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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Environment)
23 October 2020

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1. Adoption of the agenda

The Council adopted the agenda set out in 11870/1/20 REV 1.

2. Approval of "A" items

a) Non-legislative list

12067/20 + **COR 1**

The Council adopted the "A" items listed in 12067/20 including COR and REV documents presented for adoption. Statements to these items are set out in the Addendum.

For the following items the documents should read as follows:

EU positions for international negotiations

- | | |
|--|--|
| 5. Council Decision amending Council Decision on the EU position at the IMO/MEPC 75/MSC 102 as regards adoption of amendments
<i>Adoption</i>
approved by Coreper, Part 1, on 21.10.2020 | <div style="border: 1px solid black; padding: 2px; display: inline-block;">C</div> 11351/20
+ <u>ADD 1</u>
11340/20
MAR
OMI |
|--|--|

Foreign Affairs

- | | |
|---|---|
| 19. Relations with Central America - Accession of Croatia and provisional application of the Protocol to the EU-Central America Association Agreement | 6046/1/20 REV 1
COLAC |
| a) Council Decision on the signing
<i>Adoption</i> | <div style="border: 1px solid black; padding: 2px; display: inline-block;">C</div> 6047/20
6049/1/20 REV 1
+ <u>REV 2 (es)</u> |
| b) Council Decision on the conclusion
<i>Request for the consent of the European Parliament</i>
approved by Coreper, Part 2, on 21.10.2020 | <div style="border: 1px solid black; padding: 2px; display: inline-block;">C</div> 6048/20
6049/1/20 REV 1
+ <u>REV 2 (es)</u> |

- b) **Legislative list** (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

12068/20

Environment

1. **Directive on drinking water (recast)**

Adoption of the Council's position at first reading and of the statement of the Council's reasons
approved by Coreper, Part 1, on 14.10.2020



11563/20
+ ADD 1 REV 1
6230/20
+ REV 1 (pl)
+ REV 2 (hu)
+ ADD 1
ENV

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union, and the statement of the Council's reasons, with the Bulgarian delegation voting against and the Austrian delegation abstaining. (Legal basis: Article 192(1) TFEU).

Statements to this item are set out in the Annex (page 12).

Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

3. **Regulation on European Climate Law**

Partial general approach



12083/20
6547/20
10868/20

The Council agreed on a partial general approach as set out in 12261/20.

Statements to this item are set out in the Annex (page 7).

Non-legislative activities

4. **Conclusions on Biodiversity - the need for urgent action**

Approval



11829/20 + ADD 1
+ REV 1 (de)

The Council approved the conclusions as set out in 12210/20.

Statements to this item are set out in the Annex (page 9).

Any other business

5. a) **Proposal for a reform of the EU ETS** [2] 11766/20
Information from the Polish delegation

The Council took note of the information provided by the Polish delegation as well as the interventions by other delegations.

- b) **Climate Adaptation Summit (CAS 2021)** [2] 12021/20
(The Netherlands, 25 January 2021)
Information from the Dutch delegation

The Council took note of the information provided by the Dutch delegation.

- c) **Current legislative proposal**
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

Decision on the 8th Environment Action Programme [1][C] 11987/20
Presentation by the Commission

The Council took note of the presentation made by the Commission as well as the interventions by other delegations.

- d) **Communication on the EU Chemicals Strategy for Sustainability** [2] 11976/20 + ADD 1
Presentation by the Commission

The Council took note of the presentation made by the Commission as well as the interventions by other delegations.

- e) **Current legislative proposal**
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

Access to justice in environmental matters Regulation amending the Aarhus Regulation (EC) No 1367/2006 [1][C] 11853/20
Presentation by the Commission

The Council took note of the presentation made by the Commission as well as the interventions by other delegations.

- f) **Access to justice in environmental matters** 11854/20
Communication on Access to Justice in Member States
Presentation by the Commission

The Council took note of the presentation made by the Commission as well as the interventions by other delegations.

- g) Eighth session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo MOP-8) 12031/20
(Vilnius, 8-11 December 2020)
Information from the Lithuanian delegation

- h) **World Circular Economy Forum high-level meeting on the circular economy, Climate Nexus (WCEF+climate) (The Netherlands, 15 April 2021)** 12007/20
Information from the Dutch delegation

The Council took note of the information provided by the Dutch delegation.

-
- 1** First reading
2 Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
C Item based on a Commission proposal
-

Statements to the legislative "B" items set out in 11870/1/20 REV 1**Ad "B" item 3:** **Regulation on European Climate Law**
*Partial general approach***STATEMENT BY HUNGARY**

"Hungary is fully committed to achieving climate neutrality by 2050 both at EU and at national level, in line with Hungary's national law on climate protection adopted by the Parliament on 3 June 2020. Hungary has significantly contributed to the EU's climate efforts by way of reducing its greenhouse gas emissions by 33% in 2018 compared to 1990, well above the EU average of 25%.

Hungary supports the adoption of the partial general approach on the European Climate Law. At the same time, Hungary underlines that the final agreement (general approach) on the file will be subject to the conditions listed below.

1. The role of European Council

The December 2020 European Council should not only decide on the value of the 2030 target, but should also provide guidance on how this target will be reached (enabling framework) in a similar fashion as in October 2014. The conclusions of the December European Council should transform the below principles into detailed guidance. For Hungary, the adoption of such guidance is a solid condition (*sine qua non*) of the agreement on the higher ambition level. The European Council should regularly revert to the issue and assess the implementation of its guidance.

2. Principles of the enabling framework

The main principles of the enabling framework of the 2014 March and October European Council and the December 2019, reinforced by the 2020 October conclusions¹, must remain in place as follows:

- *convergence*: all Member States must participate in the climate efforts of the Union. To that end Hungary considers that each Member State should achieve at least 40% gross emission reduction till 2030 on a 1990 level,
- *recognition of early achievements*: early and high achievements by Member States in the field of emission reductions must be recognised when setting further reduction targets,
- *solidarity and fairness*: the mechanisms under the Emission Trading Scheme (ETS) to assist Member States with lower GDP per capita – in particular the Modernisation Fund – must remain in place and, as appropriate, expanded. Setting the national reduction targets for the non-ETS sectors must be based on relative GDP per capita,
- *technological neutrality*: in view of Member States' rights to choose their national energy mix all low carbon technologies – including nuclear – must be considered on equal footing,
- *secure and affordable supply of energy*: the enabling framework must ensure the secure and affordable supply of energy. To avoid energy poverty no uniform carbon price can be introduced in the residential sector beyond the existing framework of the ETS,
- *carbon leakage and competitiveness*: a sufficient level of protection against carbon leakage is essential so as to ensure that climate policy does not harm the industrial competitiveness of the EU."

STATEMENT BY SWEDEN, LUXEMBOURG, DENMARK, SPAIN AND AUSTRIA

"Sweden, Luxembourg, Denmark, Spain and Austria support the Council's partial general approach for the EU Climate Law but underline the importance of each Member State reaching climate neutrality at the national level by 2050 in order to achieve a climate-neutral EU by that date.

In our view, such an obligation yields a more robust framework to deliver the objective of climate neutrality by 2050, as endorsed by the European Council in its conclusions from December 2019."

¹ E.g. October 2014 EUCO Conclusions, paras 2.2., 2.10, December 2019, para 6.

Ad "B" item 4: **Conclusions on Biodiversity - the need for urgent action**
Approval

STATEMENT BY SWEDEN AND LATVIA

"Sweden and Latvia support the Council Conclusions on Biodiversity – the need for urgent action. However, Sweden reserves its right to define primary forest in accordance with national circumstances until the ongoing participatory processes on definitions to be used in EU is finalized and agreed by MS."

STATEMENT BY HUNGARY

"Biodiversity is the absolute basis of life. The active contribution of various sectors including the agricultural and forest sectors to protect biodiversity is essential.

However, Hungary emphasizes that the fulfilment of some of the targets put forward by the European Commission seems impossible to achieve or may place a disproportionate burden at Member State level. We consider especially the 50 percent decrease in the overall use of chemical pesticides and the 25 percent organic farming target are considered unfulfillable within the timeframe of the strategy on Member State level. Moreover, the proposed extension of protected and strictly protected areas require further clarification regarding its scientific basis and key definitions.

Hungary emphasizes that legislation to support the implementation of the strategy should in all cases be based on detailed impact assessments at Member State level.

Hungary underlines that sustainable forest management is an effective framework and instrument to maintain and improve forest biodiversity. This concept should be properly considered and reflected in the forthcoming EU Forest Strategy and especially through the implementation of relevant strategies.

It is of utmost importance that the contribution of the Common Agricultural Policy to the objectives of the Biodiversity Strategy be based on a solid legal background and proportionate to the funds available. Farmers and forest owners should only comply with requirements that are incorporated in the basic acts or other relevant EU legislation. As the Commission's forthcoming recommendations for national strategic plans on how to address the objectives of the Biodiversity Strategy and the Farm to Fork Strategy are set to be legally not binding, they can only provide Member States with additional guidance which they may take into account when drawing up their national CAP Strategic Plans. Therefore, the Commission should assess national Strategic Plans only with reference to criteria that have appropriate legal bases. Should a Member State opt for different policy choices than the Commission recommendations, this should not entail any legal consequences with respect to the adoption of the national CAP Strategic Plans."

STATEMENT BY POLAND

"The government of Poland in general supports the need to protect and to undertake common actions for biodiversity in the EU, which is of key importance for ensuring the life of people on Earth and for meeting their fundamental needs.

In order to ensure the effective implementation of the EU Biodiversity Strategy and its objectives, it is necessary that the European Commission and the Member States participate together in the development of tools necessary for its implementation. This will allow to adopt implementable measures that are based on clear and understandable criteria.

In this context the government of Poland emphasizes that it is extremely important to ensure real participation of the Member States in the development of definitions, including the definition of strict protection, as well as in the elaboration of criteria and guidance for identifying and designating additional protected areas and ecological corridors and guidance for selection of habitats and species to ensure that at least 30% of protected species and habitats will reach a favourable status, as announced in the Strategy, because they will be of key importance in the implementation of the document, and in particular - in the interpretation of the provisions contained in it.

It is premature to determine in the Council conclusions on the method of distribution of the efforts to achieve EU targets among Member States. Poland believes in particular that at this stage one should not decide on the elements which should be taken into account when deciding what part of the EU target will be allocated to individual Member States. This process will be of fundamental importance for achieving the objectives of the Strategy and requires thorough analysis in the Member States.

At the same time, Poland supports the need to maintain healthy and resilient forest ecosystems that will be able to fulfill many functions. However, in European conditions the thesis about the decline of biodiversity in managed forests has not been confirmed, quite opposite, there are examples of biodiversity decline in the forests that are under strict protection. Poland points out that at the time when the strategy was approved, definitions had not been adopted, including definition of old-growth forests. The definition of this term is currently under discussion and it is difficult to predict the final result. In this situation, taking into consideration the diversity of natural conditions in individual Member States, it is also difficult to talk about designation and monitoring of undefined forests and about the methods of their protection. According to Poland, a definition should be presented, consultations with Member States should be conducted and a simulation of the area covered by these forests as well as estimation of socio-economic effects of their strict protection should be made.

It should be emphasized that in the context of the observed climate changes, the scale and impacts of which are difficult to predict, the assessment of their environmental effects is also becoming an increasing challenge. The inability to respond to disturbances also in the areas potentially defined as old-growth forests may lead to the dying out of entire forest complexes, and some of them may irretrievably lose their natural values and functions. It should be underlined that forests in Poland have been and are managed in a sustainable manner, respecting biological diversity, and thanks to a sustainable approach to resources, including natural resources, a network of various forms of nature protection has been operational. The management of forest resources is based on a model of sustainable forest management that ensures the sustainability, continuity and vitality of forests, providing at the same time a shelter and habitat for many species. Hence, Poland is especially concerned that the activities planned under the Strategy will bring further positive effects, first of all, for the natural heritage of the entire EU and individual Member States, as well as for the living conditions and health of all citizens."

Statements to the legislative "A" item set out in 12068/20

Ad "A" item 1:

Directive on drinking water (recast)

Adoption of the Council's position at first reading and of the statement of the Council's reasons

STATEMENT BY THE REPUBLIC OF BULGARIA

"The Republic of Bulgaria finds the final text of Article 11 "Minimum hygiene requirements for materials that come into contact with water intended for human consumption" unsatisfactory due to its overall conceptual unclarity and the lack of coherence between the requirements of the Directive on drinking water as part of the environmental legislation, and the requirements of the existing product harmonisation legislation.

We regret that our concerns regarding problems in practical implementation of the act have not been properly addressed in the final version of the act.

For that reason, Bulgaria cannot express its consent with the adopted text of Article 11 and therefore, it votes "against" as regards the final text of the Directive."

STATEMENT BY LUXEMBOURG

"In the spirit of compromise, Luxembourg is able to accept the agreement on the proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast), which also provides a positive response to the Right2Water initiative.

However, Luxembourg regrets that the solution retained for pesticide metabolites is not more ambitious and the fact that, in the absence of a detailed impact assessment, the consequences of applying the provisions on contact materials did not undergo sufficient analysis with regard to the costs and expenses to be borne by the stakeholders concerned."

STATEMENT BY THE NETHERLANDS

- Articles 1 and 16

"The Netherlands strongly supports the importance of access to drinking water and welcomed the Right2Water initiative. The Netherlands has a strong practice and legal framework regarding access to and the supply of good quality drinking water at the national level. However, the Netherlands remains of the opinion that the Drinking Water Directive, with a focus on drinking water quality, is not the appropriate instrument to address the issue of improving access to drinking water in the EU.

The Netherlands questions the widening of the scope of this Directive in a way that risks treading on the responsibility of Member States, especially the mandatory and specific nature of certain measures. The Netherlands supports the adoption of this Directive in view of the clear and wider benefits it will bring to the quality of drinking water and because we believe our drinking water system to be in line with the obligations of Article 16, but we stress that how the issue of access to drinking water is to be addressed, is the responsibility of Member States."

**STATEMENT BY CYPRUS, CZECHIA, DENMARK, FRANCE, GERMANY, HUNGARY, MALTA, THE NETHERLANDS AND POLAND
regarding recital 47**

"The abovementioned Member States support the adoption of the Drinking Water Directive, which will not only ensure high standards of safety of drinking water for our citizens, but will also indirectly improve the smooth functioning of the internal market.

However, we consider it entirely inappropriate to include general wording about the Commission taking action regarding access to justice in Member States in the statement of reasons of a legal act concerned with drinking water. This does not alter the current legal status on access to justice nor does it further empower the Commission to pursue legal action on these matters.

Compliance with the Aarhus Convention, to which the Member States are parties in their own right, is a matter that we take seriously. Member States' compliance with the Aarhus Convention can best be addressed, in accordance with the principle of subsidiarity, at Member State level. The real challenge to be addressed, however, remains the Union's own compliance with the Aarhus Convention, as referred to in Council Decision 2018/881 and in the findings of the Aarhus Convention Compliance Committee in case ACCC/C/2008/32. Notwithstanding the completion of the study requested by the Council, and the Commission's statement in its Communication on the European Green Deal of 11 December 2019 that it would "consider revising the Aarhus Regulation" (Regulation 1367/2006), we note that no such proposal has been mentioned in the Commission's work programme for 2020.

Although we are prepared to support the adoption of this Directive in view of the wider benefits it will bring, we will nevertheless be vigilant in ensuring that such language on access to justice in Member States will not be included in future legislative acts in the environment field."
