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From:	The Presidency / General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	8699/22
Subject:	Establishment of the EU-US informal expert group - Approval of the Working modalities and Internal EU arrangements

In 2003, the European Union (EU) and the United States of America (US) concluded two criminal law agreements, one on mutual legal assistance and the other on extradition. The two agreements, which entered into force on 1 February 2010, apply together with the bilateral extradition treaties and mutual legal assistance treaties between the EU Member States and the United States.

Article 11 of the Agreement on mutual legal assistance between the European Union and the United States and Article 15 of the Agreement on extradition between the EU and the United States contain identical wording on 'Consultations':

'The Contracting Parties shall, as appropriate, consult to enable the most effective use to be made of this Agreement, including to facilitate the resolution of any dispute regarding the interpretation or application of this Agreement'.

The two parties have agreed that, in order to improve the practical implementation of the two agreements, an Informal Expert Group should be established.

On 8 April 2021, the Council approved the opening of negotiations with the US authorities on the terms of reference of the Informal Expert Group, on the basis of the text set out in 7299/21. The Council also approved the internal EU rules set out in 7299/21 ADD 1.

Subsequently, the Commission started negotiations with the US authorities.

At the meeting of the COPEN Working Party on 18 May 2022, the Commission presented the outcome of these negotiations: a document containing the Working Modalities (replacing the Terms of Reference), as provisionally agreed with the US authorities, and a new version of the internal EU rules, amended in the light of the Working Modalities text (8699/22).

While delegations generally agreed with the working modalities text (as currently set out in 9991/22), some concerns were expressed regarding the draft internal EU rules.

As a result, the Presidency contacted the Commission and reworked the text of the internal EU rules. The text of the rules thus established, which are now referred to as ‘arrangements’, can be found in 9991/22 ADD 1.

Following a written consultation, there is agreement at technical level on the text of these internal EU arrangements.

In the light of the above, the Permanent Representatives Committee is invited to:

- confirm the agreement on the texts of the Working Modalities and Internal EU Arrangements as set out in 9991/22 + ADD 1;
- recommend their approval by the Council.
