



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2022) 2429 final

- English translation of the French version which is authentic -

Brussels, 12 October 2022

TEXTE EN

MINUTES

of the 2429th meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 13 September 2022

(afternoon)

PV(2022) 2429 final

- English translation of the French version which is authentic -

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Single sitting: Tuesday 13 September 2022 (afternoon)

The sitting opened at 13.08 with Ms von der LEYEN, President, in the chair.

Present:

Ms von der LEYEN	President	
Ms VESTAGER	Executive Vice-President	
Mr DOMBROVSKIS	Executive Vice-President	Items 1 to 10/11 (in part)
Mr BORRELL i FONTELLES	High Representative / Vice-President	Items 1 to 8
Mr ŠEFČOVIČ	Vice-President	
Ms JOUROVÁ	Vice-President	
Ms ŠUICA	Vice-President	
Mr SCHINAS	Vice-President	
Mr HAHN	Member	Items 1 to 9 (in part)
Ms GABRIEL	Member	Items 7 to 12/14
Mr SCHMIT	Member	Items 7 (in part) to 12/14
Mr GENTILONI	Member	
Mr WOJCIECHOWSKI	Member	Items 1 to 7 (in part), and 8 to 12/14
Mr BRETON	Member	
Ms FERREIRA	Member	
Ms KYRIAKIDES	Member	
Mr REYNDERS	Member	
Ms DALLI	Member	Items 1 to 8 (in part) and 9 (in part) to 12/14
Ms JOHANSSON	Member	
Mr LENARČIČ	Member	
Ms VÁLEAN	Member	Items 1 to 7 (in part) and 10/11 (in part) to 12/14
Mr VÁRHELYI	Member	
Ms URPILAINEN	Member	Items 1 to 8 (in part), and 12/14

Ms SIMSON	Member	Items 1 to 12/14 (in part)
Mr SINKEVIČIUS	Member	
Ms McGUINNESS	Member	

Absent:

Mr TIMMERMANS	Executive Vice-President
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The following sat in to represent absent Members of the Commission:

Mr SAMSOM	Chef de Cabinet to Mr TIMMERMANS	
Mr LOBRY-DEBLYCK	Policy Assistant in Ms GABRIEL's Office	Items 1 to 6
Ms FABER	Policy coordinator in Mr SCHMIT's Office	Items 1 to 7 (in part)
Ms LESOVICI	Expert in Ms VĂLEAN's Office	Items 7 (in part) to 10/11 (in part)

The following also sat in:

Mr SEIBERT	Chef de cabinet to the PRESIDENT	
Mr CALLEJA CRESPO	Director-General, Legal Service	
Ms AHRENKILDE HANSEN	Director-General, DG Communication	
Mr MAMER	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms RISO	Deputy Chef de cabinet to the PRESIDENT	
Ms PETKOVA	Director of Coordination and Administration in the PRESIDENT's Office	
Mr VANDENBERGHE	Adviser in the PRESIDENT's Office	
Mr WHELAN	Adviser in the PRESIDENT's Office	
Mr GRASSI	Chef de cabinet to Ms SIMSON	Item 7
Mr VALERO	Secretariat-General	

Secretary: Mr LEARDINI, Deputy Secretary-General, assisted by Ms DEPREZ, Director in the Secretariat-General.

1. AGENDAS

(OJ(2022) 2429/FINAL; SEC(2022) 2429/FINAL)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2022) 2429)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 9 and Monday 12 September 2022.

3. APPROVAL OF THE MINUTES

The Commission held over approval of the minutes of its 2428th meeting of 7 September 2022 for a later date.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2022) 163)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held by videoconference on Thursday 8 September 2022 (RCC(2022) 163).

The Commission approved the line proposed for the following point:

- **Fit for 55 – Ensuring a level playing field for sustainable air transport (Regulation) – GADE report – 2021/0205 (COD)**

Line set out in SI(2022) 301.

The Commission approved the line proposed for the following point, for transmission to the European Parliament:

- **Commission replies to the non-legislative resolutions adopted by the European Parliament at its May II 2022, June I 2022, June II 2022 and July 2022 part-sessions**

Line set out in SP(2022) 505/4.

The Commission approved the line proposed for the following point, for transmission to the European Economic and Social Committee:

- **Follow-up to opinions of the European Economic and Social Committee – Plenary session of March 2022**

Line set out in SC(2022) 28/2.

The Commission took note of the following point:

- **Statute and funding of European political parties and European political foundations (Regulation – recast) – WIELAND & GOERENS report – 2021/0375 (COD)**

Information set out in SP(2022) 489.

5. COORDINATION OF EXTERNAL ACTION (RCC(2022) 32 AND /2)

The Commission took note of the operational conclusions in RCC(2022) 32/2 of the meeting of the Group for External Coordination (EXCO) held on Wednesday 7 September 2022.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2022) 307 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 11 September 2022.

6.2. EMPOWERMENT

(SEC(2022) 308 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 11 September 2022.

6.3. DELEGATION/SUBDELEGATION OF POWERS

(SEC(2022) 309 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedures between 5 and 11 September 2022 archived in Decide.

6.4. SIGNIFICANT WRITTEN PROCEDURES

(SEC(2022) 310 AND /2)

The Commission took note of the significant written procedures for which the time limit expired between 12 and 16 September 2022, and of the finalisation written procedures.

**7. PROPOSAL FOR A COUNCIL REGULATION ON AN EMERGENCY INTERVENTION TO ADDRESS HIGH ENERGY PRICES
(COM(2022) 475 A /3; COM(2022) 473; RCC(2022) 175)**

At the request of the PRESIDENT, Mr DOMBROVSKIS presented to the College the proposal for a Council Regulation on an emergency intervention to address high energy prices. He noted that this was the fifth emergency package adopted by the Commission to deal with the energy crisis. The difficult situation that had arisen back in October 2021 because of the post-pandemic increase in gas prices had now evolved into a deep energy crisis.

He saw this as a sign that the era of cheap fossil fuels was over and high energy prices were here to stay. Renewables were now much more affordable and more reliable in times of crisis. The only viable long-term strategy was therefore to speed up the clean energy transition in order to guarantee the resilience of the EU's economy and society and allow its industries to compete on global markets.

In the short term, however, the EU was faced with the weaponisation of gas supply by the Russian government, which was a direct threat to the EU's security of supply and consequently to its economic stability and social cohesion.

Europeans expected governments to step in and, as often happened in times of crisis, the Member States were turning to the Commission to come up with solutions.

He felt that the Commission had responded quickly to the requests from the Member States and the public by proposing clear guidelines, based largely on the main pillars of its work programme, especially the green and digital transition, and aimed essentially at speeding up structural reforms already under way.

More specifically, Mr DOMBROVSKIS noted that the Commission had adopted a strategy to phase out dependency on Russian fossil fuels, RePowerEU, which set the goal of reducing Russian gas imports by two thirds by the end of 2022.

The EU's action was based on three pillars: improving energy efficiency, diversifying gas supply and accelerating the clean energy transition.

He reminded the meeting that, in July, when the prospect of a complete shutdown of Russian gas supplies had become plausible, the Commission had proposed an EU-wide gas savings target of 15%.

All these measures were now being implemented and in August the EU had imported 75% less Russian gas than in August 2021, and its reliance on Russian gas had fallen to 9% the previous month, from over 40% a year ago.

Renewables would replace 8 billion cubic metres of gas and many Member States had already reduced their demand. The Commission was still waiting to see the results of the voluntary gas demand reduction by Member States to assess whether to trigger an EU alert level and make the reduction compulsory.

However, Mr DOMBROVSKIS said that the recent interruption in supply via the Nord Stream 1 pipeline showed a clear intention on Russia's part to weaken Europe. In this context, he pointed out that nothing that the EU did to intervene in the markets could recreate the world that had existed before Russia invaded Ukraine.

Faced with this new reality, Mr DOMBROVSKIS felt that there were two options.

The first was for the EU to cap gas prices and compete with the Asian markets for the last molecule of gas available. He warned however that, in this scenario, the EU would have to be willing to pay a very steep price as demand would rise in future following the lifting of restrictions linked to the COVID pandemic.

The other option was more complex, but in his view necessary. It consisted in reducing demand for gas as raw material and as fuel to generate electricity. However, while gas prices stayed high, the EU would have to seek solutions in order to support those households and businesses that were most in need.

Although the Commission had been asked to explore possible options to cap gas

prices, he felt that the best approach was to build long-term energy partnerships with reliable suppliers, such as Norway.

It was essential for Member States to avoid competing against each other in international gas markets, by acting through the European Energy Platform. He explained that there had already been a number of internal discussions on the platform, including from the competition angle, and the Commission would have to be ready to present clear options in the very near future regarding joint purchasing and reform of the electricity market.

Ms SIMSON said that the EU was in a critical situation because of the deepening energy crisis caused by the drop in Russian gas supplies, which had reached a historic low. The Russian government was using the remaining supply as a means of dividing the Member States and increasing volatility in the market.

She explained that the electricity market was also under severe strain because strong volatility and high gas prices were driving electricity prices up to record levels. As a result, households, small companies and energy-intensive industries were being hit hard and expectations for policy action to remedy all these problems were very high.

In particular, Ms SIMSON noted that even Member States that were keener on action at national level were now looking to the Commission to propose EU-coordinated intervention to avoid a winter of blackouts or energy rationing and the social unrest that could ensue.

At the extraordinary Council meeting of energy ministers the previous week, the Member States had agreed on the need for short-term emergency intervention on three fronts: (i) reduction of electricity demand, (ii) mitigation of high electricity prices, and (iii) stabilisation of the financial markets for energy.

The proposal being tabled that day under Article 122 of the Treaty on the Functioning of the European Union (TFEU) would address the first two issues, in particular by encouraging Member States to do their utmost to reduce electricity

consumption during peak consumption hours. This was because during these peak hours gas power plants were called in to cover excess demand, causing a spike in prices. Under the proposal, Member States would reduce their electricity consumption by 10%, on a voluntary basis, while taking mandatory measures to cut their consumption during peak hours by at least 5%. Saving electricity in peak hours would make it possible to save gas and relieve stress on electricity generation, which would, over time, have an impact on prices.

The proposal also provided for the introduction of a temporary cap on the revenues of ‘inframarginal’ electricity producers, namely technologies with lower costs, such as renewables or nuclear, which provided electricity to the grid at a cost below the price level set by the ‘marginal’ producers.

Ms SIMSON explained that these inframarginal producers had been making exceptional revenues while their operating costs remained relatively stable. The Commission was therefore proposing to set an inframarginal revenue cap of EUR 180/MWh, which would allow producers to cover their investment and operating costs without impairing investment in new capacity, in line with the 2030 and 2050 energy and climate goals. Revenues above the cap would be collected by Member State governments and used to help energy consumers reduce their bills.

This mechanism would not change the way the energy market worked, but would correct its outcome for consumers, giving Member States more financial firepower to continue to support consumers. This measure was part of a wider and more far-reaching reform of the electricity market which the Commission would present the following year.

Ms SIMSON said that concerns had been raised about the fairness of this measure, as not all Member States had the same energy mix and would be able to raise the same revenues. This issue was addressed in Article 10 of the Regulation, which provided for bilateral solidarity agreements to share part of the inframarginal revenue collected by the Member State of production for the benefit of final

consumers in the Member State where electricity generation was low. Such agreements would have to be concluded by 1 December 2022 where a Member State's net electricity imports from a neighbouring country were 100% or higher, which was precisely the case for two Member States.

Ms SIMSON explained that the Commission was also proposing a temporary solidarity contribution on excess profits generated from activities in the oil, gas, coal and refinery sectors. This contribution was important for the structure of the proposal to ensure that it did not just target renewables and low carbon technologies, as these were crucial for emerging from the crisis.

She pointed out that this one-off contribution would not actually affect the incentives for investment in the green transition. It would be collected by Member States on 2022 profits which were more than 20% above the average profits of the previous three years. The revenues would be redirected towards energy consumers, in particular vulnerable households, hard-hit businesses and energy-intensive industries.

The EU's intervention in the energy market would not be complete without also rectifying the situation on the financial markets. This fell outside the scope of the proposed Regulation but was already the subject of preparatory work to formulate measures to solve the liquidity issues faced by energy market operators. It was also important to work on developing an EU-based LNG benchmark and on the State aid temporary framework in the context of the energy crisis.

Ms SIMSON added that these were elements of a swift, temporary and short-term intervention, but that the EU had to be prepared to take further steps if the situation worsened. She noted in particular the calls to introduce a price cap for gas imported into Europe, and stated that different options were being studied. At this stage, the priority was to attract more LNG and non-Russian gas to Europe, which was why she had recently met the Norwegian Minister for Energy to discuss the use of the future Energy Platform.

Now was the time to act quickly and she had been in close contact to that end with the Czech Presidency of the EU, which had decided to convene an extraordinary Council meeting on 30 September to discuss the proposal for a Regulation.

Ms SIMSON concluded her presentation by noting that the diversification of gas imports, demand-reduction measures, gas storage at 84% of capacity and the acceleration of investment in renewables were all positive and encouraging signals which confirmed that the general approach taken to dealing with the energy crisis was sound.

Mr GENTILONI welcomed the drafting of this important and substantial proposal in record time. The coming months could prove complex and difficult, with the risk of rising poverty, fragmentation of the single market, consumer price inflation, rationing and rising unemployment.

While he considered that day's proposed Regulation to be a key element in the EU's response to the energy crisis, he stressed the need for it to be part of long-term structural reforms such as reform of the electricity market and training or requalification measures. The PRESIDENT's forthcoming State of the Union address was an ideal opportunity to link this initiative to the next steps planned for the energy sector.

Mr GENTILONI also underlined that it was increasingly important to rapidly introduce additional EU measures to ensure liquidity on the public utilities market in the energy sector, and to review the State aid temporary framework. The temporary framework had to continue to allow Member States to provide necessary and proportionate economic support while guaranteeing a level playing field.

In the course of the discussion that followed, the Commission raised the following main points:

- the Commission’s full support for the proposal for a Regulation, which clearly reflected the EU’s solidarity with the European citizens and economic operators most affected by the energy crisis;
- the shared feeling that this solidarity was now at the heart of many mechanisms implemented by the EU, whether in the context of the COVID pandemic, of natural disasters or, as at present, of the energy crisis;
- the case therefore for joint action to prevent Member States from competing with one another on the energy market to secure supplies;
- the need to take into account the estimated doubling of electricity consumption in the EU by 2050;
- the importance of viewing the proposal for a Regulation as an important part of the EU’s response to the energy crisis, which would be supplemented in the coming months by other equally important measures, aimed in particular at decoupling electricity prices from gas prices, capping gas prices and reforming the electricity market;
- the need to stop the energy crisis from turning into a financial crisis, by supporting energy suppliers and guaranteeing them access to the liquidity needed to purchase energy in a context of price volatility;
- the usefulness in that regard of closely monitoring the liquidity needs of energy suppliers;
- given the instability in the energy market, the need for greater vigilance with regard to speculation, which could increase price volatility;
- in the area of competition, the appropriateness of extending the State aid temporary framework by four years to allow Member States to grant limited subsidies to companies in difficulty, and to give them the time needed to devise temporary domestic schemes;

- the usefulness of Member States sharing experiences and administrative capacity in this area to help each of them formulate temporary State aid schemes;
- the success of the July amendment to the State aid temporary framework, which had allowed substantial support to be approved for the sectors most in difficulty;
- given diversification of energy sources, the need to plan the necessary investments to adapt the energy supply network so that it could be used for energy distribution whatever the source or technologies used;
- the consideration also to be given to connecting the EU's energy networks to those of its external partners, such as Algeria, Egypt and Israel;
- for some, the need to take account of the specific circumstances of fertiliser producers, who were highly dependent on gas supplies and had seen their production costs rise dramatically, causing a surge in fertiliser prices and making life difficult for farmers;
- for others, the excessively high cap of EUR 180/MWh for inframarginal revenues, which did not take into account operating costs, which could vary considerably depending on the energy production technologies concerned; in this context, the case for Member States themselves setting the cap;
- a question whether Article 122 TFEU was a suitable legal basis for this proposal.

On the last question, the Director-General of the Legal Service pointed out that Article 122 TFEU had already been used as a legal basis when the proposal for a Council Regulation on coordinated demand reduction measures for gas had been adopted on 20 July. He explained that the challenges posed by the drastic reduction in gas supply and the instrumentalisation of it by the Russian Government amply justified the use of Article 122 TFEU as a legal basis, since it explicitly referred to

crises, particularly in the energy sector.

In addition, the proposed text met all the conditions laid down in Article 122 TFEU, in particular as regards the appropriate, proportionate and limited nature of the main measures contained in the proposal, namely (i) reducing energy consumption, (ii) capping energy producers' revenues, and (iii) introducing a solidarity contribution. He stressed the importance attached to the principle of solidarity between Member States in the context of Article 122 TFEU and argued that this principle was directly relevant to the three measures contained in the proposal for a Regulation.

Ms SIMSON explained that the most expensive energy source among inframarginal electricity technologies was lignite and that the average production cost of the most expensive lignite-based power plants was EUR 180/MWh. By setting the cap at this level, the Commission wanted to ensure that all producers affected by the cap could cover their investment and operating costs.

She also pointed out that the investments necessary to develop and adapt power grids were already planned under the trans-European energy network programmes, which would be used in particular to develop alternative sources of supply for the most dependent Member States.

The PRESIDENT concluded by stressing the extreme complexity of the energy market, which the EU was now planning to gradually reform. She confirmed that Article 122 TFEU was a suitable legal basis for the Commission proposal, since it explicitly referred to crises in the energy sector. In addition, the cap of EUR 180/MWh on inframarginal revenues was a maximum amount that Member States could reduce where appropriate.

Lastly, she called on everyone to promote the adoption of the measures contained in the RePowerEU strategy so that Member States could benefit as quickly as possible from the tools and funds provided to help them cope with the crisis triggered by rising energy prices.

Following these presentations, the Commission, on a proposal from the PRESIDENT, agreed that the proposal for a Regulation would be formally adopted by finalisation written procedure, the deadline for which was set at 8.00 on Wednesday 14 September 2022 (COM(2022) 473 – PE/2022/6718).

**8. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ON PROHIBITING PRODUCTS MADE WITH
FORCED LABOUR ON THE UNION MARKET
(COM(2022) 453 TO /3; RCC(2022) 171)**

By way of introduction, Ms VESTAGER said that forced labour had increased considerably in the last five years and that on 12 September the International Labour Organization (ILO) had announced that 28 million people were victims of forced labour globally.

She stressed that the EU had a moral obligation to be a frontrunner in the fight against forced labour within and outside its borders. She welcomed the fact that the proposal being presented built on international standards and existing tools, in particular due diligence measures, to effectively ban products made using forced labour from being sold on or exported into the single market.

Moreover, Ms VESTAGER was pleased to note that the proposal took into account the size and economic resources of the companies concerned and that it would therefore not impose disproportionate costs or burdens on economic operators.

Mr DOMBROVSKIS felt that the proposal was delivering on the PRESIDENT's announcement in her 2021 State of the Union address that products made using forced labour would be banned from the single market, and noted that the proposal was a significant step towards achieving that aim.

Forced labour was a global problem and constituted a cruel form of modern slavery, affecting millions of people worldwide, including in Europe.

Mr DOMBROVSKIS stressed that the goal of the proposal was clear, namely to keep the EU market free from products made, extracted or harvested using forced labour.

A new system was thus being proposed with the aim of eradicating products made using forced labour from the EU market, irrespective of where they were made, be they products made in the EU for domestic consumption and export, or products made elsewhere and imported into the EU. Such a system was important not only as a means of ensuring that the ban was effective, but also to avoid discriminating against EU partner countries.

The enforcement framework was robust and risk-based, so enforcement efforts should focus on areas where they were likely to have the greatest impact. National competent authorities and customs authorities would also have a role to play in identifying and stopping products at borders and, once products were subject to a ban, they would need to be disposed of.

In the event that a company or a third country did not cooperate with an investigation, for example by not allowing the EU authorities to carry out checks and inspections, the EU authorities would not be able to gather all the evidence they needed. In such a scenario, the competent authorities would be able to decide if a product had been made using forced labour based on the available evidence.

Moreover, Mr DOMBROVSKIS noted that the proposal built on international standards, and acknowledged the importance of international cooperation.

He then gave an example of how the proposed system would work in practice. A competent authority would assess the risk of forced labour being used for a particular product, based on many different sources of information, which could include submissions from civil society and checks using a database, which was in the process of being set up, of geographical areas and products presenting a risk of forced labour. If, at the end of this preliminary phase of the investigation, the competent authority had a well-founded suspicion of forced labour, it would launch

a formal investigation, request information from the companies concerned and carry out checks and inspections. At the end of the investigation, the competent authority would establish whether forced labour was involved, based on the evidence gathered, and, if so, the product would be banned from the EU market and companies would be required to withdraw it from the market. The product would then have to be disposed of and the customs authorities would stop imports and exports of the product in question.

The new instrument would complement many other Commission initiatives, such as the proposal on corporate sustainability due diligence, which was duly taken into account by that day's proposal.

Lastly, noting that the special situation of SMEs was addressed in the design of the instrument, Mr DOMBROVSKIS concluded his presentation by welcoming the fact that the proposal established an effective and proportionate system.

Mr BRETON began by pointing out that the proposal was part of the European Union's wider efforts to combat forced labour, stressing that the EU needed supply chains that were not only resilient but also ethical and sustainable.

He then turned his attention to three specific aspects of the proposal.

First, he felt that the proposal was a good example of the EU taking a stand and setting standards globally using the full potential of the internal market.

Taking an objective approach, the proposal set out to prevent products made using forced labour from circulating in the EU, regardless of where they were produced. It thus covered products imported into the EU as well as those produced in the EU for domestic consumption or for export.

In his view, the instrument proposed did not target any particular third country or region, but rather laid down a set of principles that would allow the EU to focus its intervention on the most critical situations. He welcomed the fact that, although based on current international standards, the proposal was European in design, being

both effective and proportionate, and would complement many other EU initiatives.

Second, he considered that the proposal built on existing internal market surveillance arrangements and on mechanisms that were well known to the Member States and economic operators.

Mr BRETON noted that the Regulation would be implemented by the competent authorities in each country. Each Member State would therefore need to appoint these authorities on the basis of common rules. The important role delegated to customs authorities, which would identify and stop products at the EU's borders, should ensure swift and effective implementation of the Regulation once it had been adopted.

Third, he stressed that the Regulation was designed to be balanced, workable and realistic, since a key concern was to limit costs for companies and Member State administrations, at a time when the proposal for a Directive on corporate sustainability due diligence was being scrutinised by the legislator.

While the aim of the proposal on corporate sustainability due diligence was to foster sustainable and responsible corporate behaviour throughout global value chains, it did not contain any rules banning products made using forced labour and, since it did not apply to all economic operators, it needed to be supplemented by other initiatives.

Mr BRETON felt that the chosen approach was proportionate and kept costs for SMEs to a minimum by focusing attention where the risks of forced labour were greatest. In that connection, he noted that investigations would focus on economic operators that placed a large number of suspect products on the EU market.

Moreover, the proposal also had a number of benefits, given that companies that eliminated forced labour from their supply chains enhanced their reputation and created a better brand image.

Also noting the figures recently published by the ILO, he concluded by expressing

his view that the European Parliament would appreciate the Commission's balanced and measured proposal. He noted that the Member States would also have a key role to play in implementing the Regulation, particularly as they would need to appoint the relevant authorities and allocate resources, with support from the Commission, which would coordinate these efforts.

In the course of the brief discussion that followed, the Commission raised the following main points:

- the need for the EU to protect children from any form of forced labour;
- a reference to the Commission proposal on long-term care and the protection of children, which now needed to be adopted by the co-legislators, and its upcoming initiative on an action plan to involve young people in external action;
- the need to set out standards and principles and to translate them into concrete action for businesses;
- the need to cover the entire production chain so as not to move the problem to other countries;
- the need to also include environmental rules in the trade agreements the EU entered into;
- acknowledgement of the proposal's significant contribution to human rights issues in the EU's relations with third countries, whose cooperation would be crucial to ensure successful implementation of the proposal;
- the importance of modernising the EU customs system, which would be dealt with in an upcoming Commission initiative;
- the need to have proper information on manufacturers in order to identify the risks of forced labour and to take robust action to tackle the issue in the EU, where forced labour was used by organised crime in particular.

Following these presentations, the Commission, on a proposal from the PRESIDENT, agreed that the proposal for a Regulation in COM(2022) 453/3 would be formally approved by the finalisation written procedure, the deadline for which was set at 13.00 on Wednesday 14 September 2022 (PE/2022/6584).

**9. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON HORIZONTAL CYBERSECURITY REQUIREMENTS FOR PRODUCTS WITH DIGITAL ELEMENTS AND AMENDING REGULATION (EU) 2019/1020
(COM(2022) 454 TO /3; SWD(2022) 282 AND /2; SWD(2022) 283; SEC(2022) 321; RCC(2022) 170)**

Ms VESTAGER began by explaining the importance of the proposal being presented to the College that day, noting in this context that there had been a considerable increase in cybercrime, much of which was related to the vulnerabilities of digital products circulating in the market.

The proposal sought to address the current imbalance of responsibilities in the market, where manufacturers were encouraged to be the first in the market, with security being an afterthought at best. She added that, with this proposal, responsibility for the cybersecurity of products would lie with the manufacturers, who would keep that responsibility throughout the product lifecycle, in a proportionate manner.

The proposal would also impose minimum cybersecurity requirements for all digital products, both hardware and software, with specific requirements for some product categories to be developed later through standardisation.

Ms VESTAGER concluded by saying that people felt justifiably safe when buying toys or appliances bearing a CE marking and would have the same feeling of safety with regard to connected devices or software in future.

Mr SCHINAS briefly pointed out the proposal's innovative feature, which was to go beyond the original design of a product, while addressing the vulnerabilities identified. He added that, in future, appliances would be increasingly interconnected. For example, mobile phones would be used to regulate lighting, heating, washing machines and other electrical appliances in households.

Lastly, he felt that the proposal now gave buyers greater protection. This was also important as it would set future global standards in this field.

Mr BRETON presented the proposal for a Regulation in more detail, pointing out that, with the advent of the 'internet of things', more and more products were connected. It had been estimated that there would be almost 75 trillion connected objects worldwide by 2025. The level of cyber risk would therefore increase significantly, as each connected object was a potential entry point for a hostile attack.

He mentioned the need for a paradigm shift in the approach to cybersecurity, noting in this context one particularly revealing fact: two thirds of cyberattacks targeted software vulnerabilities that were known and hence perfectly preventable.

Mr BRETON said that at present it was possible to place on the internal market products that did not comply with the fundamentals of cybersecurity, as they were not covered by any real legislative framework. Action at European level was needed to avoid fragmentation of the internal market at a time when some Member States were introducing national labels unilaterally.

He highlighted the fact that the proposal therefore raised the 'default' level of cybersecurity for all products placed on the single market and explained that this was a major step forward, not only in terms of security but also in terms of transparency for consumers.

Mr BRETON noted that the proposal introduced essential cybersecurity requirements that all connected objects and software would now have to meet before they could be placed on the market, as was the case for toys or motor vehicles.

He explained that the CE marking would be displayed on products that fulfilled these minimum requirements, which would include the obligation to ensure that products placed on the market did not have any known vulnerabilities, incorporated protection against unauthorised access and featured security updates.

Moreover, Mr BRETON said that around thirty critical products had been identified for which compliance with these requirements would need to be verified by a third party. For all other products, around 90% of the total, the manufacturer would only need to provide a self-certification of compliance.

He stressed that the proposal was proportionate in a market worth EUR 285 trillion for hardware and EUR 265 trillion for software in the EU, which was one of the largest digital markets in the world.

Mr BRETON said that existing systems in the Member States would be used to full effect to check that the requirements were applied correctly and that products which did not meet those requirements were withdrawn from the market.

Under the Regulation, the Commission would also be able to demand the withdrawal of a product from the market if it posed a cyber threat to the EU and its citizens. Lastly, he mentioned that the European Union Agency for Cybersecurity (ENISA) would receive all vulnerability notifications.

Mr BRETON concluded his presentation by highlighting the fact that the proposal on cyber resilience would enshrine a simple principle in EU law, namely cybersecurity by design. This principle meant that, at the design stage, minimum cybersecurity requirements would be embedded in products and software used by citizens and businesses.

In the course of the brief discussion that followed, the Commission raised the following main points:

- the broad support for the proposal, which was viewed as essential and particularly timely;
- the expectation, notably by the European Parliament, that the proposal would make it possible to address the sensitive issue of spyware, such as Pegasus, which was being used increasingly frequently, not only by state actors, but also by economic operators to spy on their competitors.

The PRESIDENT thanked Ms VESTAGER as well as Mr SCHINAS and Mr BRETON for their excellent work.

Following these presentations, the Commission, on a proposal from the PRESIDENT, agreed that the proposal for a Regulation in COM(2022) 454/3 would be formally adopted by the finalisation written procedure, the deadline for which was set at 10.00 on Thursday 15 September 2022 (PE/2022/6588).

10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A COMMON FRAMEWORK FOR MEDIA SERVICES IN THE INTERNAL MARKET (EUROPEAN MEDIA FREEDOM ACT) AND AMENDING DIRECTIVE 2010/13/EU (COM(2022)457 TO /3; SWD(2022) 286; SWD(2022) 287; SEC(2022) 322; RCC(2022) 172)

11. COMMISSION RECOMMENDATION ON INTERNAL SAFEGUARDS FOR EDITORIAL INDEPENDENCE AND OWNERSHIP TRANSPARENCY IN THE MEDIA SECTOR (C(2022) 6536 AND /2; RCC(2022) 172)

By way of introduction, Ms JOUROVÁ said that the initiatives presented to the College that day were another important step in improving the protection of media pluralism and independence in the European Union. These initiatives had also been announced by the PRESIDENT in her previous annual State of the Union address.

Ms JOUROVÁ pointed out that the Commission's Rule of Law Report had highlighted numerous breaches of media independence, such as surveillance of journalists, pressure on public service media, lack of transparency in the allocation of state advertising or in media ownership, as well as concentrations that posed a risk to media freedom.

She added that Russia's war against Ukraine had also highlighted the need for more coordinated action against foreign interference in this area.

The proposal for a Regulation on media freedom not only sent a strong political message but also filled a gap and completed the EU's toolbox for solving the problems raised.

She noted that the proposal was based on a broad consultation of the various stakeholders, including journalists, publishers, public service media, private broadcasters and platforms, through which a wide range of opinions had been gathered. She strongly believed that the proposal struck the right balance, with an approach based on principles that would leave well-functioning structures intact.

Ms JOUROVÁ concluded her presentation by stressing that the proposal would not be uncontroversial, but that the ground had been well prepared to ensure its successful adoption in the interinstitutional legislative process.

Mr BRETON noted that this project was of crucial importance for press freedom, and thus for democracy. He was convinced that the EU had to play its full role in this area as the largest democracy in the world and stressed that democracy did not come about by chance, but was the result of a daily struggle.

Year on year, the Commission's reports on the rule of law clearly highlighted the threats to media pluralism throughout the European Union. Moreover, the EU did not currently have effective tools to ensure the proper functioning of the single market with regard to the media and the guarantees of pluralism and independence differed greatly between Member States.

He stressed that it was therefore imperative to guarantee every European citizen a right to diversity of information throughout the single market. For the first time, the Commission was proposing, in a Regulation directly applicable throughout the Union, a series of principles designed to ensure media independence and pluralism, while respecting the prerogatives of the Member States.

Mr BRETON described the elements of the proposal for a Regulation in more detail, and in particular the following four key points.

First, the proposal provided for guarantees at EU level to protect the editorial independence of the media, which would mean that the Member State concerned would not be allowed to intervene in media policy and editorial decisions. It also included stronger safeguards against surveillance of media, as well as specific standards for public service media, which played a key role in society, to ensure their independence in terms of governance and funding.

Secondly, the proposal boosted cooperation between media regulators. Specifically, the European Regulators Group for Audiovisual Media Services (ERGA) would be strengthened and become the European Board for Media Services. New mechanisms would be put in place, including a mutual assistance mechanism, to ensure coordination and solidarity in the face of threats such as foreign propaganda.

The proposal also included new requirements that Member States would have to meet with regard to national measures affecting media concentrations. The Board for Media Services would be able to give opinions both on these national measures and on media concentrations. Eventually, a common media freedom culture would develop within the Union.

Third, building on the implementation of the Digital Services Act, the proposal provided for more safeguards for media in the online environment, ensuring that platforms paid particular attention to media content produced according to professional standards. Platforms would also have to inform the media before removing their content on the basis of their terms and conditions.

Fourth, additional rules would be proposed on transparency of media ownership, allocation of state advertising and audience measurement systems.

In conclusion, Mr BRETON noted that this Regulation was supplemented by a Recommendation on best practices to ensure editorial integrity and foster a culture of change.

In the course of the brief discussion that followed, the Commission raised the following main points:

- the strong support for an important and timely proposal, which would strengthen media freedom, and thus democracy, in Europe, both of which were under increasing pressure, as noted in the Commission’s latest Rule of Law Report;
- the satisfaction expressed with regard to the creation of an additional tool in the fight for media freedom in general, as well as the search for a solution concerning in particular the provision of content by media service providers on very large online platforms;
- the importance of the proposal in the fight against corruption.

The PRESIDENT concluded the discussion by thanking Ms JOUROVÁ and Mr BRETON for their work in a very important sector for democracy.

Following these presentations, the Commission, on a proposal from the PRESIDENT, agreed that the proposal for a Regulation and the Commission Recommendation currently set out in COM(2022) 457/3 and COM(2022) 6536/2 would be formally approved by finalisation written procedure, the deadline for

which was set at 10.00 on Friday 16 September 2022 (PE/2022/6615 and PE/2022/6609).

- 12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A SINGLE MARKET EMERGENCY INSTRUMENT AND REPEALING COUNCIL REGULATION NO (EC) 2679/98**
(COM(2022) 459 TO /3; SWD(2022) 288; SWD(2022) 289; SWD(2022) 290; SEC(2022) 323; RCC(2022) 174)
- 13. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATIONS (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2019/1009 AND (EU) NO 305/2011 AS REGARDS EMERGENCY PROCEDURES FOR THE CONFORMITY ASSESSMENT, ADOPTION OF COMMON SPECIFICATIONS AND MARKET SURVEILLANCE DUE TO A SINGLE MARKET EMERGENCY**
(COM(2022) 461 TO /3; SWD(2022) 288; SWD(2022) 289; SWD(2022) 290; SEC(2022) 323; RCC(2022) 174)
- 14. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVES 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU AND 2014/68/EU AS REGARD EMERGENCY PROCEDURES FOR THE CONFORMITY ASSESSMENT, ADOPTION OF COMMON SPECIFICATIONS AND MARKET SURVEILLANCE DUE TO A SINGLE MARKET EMERGENCY**
(COM(2022) 462 TO /3; SWD(2022) 288; SWD(2022) 289; SWD(2022) 290; SEC(2022) 323; RCC(2022) 174)

Ms VESTAGER presented the legislative package on the creation of a Single Market Emergency Instrument. She stated that the single market was the EU's greatest achievement, and that it was a symbol of the Union, a guarantee for its economic prosperity and a pillar of its resilience.

However, she did acknowledge that the single market was not crisis-proof, and that it had recently been seriously hit, in particular by the COVID-19 pandemic. In this context, the unilateral measures taken by the Member States, and also the lack of coordination, transparency and, sometimes, solidarity at the start of the crisis, had impacted free movement within the single market when it was most needed.

The situation had been overcome thanks to the reactivity and flexibility of the Commission, which had actively worked with the national authorities and businesses across the EU. This work had been necessary and fruitful but also difficult, and it had revealed the EU's need for tools that would allow it to react quickly and collectively in the event of a crisis that threatened the integrity of the single market.

Ms VESTAGER stated that the Single Market Emergency Instrument would provide the EU with tools to ensure that even in the worst times of crisis, the single market would remain open, and that any restriction imposed by the Member States would be proportionate, coordinated and transparent.

Furthermore, this instrument would give the EU the power to ensure that goods of vital importance remained available in times of crisis, and that the necessary information, which was so difficult to gather during the COVID-19 pandemic, would also continue to be available. To this end, the proposed instrument would introduce targeted amendments to the harmonised product legislation and make it possible to build up reserves or prioritise orders.

She specified however that these were last-resort instruments that were not intended to be used lightly but only under strict conditions and following both a multi-step process and coordination with the Member States.

Ms VESTAGER explained that the proposed text achieved a delicate balance between the interests of the various stakeholders of the single market and that it did not take away any responsibility from industry, which had to continue to adapt its business model to a constantly evolving world.

The instrument would include a monitoring mechanism for the single market that would determine different risk levels and a graduated response consisting of several phases according to a ‘traffic light’ system:

- i) the default phase was the ‘green’ phase of contingency planning to enable the Commission and Member States to set up a coordination and communication network to increase preparedness;
- ii) the ‘yellow’ or ‘vigilance’ phase could be activated by the Commission when there was a threat to the single market, in order to strengthen surveillance of supply chains for goods and services of strategic importance to the EU’s economy. The build-up of strategic reserves of these goods and services could also be organised, as could public procurement by the Commission on behalf of the Member States. These were some of the mechanisms that had already been used during the pandemic;
- iii) where a crisis seriously disrupted the single market, the Council could decide to activate the ‘red’ or ‘emergency’ phase. In this situation, free movement within the single market would be upheld through a list of prohibited restrictions and, more generally, through reinforced and rapid scrutiny of unilateral restrictions. The Member States would also have to inform the Commission of their plans in relation to public procurement of crisis-relevant products. As an absolute last resort, priority-rated orders for businesses could be used. However, this would follow a ‘comply or explain’ logic, thereby giving businesses the opportunity of refusing priority-rated orders for justified reasons.

Ms VESTAGER concluded that this new instrument would provide the EU with the wherewithal to support the single market in the event of dire need.

Mr BRETON said that the COVID-19 pandemic and, more recently, Russia's war in Ukraine, had demonstrated how crucial it was for the internal market to operate smoothly and supply chains to remain resilient during crises. He was pleased that the integrity of the internal market had prevailed in the end, even though ad hoc solutions had had to be invented and several calls for solidarity made to the EU's Member States, businesses and international partners.

The EU could not in future simply count on the goodwill of single market stakeholders, especially in an age of permacrisis. It had to be better prepared to anticipate and respond to the next crisis, which was the purpose of the proposed instrument.

This instrument was a direct result of the experience of the last two years and had four main objectives.

The first objective was better anticipation. The best way to manage a crisis was to anticipate it, limit its impact or pre-empt it. To this end, it was vital to have a better understanding of the situation: constant monitoring of supply chains would give the Commission almost instantaneous data for the whole of the internal market. Requests for information from economic operators regarding their production capacity, stocks or scope for diversification would support Commission decision-making.

Strategic reserves built up by the Member States would increase the EU's resilience before a full-blown crisis took shape and before goods needed by the single market became extremely expensive or simply unavailable.

The second objective was to avoid the fragmentation of the single market. Mr BRETON said that in times of crisis, Member States were tempted to introduce internal restrictions on the single market and discriminatory measures, thereby aggravating the impact of the crisis. In the case of the COVID-19 pandemic and the war in Ukraine, such restrictions had brought with them the risk of shortages of face masks, ventilators, vaccines, cereals and fertiliser. They had also led to obstacles to

the free movement of travellers, health personnel and other key service providers, traffic jams at closed borders, and so on.

The tools that the Commission currently had at its disposal to manage such situations were either too weak, when they amounted to pleas for solidarity, or too slow, in the case of infringement proceedings. A faster and more robust notification procedure would give the Commission the power to adopt a decision annulling a unilateral measure taken by a Member State to restrict the free movement of goods, people and services.

The third objective of the instrument was to support industry efforts to safeguard and diversify supply chains. During the pandemic, industry had reorganised to contribute, in particular by producing face masks and ventilators. However, the EU could not count solely on the independent capacity of industry to reorganise quickly in response to new market conditions, especially in mid-crisis. This was why the EU would speed up testing, accreditation and conformity assessment so that goods could be placed on the market more quickly, where there was a clear need and through targeted amendments to product legislation.

The fourth objective was to bring to the single market tools similar to those already available to the EU's trading partners. In preparing the proposed instrument, the Commission had looked closely at what the EU's partners had put in place, including the strategic reserve systems in Japan and South Korea, and the US Defense Production Act.

Although the Commission had drawn inspiration from such tools for the new instrument, it had not copied them but had prioritised dialogue with European industry and decided in favour of keeping the EU open and committed to international trade.

Mr BRETON concluded by stressing that the Single Market Emergency Instrument had been designed for major crises and not for less serious incidents. He hoped that the Commission would never need to use it, while expressing his conviction that if a

new crisis emerged, the instrument would allow the EU to manage it better by adopting a less intrusive and more targeted approach. In a spirit of solidarity, the instrument would prevent the fragmentation of the single market and the disruption of global supply chains.

Lastly, the EU had recently made advances in defence, health and energy that had been unthinkable a few years ago. It was now time to take a major step forward towards greater resilience and solidarity in the internal market.

Following these presentations, the Commission, on a proposal from the PRESIDENT, agreed that the proposals for Regulations and proposal for a Directive currently set out in COM(2022) 459/3, COM(2022) 461/3 and COM(2022) 462/3 would be formally approved by finalisation written procedure, the deadline for which was set at 10.00 on Monday 19 September 2022 (PE/2022/6623, PE/2022/6622 and PE/2022/6624).

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The meeting closed at 15.51.