.

- (d) Other items in connection with the Council meeting

The Committee took note of the information provided by the EEAS and agreed to add discussion items on the European security situation and the preparation of the EU-Gulf Cooperation Council (GCC) Joint Council and Ministerial meeting (Brussels, 21 February 2022).

¹Including an exchange with a representative from the CyCLONE Presidency.

General Affairs

23. Preparation for the Council meeting (General Affairs) on
22 February 2022

- (d) Conference on the Future of Europe
Information from the Presidency
Exchange of views

5924/22

The Committee prepared this item for the Council meeting.

Foreign Affairs

22. Regulation on the public procurement reciprocity instrument
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue, which took place on 10 January 2022, and informed the Committee of the dates of the next trilogues (1 and 14 March 2022).

IV. Any other business

COREPER (PART 1)

Regulation on chips
Presentation by the Commission

The Committee took note of the presentation by the Commission.

COREPER (PART 2)

European security situation

The above-mentioned item was discussed in a restricted format.

Contacts of the President of the European Council with the President of the Republic of Azerbaijan and the Prime Minister of the Republic of Armenia

The above-mentioned item was discussed in a restricted format.

"I" items approved

COREPER (PART 1)

Institutional affairs

Written questions

- | | | |
|-----|--|------------------------------|
| 6. | Replies to questions for written answer submitted to the Council by Members of the European Parliament
<i>Adoption by silence procedure</i> | 5820/22
PE-QE |
| (a) | Jérôme Rivière (ID)
'Western Balkans Summit' | 5382/22 |
| (b) | Pierre Larrousurou (S&D)
'Are we investing EUR 660 billion a year for climate and employment, as called for by Parliament a year ago?' | 5344/22 |
| (c) | Özlem Demirel (The Left)
'EMPACT measure relating to migration from Belarus' | 5373/22 |
| (d) | Samira Rafaela (Renew)
'Funding Polish civil society organisations that protect sexual and reproductive health and rights' | 5368/22 |
| (e) | Pedro Marques (S&D)
'COP26' | 5343/22 |
| 7. | Minutes of Council meetings
<i>Approval</i>

EYCS Council on 29-30 November 2021 |

14500/21 + ADD 1 |
| | Other | |
| 8. | Attendance of third parties at the informal video conference of the members of the Working Party on International Food and Agricultural Questions (FAO) on 15 February 2022
<i>Approval</i> | 5879/22
AGRI |
| 9. | Attendance of third parties at the meetings of the Working Party on International Environmental Issues (Biosafety) during the first half of 2022
<i>Approval</i> | 5842/22
ENV |
| 10. | Attendance of a third party at the meeting of the Audiovisual and Media Working Party on 14 February 2022
<i>Approval</i> | 5987/22 + COR 1
AUDIO |

Judicial Affairs

- | | | |
|-----|--|----------------|
| 11. | Case C-746/21P (Altice Group Lux v Commission)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 5791/22
JUR |
| 12. | Case T-793/21 (Front Polisario v Council)
<i>Information note for the Permanent Representatives Committee (Part 1)</i> | 5890/22
JUR |

EU positions for international negotiations

- | | | |
|-----|---|---|
| 13. | ICAO – EU coordination for the 225th session of the ICAO Council – points not falling under Article 218(9) TFEU (Montreal, 21 February to 18 March 2022)
<i>Approval</i>
<i>Decision to use the written procedure</i> | 5855/22 + COR 1
+ ADD 1
+ ADD 1 COR 1
AVIATION |
| 14. | Position of the EU and its Member States on a UNEA-5.2 resolution on plastic pollution
<i>Approval</i>
<i>Decision to use the written procedure</i> | 5847/22
ENV |

Fisheries

- | | | |
|-----|---|--|
| 15. | Council Decision on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement with Gabon
<i>Adoption</i> | 5601/1/22 REV 1
+ REV 1 ADD 1
9172/21
PECHE |
|-----|---|--|

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 Implementing Protocol (2021-2026) to the Fisheries Partnership Agreement between the Gabonese Republic and the European Community, 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."

16. Council Decision on the signing of the Agreement in the form of an Exchange of Letters on an extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius
Decision to use the written procedure for the adoption

5666/22 + ADD 1
5656/22
5658/22
PECHE

Statements by the Commission

"The Commission considers that the Decision on the signing of the agreement should refer to the person designated by the negotiator as the one to be empowered to sign. Therefore, the changes that provide for the President of the Council to designate the person who is to sign the agreement on behalf of the Union are not in accordance with the Treaties.

All acts of external representation in the process of treaty-making, including the signature of an international agreement and the subsequent expression of the consent to be bound by it are in accordance with Article 17(1) TEU the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union, where it is the High Representative who represents the Union externally according to Article 27(2) TEU. Without prejudice to this exception, when the Commission and another actor designated by the Council, co-sign an international agreement on behalf of the Union, only the signature of the Commission commits the Union.

The Court of Justice has emphasised that consistent practice by Union institutions that is not in accordance with the EU Treaties 'cannot alter the rules of the Treaties that the institutions are obliged to respect' (Case C-687/15 Commission v Council, EU:C:2017:803, para. 42).

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."

"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 signing as well as on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Republic of Mauritius on an extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius, 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."

17. Council Decision on the conclusion of the Agreement in the form of an Exchange of Letters on an extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius

5666/22 + ADD 1
5657/22
PECHE

Agreement in principle

Request for the consent of the European Parliament

Decision to use the written procedure

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 signing as well as on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Republic of Mauritius on an extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius, 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."

Transport

18. IMO – joint submission to the ninth session of the International Maritime Organization Sub-Committee on Pollution Prevention and Response concerning the loss and discharge of fishing gear
Approval

5827/22 + COR 1
+ ADD 1
MAR
OMI

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."

19. Council Decision on the signing and provisional application of the Agreement between the European Union and the People's Republic of Bangladesh on certain aspects of air services (Irish-language version)
Adoption

5552/22
12911/15
14378/15
AVIATION

COREPER (PART 2)

WEDNESDAY 9 FEBRUARY 2022

Judicial Affairs

28. Preliminary ruling C-669/21 (Gencoal S.A.) 5761/22
Information note for the Permanent Representatives Committee JUR
(Part 2)

Institutional affairs

29. **Minutes of Council meetings**
Approval

CAE/Commerce 11.11.2021

13841/21 + ADD 1
+ ADD 1 COR 1

Appointments

30. Two members and an alternate member (MT) of the Committee 5342/22
of the Regions 5341/22
Adoption CDR
31. A member (DE) of the Committee of the Regions 5812/22
Adoption 5810/22
CDR

Other

32. Attendance of a third party at the Budget Committee meeting on 5869/22
15 February 2022 FIN
Approval
33. Attendance of a third party at the Working Party on Latin 5884/22
America and the Caribbean on 15 February 2022 COLAC
Approval
34. Attendance of third parties at meetings of the Working Party on 5747/22
European Free Trade Association ('the EFTA Working Party') AELE
in the first half of 2022
Approval
35. Attendance of third parties at meetings of the Politico-Military 5957/22
Group POLMIL
Approval

Economic and Financial Affairs

36. Conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes
Approval 5724/22 + COR 1
FISC

General Affairs

38. Directive laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by Union citizens residing in a Member State of which they are not nationals (recast)
Decision to consult an institution or body 5774/22
INST
39. Conclusions on European Court of Auditors Special Report No 26/2021 on regularity of spending in EU Cohesion policy
Approval 5843/22 + COR 1
5844/22
COH

Justice and Home Affairs

40. Schengen evaluation Recommendation – Poland data protection
Adoption 5894/22
5893/22
SCH-EVAL
41. Schengen evaluation Recommendation – IE Schengen Information System
Adoption 5896/22
5895/22
SCH-EVAL
42. Declaration of the European Union and the Latin American Committee on Internal Security (CLASI)
Authorisation to negotiate a non-binding instrument
Decision to use the written procedure 5868/22
JAIEX

Foreign Affairs

43. Joint Statement with the United States of America in the framework of the EU-US Trade and Technology Council
Authorisation to negotiate a non-binding instrument 5928/22
TTC
44. Exercise Specifications (EXSPEC) for the EU Interoperability Exercise 2022 (EUIX 2022)
Approval 5673/22
EUMC
CSDP/PSDC
45. Draft agenda for the EU-GCC Joint Council and Ministerial Meeting (Brussels, 21 February 2022)
Approval 5891/1/22 REV 1
MOG
Decision to use the written procedure

- | | | |
|-----|---|---|
| 46. | Council Decision and Regulation concerning restrictive measures in view of the situation in Zimbabwe
<i>Decision to use the written procedure for the adoption</i> | 5643/22
5640/22
5642/22
CORLX |
| 47. | Council Decision and Implementing Regulation concerning restrictive measures against ISIL (Da'esh) and Al-Qaeda and persons, groups, undertakings and entities associated with them
<i>Adoption</i> | 5678/22
5679/22
5675/22
5677/22
CORLX |
| 48. | 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> | 5717/22
5713/22
5715/22
CORLX |
| 49. | Council Decision amending Decision (CFSP) 2018/907 extending the mandate of the European Union Special Representative for the South Caucasus and the crisis in Georgia
<i>Adoption</i> | 14857/21
14856/21
CORLX |
| 50. | Council Decision and Implementing Regulation concerning restrictive measures against Belarus
<i>Decision to use the written procedure for the adoption</i> | 14509/21
14508/21
14506/21
CORLX |
| 51. | Council Implementing Decision and Regulation concerning restrictive measures in view of the situation in Libya
<i>Decision to use the written procedure for the adoption</i> | 5905/1/22 REV 1
5902/22 + ADD 1
5904/22 + ADD 1
+ ADD 1 COR 1
CORLX |

FRIDAY 11 FEBRUARY 2022

General Affairs

- | | | |
|-----|---|-----------------|
| 37. | Revision of the Directive laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (recast)
<i>Decision to consult an institution or body</i> | 5780/22
INST |
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Economic and Financial Affairs

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|-----|--|------------------------------|
| 52. | Decision on providing macro-financial assistance to Ukraine
<i>Confirmation of the final compromise text with a view to agreement</i> | 5964/22
5849/22
ECOFIN |
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Justice and Home Affairs

- | | | |
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| 53. | Regulation amending Regulation (EU) 2016/794 on Europol
<i>Confirmation of the final compromise text with a view to agreement</i> | 5920/22 |
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Statements by the Commission

on the implementation of the mechanism for Europol to propose the issuing of alerts in the Schengen Information System

"As part of the evaluation that the Commission will carry out under Article 68(3) of Regulation (EU) 2016/794, three years after the entry into force of this Regulation amending Regulation (EU) 2016/794, the Commission will report on the operational impact of the new mechanism established in Article 4(1)(r) of Regulation (EU) 2016/794. Under this mechanism, Europol may propose to Member States, based on data that Europol received from third countries or international organisations, to enter information alerts in the interest of the Union into the Schengen Information System on persons involved in terrorism or in serious and organised crime. The Commission will carry out this evaluation on the basis of reports that Europol will provide on the proposals made for alerts in the Schengen Information System and on the subsequent alerts inserted by Member States in the Schengen Information System."

on the relations between Europol and the European Public Prosecutor's Office

"In the Commission's view, the provisions on the relations between Europol and the European Public Prosecutor's Office ('the EPPO'), as set out in Article 20a of Regulation (EU) 2016/794, cannot limit the obligations on Europol stemming from Article 24(1) of Council Regulation (EU) 2017/1939, and shall therefore be interpreted and applied in accordance with the latter Article."

on the rules for Europol's cooperation with third countries

"As regards rules for Europol's cooperation with third countries, the Commission notes that any transfer of personal data from Europol to a third country on the basis of a "legally binding instrument" requires an international agreement under Article 218 of the Treaty, as already provided for in Article 25(1)(b) of Regulation (EU) 2016/794. The Commission also notes that any transfer of personal data from Europol to a third country on the basis of an assessment of appropriate safeguards by Europol must meet the requirements as set by the case law of the Court of Justice of the European Union, thus requiring Europol to conclude that the level of data protection in the third country provides essential equivalence in terms of data protection. Allowing for data transfers based on such an assessment without the need for prior agreement by the European Data Protection Supervisor as provided for in Article 25(6) of Regulation (EU) 2016/794 will create risks of subsequent intervention by the European Data Protection Supervisor based on a divergent assessment of the data protection safeguards and might thus negatively affect law enforcement cooperation."

on the strengthening of Europol-Interpol cooperation

"The Commission recalls that in the on-going negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL), and in line with the negotiating directives given by the Council, the Commission seeks to strengthen cooperation between Europol and Interpol, taking into account the latest developments in combating terrorism, cross-border and transnational serious organised crime, as well as current operational needs and Europol's mandate. The Commission seeks to ensure, in line with the negotiating directives given by the Council, that the agreement provides the legal basis for authorising Europol to access relevant Interpol databases for the performance of its tasks."

Statement by Austria

"Österreich stimmt dem als politischen Kompromiss erzielten Gesamtpaket zur Änderung der Verordnung (EU) 2016/794 über Europol in Anbetracht der wichtigen Rolle von Europol in der Kriminalitätsbekämpfung und der diesbezüglichen Unterstützung der Mitgliedstaaten zu.

Österreich hält jedoch auch fest, dass mit dem als politischen Kompromiss erzielten Gesamtpaket wesentliche datenschutzrechtliche Bedenken Österreichs nicht ausgeräumt werden konnten und das Gesamtpaket auch hinter den vom Europäischen Datenschutzbeauftragten erhobenen Ansprüchen an den Datenschutz zurückbleibt. Diese Bedenken beziehen sich insbesondere auf die langen Speicherfristen im Zusammenhang mit der Verarbeitung nicht kategorisierter personenbezogener Daten (Art. 18 Abs. 6a), die Ermöglichung der Aufnahme einer Datenverarbeitung vor Ablauf der Konsultationsfrist (Art. 39 Abs. 3) sowie auf die in den Übergangsregelungen vorgesehenen langen Speicherfristen (Art. 74a und Art. 74b)."

Courtesy translation

"Austria agrees to the overall package reached as a political compromise on the amendment of Regulation (EU) 2016/794 on Europol in view of the important role of Europol in the fight against crime and its support to Member States in this regard.

However, Austria also notes that the overall package reached as a political compromise could not sufficiently address Austria's major data protection concerns and that the overall package does not meet the data protection concerns raised by the European Data Protection Supervisor. These concerns relate in particular to the long retention periods in connection with the processing of uncategorized personal data (Art. 18 para 6a), the possibility to start data processing before the consultation period has expired (Art. 39 para 3) and the long retention periods provided for in the transitional arrangements (Art. 74a and Art. 74b)."

Foreign Affairs

54. Ukraine: Joint Declaration of the Crimea Platform Participants
Authorisation to negotiate a non-binding instrument
Decision to use the written procedure
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6032/22
COEST