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Subject: Non-ETS sectors

a) Proposal for a Regulation of the European Parliament and of the Council on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 for a resilient Energy Union and to meet commitments under the Paris Agreement and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (First Reading)

b) Proposal for a Regulation of the European Parliament and of the Council on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (First Reading)

– Policy debate

I. INTRODUCTION

1. At its meeting on 23-24 October 2014, the European Council agreed on the 2030 climate and energy policy framework for the European Union and endorsed a binding EU target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990 ¹. In its conclusions, the European Council stated that the target will be delivered collectively by the EU in the most cost-effective manner possible, with reductions amounting to 43% in the EU Emissions Trading System (EU ETS) and 30% in the non-ETS sectors by 2030 compared to 2005. The conclusions also indicated that all Member States will participate in this effort, balancing considerations of fairness and solidarity.
2. On 15 July 2015, the Commission adopted a proposal to revise the existing ETS Directive ². The proposal aims to implement in legislation the guidance provided by the October 2014 European Council concerning the sectors covered by the EU ETS and prepare the system for the period after 2020. Discussions, which started under the Luxembourg Presidency, are continuing under the Slovak Presidency. Two policy debates have been held during the Council (Environment) meetings on 26 October 2015 and 20 June 2016.
3. The October 2014 European Council conclusions also contain specific guidance on the sectors not covered by the EU ETS, including on the methodology to be used for setting the national emission reduction targets for 2030, and on the availability and use of flexibility instruments within the sectors covered. According to the conclusions, policy on how to include land use, land use change and forestry (LULUCF) into the 2030 greenhouse gas mitigation framework will be established as soon as technical conditions allow and in any case before 2020.

¹ Doc. EUCO 169/14

² Proposal for a Directive amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments (Doc. 11065/15 + ADD 1 + ADD 2 + ADD 3).

4. On 20 July 2016, the Commission presented two legislative proposals on the contribution of the non-ETS sectors towards the overall effort: on binding annual greenhouse gas emissions reductions by Member States from 2021 to 2030 ("Effort Sharing Regulation", covering e.g. CO₂ emissions from transport, heating of buildings, non-CO₂ emissions from agriculture and waste)³ and on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework ("LULUCF Regulation")⁴. Building on this regulatory framework, it will be up to Member States to design the most appropriate measures to achieve their national targets. They will be supported by a number of EU tools and enabling measures, including in the field of energy efficiency and low-emissions mobility.
5. Together with the proposal for the revision of the EU ETS, the new proposals in the non-ETS sectors are intended to ensure achievement of the EU's overall target for greenhouse gas emission reductions by 2030 and the commitments of the EU and its Member States under the Paris Agreement.
6. According to the proposed Effort Sharing Regulation (ESR), the national reduction targets are set on the basis of the approach used in the current Effort Sharing Decision and in line with the guidance provided by the October 2014 European Council. The targets are based on relative GDP per capita, with the targets for Member States with a GDP per capita above the EU average further adjusted to reflect cost-effectiveness within that group. The proposal maintains existing flexibilities (banking and borrowing of annual emission allocations within the trading period, possibility of transfers between Member States). It also proposes two new flexibilities: a limited use of net removals from certain LULUCF accounting categories towards the targets in the ESR sectors; and the possibility for certain Member States to cancel a limited amount of EU ETS allowances to help them fulfil their obligations under the ESR. The proposal maintains annual reporting of emissions and biennial reporting on projections and policies and measures but suggests compliance checks to be carried out every five years instead of every year.

³ Doc. 11483/16 + ADD 1 + ADD 2 + ADD 3.

⁴ Doc. 11494/16 + ADD 1 + ADD 2 + ADD 3.

7. The objective of the proposed LULUCF Regulation is to determine how the land-use, land-use change and forestry sectors should be included in the 2030 climate and energy framework. The proposal builds on the existing EU-wide accounting rules applicable to greenhouse gas emissions and removals from the LULUCF sector laid down in Decision No 529/2013/EU, proposing some changes to update and streamline the current rules. Member States have to ensure that accounted greenhouse gas emissions and removals stay in balance and that the overall LULUCF sector does not generate net emissions (the "no-debit rule"). The proposal provides for several flexibilities to help Member States ensure compliance with that rule: the possibility to use excess allocations from the ESR, compensating emissions from one land category by removals from another, cumulating net removals over the period 2021-2030, and trading of excess removals among Member States. The proposal also introduces a new EU governance process for monitoring of forest management reference levels.

II. STATE OF PLAY

8. Examination of the Commission's proposals and accompanying impact assessments within the Council started at technical level at the beginning of the Slovak Presidency. Work is still in its early stages, and all delegations maintain scrutiny reservations on the proposal.
9. The European Parliament has appointed Mr Gerben-Jan Gerbrandy (ALDE, NL) as Rapporteur on the ESR proposal. The Rapporteur on the LULUCF proposal has not yet been appointed.
10. On 25 August 2016, the Council decided to consult the European Economic and Social Committee and the Committee of the Regions on both proposals.
11. On this basis, Ministers are invited to take part in a first policy debate on the proposal at the meeting of the Council (Environment) on 17 October 2016. The Presidency has prepared two questions to guide the debate.
12. The Committee of Permanent Representatives is invited to take note of the questions, which are set out below, and to forward them to the Council.
13. To facilitate the organisation of the debate, delegations are requested to provide written replies to the Presidency and the Council Secretariat before the Council meeting.

III. QUESTIONS FOR MINISTERS

Against this background and to seek political guidance on the way forward, the Presidency invites the Council (Environment) to address the following questions:

- 1) *Taking into account the guidance given by the European Council in its October 2014 conclusions, do Ministers consider that the Commission's proposals for the non-ETS sectors provide a fair and effective regulatory framework to ensure the achievement of the -30% target by 2030 compared to 2005?*
 - 2) *Do you consider that the existing and new flexibilities in the proposals are adequate to allow for cost-effective achievement of targets in the non-ETS sectors while safeguarding environmental integrity?*
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