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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Environment)
17 December 2020

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1. Adoption of the agenda

The Council adopted the agenda set out in 13795/20.

When adopting the agenda for the meeting, the Council decided unanimously to add the adoption of the Council regulation laying down the multiannual financial framework for the years 2021 to 2027, as set out in document 9970/20 + COR 1 (hr) + COR 2 (sv) + REV 1 (nl), to the legislative list of A items tabled for the meeting.

2. Approval of "A" items

a) Non-legislative list

13786/20

The Council adopted the "A" items listed in 13602/20 + COR 1 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:

General Affairs

5. Council Decisions on the position to be taken in the Joint Committee under the Withdrawal Agreement as regards the Protocol on Ireland/Northern Ireland

☒ 13987/20
UK

- b) Council Decision on the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the determination of goods not at risk
Adoption

☒ 13912/20
+ **COR 1 (bg)**
UK

Foreign Affairs

9. Council Implementing Decision and Implementing Regulation concerning restrictive measures against the Democratic Republic of the Congo
Adoption
approved by Coreper, Part 2, on 16.12.2020

13618/20 + **COR 1**
13615/20 + ADD 1
13617/20 + ADD 1
CORLX

Delegated or Implementing Acts

Environment

17. Commission Delegated Regulation (EU) .../... of 6.11.2020 amending Delegated Regulation (EU) 2019/1122 as regards the functioning of the Union Registry under Regulation (EU) 2018/841 of the European Parliament and of the Council
Delegated act - Decision to request an extension of the time-limit approved by Coreper, Part 1, on 09.12.2020
- 13565/20
12920/20
+ **REV 1 (sk)**
+ ADD 1
CLIMA

- b) **Legislative list** (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)
- 13797/20

Transport

1. **Decision on a European Year of Rail (2021)**
Adoption of the legislative act
approved by Coreper, Part 1, on 09.12.2020
-  13816/20
PE-CONS 48/20
TRANS

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91 TFEU).

Economic and Financial Affairs

2. **Council regulation laying down the multiannual financial framework for the years 2021 to 2027**
Adoption of the legislative act
approved by Coreper, Part 2, on 11.12.2020
-  14039/20
+ ADD 1
9970/20
CADREFIN

The Council adopted the Council Regulation laying down the multiannual financial framework for the years 2021 to 2027 as set out in document 9970/20 + COR 1 (hr) + COR 2 (sv) + REV 1 (nl) (Legal basis: Article 312 of the Treaty on the Functioning of the European Union, and Article 106 of the European Atomic Energy Community).

Statements related to this item are set out in the Annex.

Legislative deliberations

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

3. **Regulation on European Climate Law**  14004/20
General approach 10868/20
6547/20

The Council agreed on a general approach as set out in 14171/20.

Non-legislative activities

4. **EU submission of an updated Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC)**  14005/20
Approval

The Council approved unanimously the EU submission.

5. **Conclusions on Making the Recovery Circular and Green**  13852/20 + COR 1
Approval 6766/20 + ADD 1

The Council approved the conclusions as set out in 14167/20.

6. **Conclusions on Digitalisation for the Benefit of the Environment**  13957/20
Approval

The Council approved the conclusions as set out in 14169/20.

Legislative deliberations

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

7. **Regulation amending Aarhus Regulation (EC) No 1367/2006**  13937/20
General approach 11853/20

The Council agreed on a general approach as set out in 14208/20.

Non-legislative activities

8. **Communication on Chemicals Strategy for Sustainability Towards a Toxic-Free Environment** [2] 13521/20
11976/20 + ADD 1
Exchange of views

The Council held an exchange of views on the Chemicals Strategy for Sustainability on the basis of questions prepared by the Presidency as set out in 13521/20.

Any other business

9. a) **Eliminate deforestation** [2] 14009/1/20 REV 1
Information from the French delegation, supported by the Italian delegation

The Council took note of the information provided by the French delegation, as well as the intervention by other delegations.

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

Regulation on batteries and waste batteries amending Regulation (EU) No 2019/1020 and repealing Directive 2006/66/EC [1][C] 13944/20 + ADD 1
Presentation by the Commission

The Council took note of the presentation made by the Commission.

- c) **Ratification of Multilateral Environmental Agreements (MEAs) - a call for urgent action** [2] 13669/20
Information from the Commission

The Council took note of the information provided by the Commission.

- d) **Report on the annual meeting of the Commission for the conservation of Antarctic Marine Living Resources (CCAMLR)** [2] 13877/20
Information from the Spanish delegation

The Council took note of the information provided by the Spanish delegation, as well as the intervention by other delegations and the Commission.

- e) **European Conference "Climate change and the European water dimension - Enhancing resilience" (4-5 November 2020)** 13664/20
Information from the Portuguese delegation

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

- f) **Work programme of the incoming Presidency** 13664/20
Information from the Portuguese delegation

The Council took note of the information provided by the Portuguese delegation as incoming Presidency.

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- 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
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Statements to the legislative "A" items

Ad "A" item 2: **Council regulation laying down the multiannual financial framework
for the years 2021 to 2027**
Adoption of the legislative act

**JOINT AND UNILATERAL DECLARATIONS OF THE EUROPEAN
PARLIAMENT, THE COUNCIL AND THE COMMISSION**

1. Envelopes of priority programmes, costs of NGEU and flexibility

**Joint declaration by the European Parliament, Council and Commission on the
reinforcement of specific programmes and adaptation of basic acts**

"Without prejudice to the powers of the legislative and budgetary authority, the European Parliament, the Council and the Commission agree to increase by 2,5 billion Euros in 2018 prices the financial envelopes in the basic acts or the financial programming, as appropriate, of those programmes that are identified by the European Parliament. This will be achieved through a corresponding reduction of the margins available under the MFF ceilings, without prejudice to the possible use of the Flexibility instrument in 2021.

Without prejudice to the legislative powers of the institutions, the European Parliament, the Council and the Commission agree to insert in the basic acts of programmes listed in Annex II of the MFF Regulation a provision on the increase of the financial envelopes by the amounts specified therein. For programmes establishing budgetary guarantees, the additional amount will be reflected in the additional level of the guarantees provided."

**Joint declaration by the European Parliament, Council and Commission on the
use of reflows from the ACP Investment Facility to the benefit of the
Neighbourhood, Development and International Cooperation Instrument**

"The Council agrees that an amount of up to EUR 1 billion (in 2018 prices) stemming from the reflows under the ACP Investment Facility for operations under the 9th, 10th, and 11th European Development Funds will be used for the benefit of the Neighbourhood, Development and International Cooperation Instrument in the period of 2021-2027. The three Institutions agree that the Neighbourhood, Development and International Cooperation Instrument should allow for the reception of those funds."

Joint declaration by the European Parliament, the Council and the Commission on the re-use of decommitted funds in relation to the research programme

"Without prejudice to their institutional prerogatives, the European Parliament, the Council and the Commission agree to make available again to the benefit of the research programme commitment appropriations, corresponding to the amount up to EUR 0.5 billion (in 2018 prices) in the period 2021-2027 of decommitments, which results from total or partial non-implementation of projects belonging to that programme or its predecessor as provided for in Article 15(3) of the Financial Regulation."

Joint declaration by the European Parliament, Council and Commission on the treatment of NGEU interest costs and repayments in the 2021-2027 MFF

"The three Institutions agree that expenditures covering the financing costs of Next Generation EU shall aim at not reducing EU programmes and funds."

The three Institutions agree that the treatment of NGEU interest costs and repayments in the 2021-2027 MFF, currently forecast at EUR 12.9 billion for the seven years, is without prejudice to how this matter will be addressed in future MFFs from 2028 onwards.

The three Institutions agree to work towards introducing sufficient new own resources with a view to covering an amount corresponding to the expected expenditure related to repayment and interest costs."

2. Own resources

Commission Declaration on establishing an Own Resource based on a digital levy

"Taking into account the developments at international level, the Commission will speed up its work on the submission of the necessary proposals for the establishment of a digital levy within the Union and will make a proposal for a basic act as soon as possible and at latest by June 2021. It will on this basis propose that revenues stemming from the digital levy will become an own resource by January 2023."

Commission Declaration on establishing a Financial Transaction Tax based Own Resource

"Discussions on the Financial Transaction Tax under enhanced cooperation are ongoing with a view of their finalisation by the end of 2022. Should there be an agreement on this Financial Transaction Tax, the Commission will make a proposal in order to transfer revenues from this Financial Transaction Tax to the EU budget as an own resource."

If there is no agreement by end of 2022, the Commission will, based on impact assessments, propose a new own resource, based on a new Financial Transaction Tax. The Commission shall endeavour to make these proposals by June 2024 in view of its introduction by 1 January 2026."

3. Role of the budgetary authority

Joint declaration of the European Parliament, the Council and the Commission on budgetary scrutiny of new proposals based on Article 122 TFEU with potential appreciable implications for the Union budget

"Whereas:

- (1) The European Parliament, the Council and the Commission ("the three Institutions") acknowledge that Article 122 TFEU constitutes a legal basis for adopting measures to address specific crisis situations that may entail potential budgetary implications, which are capable of impacting the development of Union expenditure within the limits of its own resources.
- (2) In the light of their budgetary powers under the Treaties, it is appropriate that the two branches of the budgetary authority deliberate on the budgetary implications of such envisaged acts where those implications are likely to be appreciable. To this effect, the Commission should provide all relevant information necessary to assist the European Parliament and the Council in their deliberations.

HAVE AGREED AS FOLLOWS:

1. This declaration sets out arrangements for a procedure of budgetary scrutiny (hereafter "the procedure") between the European Parliament and the Council with the active assistance of the Commission.
2. This procedure may be followed in respect of a Commission proposal for a Council act based on Article 122 TFEU with potential appreciable implications for the Union budget.
3. The Commission will accompany any such proposal by an assessment of the budgetary implications of the proposed legal act and will indicate whether the act in question may, in its view, have appreciable implications for the Union budget. On that basis, the European Parliament and the Council may request that the procedure be initiated.
4. The procedure will take place in a Joint Committee consisting of representatives of the European Parliament and of the Council at the appropriate level. The Commission will participate in the work of the Joint Committee.

5. Without prejudice to the powers of the Council under Article 122 TFEU, the European Parliament and the Council will engage in a constructive dialogue with a view to seeking a joint understanding of the budgetary implications of the envisaged legal act having due regard to the urgency of the matter.
6. The procedure should take place during a period not exceeding two months, unless the act in question has to be adopted before a specific date or, if the urgency of the matter so requires, within a shorter time limit fixed by the Council."

Joint declaration of the European Parliament, the Council and the Commission on reassessing the external assigned revenue and borrowing and lending provisions in the Financial Regulation

"Against the background of the NGEU, the European Parliament, the Council and the Commission agree that in the framework of the next revision of the Financial Regulation, the following issues will be assessed and as appropriate revised:

- the provisions on the external assigned revenue , in particular as referred to in Article 21(5) of the Financial Regulation;
- the provisions on reporting on borrowing and lending operations.

The three institutions acknowledge that the existing rules on audits and discharge procedure apply to assigned revenue."

4. Horizontal issues – Climate, biodiversity, equality between men and women and sustainable development goals

Commission declaration on the climate tracking methodology and the involvement of the European Parliament and Council

"The Commission will ensure that the climate tracking methodology is accessible, transparent, and publicly available. The Commission will exchange views on the climate tracking methodology with the European Parliament and Council. Transparency and exchange of information with Parliament and Council on the progress towards reaching the climate objectives will be a key principle of the climate tracking."

Commission declaration regarding climate contributions per programme

"Without prejudice to the legislative powers of the European Parliament and the Council in relation to the relevant sectoral basic acts, the climate contributions for 2021-2027 in view of achieving an overall target of at least 30% of the total amount of Union budget and NGEU expenditures, are indicated for relevant programmes and Funds as follows:

<u><i>Programmes</i></u>	<u><i>Expected minimum contribution</i></u>
<u><i>Horizon Europe</i></u>	<u><i>35%</i></u>
<u><i>ITER</i></u>	<u><i>100%</i></u>
<u><i>InvestEU Fund</i></u>	<u><i>30%</i></u>
<u><i>Connecting Europe Facility</i></u>	<u><i>60%</i></u>
<u><i>ERDF</i></u>	<u><i>30%</i></u>
<u><i>Cohesion Fund</i></u>	<u><i>37%</i></u>
<u><i>REACT EU</i></u>	<u><i>25%</i></u>
<u><i>Recovery and Resilience Facility</i></u>	<u><i>37%</i></u>
<u><i>CAP 2021 - 2022</i></u>	<u><i>26%</i></u>
<u><i>CAP 2023 - 2027</i></u>	<u><i>40%</i></u>
<u><i>EMFF</i></u>	<u><i>30%</i></u>
<u><i>LIFE</i></u>	<u><i>61%</i></u>
<u><i>Just Transition Fund</i></u>	<u><i>100%</i></u>
<u><i>NDICI</i></u>	<u><i>25%</i></u>
<u><i>OCT</i></u>	<u><i>25%</i></u>
<u><i>Pre-Accession Assistance</i></u>	<u><i>16%</i></u>

The Commission will use these climate contributions as a reference point to assess deviations and to propose measures in case of insufficient progress."

Commission declaration on the biodiversity tracking methodology and the involvement of the European Parliament and Council

"The Commission will ensure that the biodiversity tracking methodology is accessible, transparent, and publicly available. After the completion of a study on the methodology recently launched by the Commission, the Commission will exchange views on the methodology with the European Parliament and Council. Transparency and exchange of information with Parliament and Council on the progress towards reaching the biodiversity related objectives will be key for tracking."

5. Other declarations

COMMISSION DECLARATION ON A MID-TERM REVIEW / REVISION

"By 1 January 2024, the Commission will present a review of the functioning of the MFF. The review may, as appropriate, be accompanied by relevant proposals for the revision of the MFF Regulation in accordance with the procedures set out in the TFEU."

STATEMENT BY AUSTRIA

"The Commission's declaration regarding climate contributions per programme indicates the following for the „International Thermonuclear Experimental Reactor“ (ITER): an expected contribution of 100% in view of achieving an overall target of at least 30% of the total amount of the Union budget and NGEU expenditures. In this context, Austria recalls that the targets in sectoral legislation/programmes shall comply with the objective of EU climate neutrality by 2050 and contribute to achieving the Union's new 2030 climate targets. However, ITER will not contribute to achieving the Union's new 2030 climate targets and the objective of EU climate neutrality by 2050 as the research and experimental reactor will not produce any electric energy within the next years. Likewise, even the follow-up project DEMO (DEMOstration power plant) will not yet be in a position to contribute to the goals of the Paris Agreement. It will rather lead to a net negative effect in CO² emissions during its construction.

Given,

- that the European Court of Auditors has highlighted that the EU climate coefficients applied in certain areas failed to respect the conservativeness principle developed by the World Bank and
- that these coefficients also diverge from the OECD classification framework and
- don't account for the negative impacts of investments,

EU expenditure for ITER should not be counted as a contribution to the overall climate target of 30%."

STATEMENT BY POLAND

"The full implementation in good faith of the European Council conclusions and the related statements by the Commission on the interpretation and application of the regulation on a general conditionality for the protection of the Union budget pertains to Poland's vital national interests and is a precondition of Poland's consent to any legislative act related to the multiannual financial framework for the years 2021 to 2027, including Next Generation EU."