



Council of the
European Union

Brussels, 25 November 2022
(OR. en)

15178/22

RESPR 42
FIN 1258
ECOFIN 1226
ENV 1199
CLIMA 627
FISC 233
UD 264
ENER 627
TRANS 737
AGRI 671
COMPET 946

NOTE

From: Presidency

To: Delegations

Subject: Presidency report on new own resources

I. INTRODUCTION

In line with the conclusions of the European Council of 17-21 July 2020¹, the Interinstitutional Agreement of 16 December 2020² (IIA) foresees the work towards the introduction of new own resources, which should raise an amount that is sufficient to cover the level of overall expected expenditure for the repayment of the principal and the interest of the funds borrowed to be used for expenditure referred to in point (b) of Article 5(1) of the own resources Decision (NextGenerationEU, grants part). The IIA also sets out a roadmap for the aim of introduction of new own resources and provides that the Council should deliberate on a first package before 1 July 2022 with a view to introducing it on 1 January 2023.

In this context, the Commission presented in December 2021 a proposal to amend the Decision on the system of own resources of the European Union³, which would include three new own resources based on: the EU emissions trading system, a carbon border adjustment mechanism and a reform of the international corporate taxation framework.

Since the presentation of the proposals for a revision of the own resources Decision (ORD) in December 2021 and for the related implementing regulations (MAR 3, IMSOR) on 14 March 2022, the Council preparatory bodies are working on these proposals. It is clear, however, that these discussions can only be concluded after the sectoral proposals for instruments that should generate the additional revenue are adopted.

As part of the “Fit-for-55” package, the Commission published, on 14 July 2021, legislative proposals on a Carbon Border Adjustment Mechanism (CBAM)⁴ and the revision of the EU Emissions Trading System (ETS)⁵. In the first semester of 2022, the Council reached a general approach on these two sectoral regulations. In July 2022, the Czech Presidency started negotiations with the European Parliament on CBAM and on the revised EU ETS.

¹ Doc. EUCO 10/20 (paragraphs A29, 145-150).

² Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28).

³ Doc. 15260/21.

⁴ Doc. 10871/21.

⁵ Doc. 10875/21.

The legislative proposal underlying the third own resource, based on the share of residual profits from multinationals following the OECD/G20 agreement of October 2021 will only be presented once the OECD discussions on this topic are finalised (current expectation: mid-2023).

This report sets out the progress made during the Czech Presidency in the field of new own resources.

II. STATE OF PLAY

Work during the Czech Presidency has been two-fold: on the one hand, focus has been given to advance as much as possible on the interinstitutional negotiations on the available sectoral proposals, CBAM and EU ETS. This step is crucial for the creation of new own resources. Discussions on which share of the revenue generated by these new instruments should be allocated to the EU budget can only begin after the underlying sectoral regulations are adopted.

The other focus of work during the Presidency has been the continuation of technical deliberations on the proposals for a revision of the ORD and the related implementing regulations (MAR 3 and IMSOR).

Carbon border adjustment mechanism (CBAM)

The Council (ECOFIN) reached a general approach on the proposal for a Regulation for a carbon border adjustment mechanism (CBAM) on 15 March⁶.

Interinstitutional negotiations with the European Parliament started in July⁷, with substantial progress achieved during the Czech Presidency term. Several political trilogues and technical meetings have taken place since July 2022. The Presidency expects to make further progress towards finalisation of these negotiations by the end of 2022, with the formal adoption of the CBAM Regulation by the co-legislators to take place in the early months of 2023.

⁶ Doc. 7226/22.

⁷ Doc. 10982/22.

It should be noted that the final text of CBAM will depend on elements that are discussed in other fora, in particular the trilogues with the European Parliament on the EU ETS.

In the discussions with the European Parliament on CBAM, it has become evident that the governance model of the CBAM will be more centralised than in the text of the legislative proposal, and a number of CBAM-related operational tasks will be allocated to the European Commission. The main objective of the co-legislators is to design an effective, practical and resource efficient CBAM, which would not result in excessive administrative burden to businesses or public authorities. The choice of a more centralised CBAM governance model, once formally finalised, will lead to additional administrative expenditure (for the IT system and staff) for the Commission. How to address this challenge will be decided in future discussions on the annual budget.

As set out in the Council's position on CBAM, the ownership of the receipts from the sale of the certificates is to remain with Member States. This is in line with the IIA and with Commission's proposal, which foresees that a share of the revenues from the sale of CBAM certificates should be transferred to the EU budget as own resources in the form of a national contribution. The actual implementation modalities for the use of the proceeds of this instrument is still to be discussed in the future in the framework of the Working Party on Own Resources, once the negotiations on the CBAM Regulation have advanced sufficiently.

EU emissions trading system (EU ETS)

The Council (ENVI) reached a general approach on the proposal for a Regulation for a revision of the EU Emissions Trading System (ETS) on 28 June.⁸

Interinstitutional negotiations with the European Parliament started in July 2022, with substantial progress achieved during the Czech Presidency. Four political trilogues and numerous technical meetings have taken place since July 2022. The Presidency aims to make further significant progress and, if possible to find a well-balanced inter-institutional agreement in the remaining timeframe, to conclude by the end of 2022.

⁸ Doc. 10796/22.

Negotiations have been focussing on both highly political issues and technical and complex ones, including the extension of the ETS scope to the maritime sector and a new ETS for buildings and road transport. Financial mechanisms, including potential changes to the Innovation Fund and the Modernisation Fund, and the use of Member States' revenues, have also been key topics part of the discussions. Given the number and significance of the outstanding political issues as well as the important interlinkages with other proposals in the Fit-for-55 package, notably the Social Climate Fund, all proposed elements have been carefully considered together.

The Czech Presidency strives for a balanced result that achieves the desired climate ambition in a cost-effective way, by ensuring a fair contribution between sectors, safeguarding the competitiveness of the European industry, and leaving no-one behind socially.

Although much progress has been achieved and the negotiations have been conducted in a constructive atmosphere, the size and complexity of the file still requires further work and efforts before a well-balanced agreement can be reached.

Pillar 1

Work on implementation of the rules on the allocation of taxing rights between jurisdictions (“Pillar 1”) is still ongoing under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (“the Inclusive Framework”). In its proposal to amend the ORD, the Commission proposed a new own resource paid by Member States by applying a uniform call rate of 15% to the share of residual profits of the multinational enterprises, which will be re-allocated to Member States according to the Pillar 1 agreement once implemented.

One of the aims of the work in the Inclusive Framework is to develop a Multilateral Convention (MLC), which then should be opened for signature of the contracting parties (expected not before mid-2023). Only once this work has been completed, the Commission intends to submit a proposal for a Directive giving effect to the agreement in compliance with EU law and in accordance with the requirements of the single market.

Own resources package

Regarding the work on the new package of proposals presented in December 2021, including the newly amended ORD, technical work on the overall package has taken place at the same time as the sectoral work.

On the basis of questions from the Member States, the Commission has provided answers to concrete technical enquiries and presented various technical fiches. In particular, the Working Party on Own Resources has conducted detailed discussions focussing on: (i) the macroeconomic assumptions, the underlying data and the methodology adopted by the Commission in its proposals; (ii) the estimated projected revenues from the emissions trading system own resource, as well as from CBAM; and (iii) the functioning of the temporary solidarity adjustment mechanism for the ETS own resource.

The Working Party on Own Resources has also continued the examination of the proposals on making available new own resources (MAR 3) and on the implementing measures for the system of own resources (IMSOR), as submitted by the Commission on 14 March 2022. Detailed deliberations at technical level have taken place, with the Working Party on Own Resources paying particular attention to, amongst others, various elements of the ETS own resource (e.g. auctioning and adjustment of allowances), CBAM own resource (e.g. annual payment, certificates, centralised model), and reallocated profits-based own resource (e.g. underlying tax process, control measures).

In the context of these proposals and the related deliberations, the European Court of Auditors presented, at the Working Party on Own Resources of 6 October 2022, its opinion No 03/2022 on the Commission's proposal for a making available regulation on three new proposed own resources⁹. The Court also responded to questions and queries from delegations.

⁹ European Court of Auditors' Opinion No 03/2022 concerning the Commission's proposal for a Council Regulation on the methods and procedure for making available own resources based on the Emissions Trading System, the Carbon Border Adjustment Mechanism and reallocated profits, and on the measures to meet cash requirements.

Future proposals: 2nd basket of NOR

As provided for by the IIA roadmap, the Commission should propose a new basket of own resources by 2024. The Commission has indicated that it intends to present these new proposals already during the third quarter of 2023.

III. CONCLUSION

In the light of the Interinstitutional Agreement and the work carried out so far between July and December 2022 on the various proposals published by the Commission, Member States are invited to take note of the progress made during the Czech Presidency.
