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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste

– Guidance for further work

I. INTRODUCTION

1. On 5 April 2022, the Commission submitted a proposal for a revision of the Industrial Emissions Directive (IED) (8064/1/22 REV 1). As the EU's main tool for controlling emissions from industrial installations, the IED is an important element of the European Green Deal. The main objective of the revision is to make progress towards the EU's zero pollution ambition for a toxic-free environment. The revised IED should also support climate, energy and circular economy policies by accompanying the transformation of industry.

II. WORK IN THE COUNCIL

2. Within the Council, the Working Party on the Environment (WPE) is responsible for examining the proposal.
3. Nevertheless, the agricultural aspects of the proposal for a revision of the directive and its impact assessment were presented by the Commission to, and discussed at, the AGRI-FISH Council meetings on 26 September 2022 and 30 January 2023 under ‘Any other business’.
4. The Environment Council, at its meeting on 24 October 2022, held a policy debate on two specific topics: (i) the issues relevant to agriculture and (ii) the penalties and a compensation mechanism. At the Environment Council meeting on 20 December 2022, the Czech Presidency provided an information note on the state of play.
5. The Swedish Presidency has so far held a total of 5 WPE meetings on the issue of industrial emissions and based its work on the progress made during the French and the Czech Presidencies. The proposal has under the Swedish Presidency continued to be examined on the basis of clusters of related provisions.
6. The WPE meetings have provided an opportunity for detailed discussion on all provisions of the proposal as well as a thorough examination of compromise proposals from the Presidency. This has contributed to convergence within the Council. However, some issues are still outstanding.

III. COMPROMISE SUGGESTIONS

7. In order to move negotiations towards a General Approach, the Presidency seeks Coreper’s guidance on what the Presidency has identified as the remaining main political elements for most of the Member States in the proposal: i) Certain parts of Cluster 6 (Rules and scope of agro-industrial activities) as well as ii) Certain parts of Cluster 7 (Scope of industrial activities), more specifically extraction and treatment of minerals and ores. The Presidency compromise suggestions are set in the annex.

Rules and scope of agro-industrial activities

8. The Presidency invites Coreper to examine the compromise package on Cluster 6 (agro-industrial activities) with a view to agreement. Member States expressed at the WPE on 14 February that the Presidency compromise package proposal was going in the right direction. The package balances the different aspects and perspectives among Member States. It also takes into account the updated data from Eurostat, which clarifies the consequences of different thresholds for the number and sort of farms that would fall under the scope of the directive.
9. The compromise package further considers the fact that several Member States have expressed a will to exempt smaller farms and therefore want to raise the threshold proposed by the Commission for the numbers of cattle, pigs and poultry that fall within the scope of the directive, the so-called Livestock unit (LSU) threshold value. Furthermore, the compromise exempts extensive rearing of cattle from the scope of the directive. For these reasons, the Presidency finds that this compromise holds a good balance between LSU-number and their consequences for bringing cattle, pigs and poultry under the scope, on the one hand, and the environmental aims of the proposal on the other hand. It also is in line with the fact that most Member States have accepted that the agricultural sector should contribute to the reduction of emissions. Finally, the compromise proposal provides for an appropriate answer to the concerns of administrative burden.
10. The compromise package that the Presidency submits for examination by Coreper consists of a higher LSU-threshold value of 250 (Annex Ia), exemptions for extensive rearing (Articles 3.23 d, Annex 1 a), and a stepwise approach for when the new rules shall apply (previously in transitional provision X, now changed to Article 2 a paragraph 5). The stepwise approach takes into account administrative burden by giving smaller farms longer time to adopt to the requirements of the directive and Member States an opportunity to organise the handling of the increase in permits and registrations.

Scope of industrial activities

11. As regards Cluster 7 - Scope of industrial activities: The purpose of the Commission's proposal is to bring extraction and treatment of minerals under the scope of the directive, to level the Union's playing field while ensuring a high level of protection of human health and the environment. It is the Presidency's understanding that most Member States can accept that mining activities are covered by the IED, at least if the proposed threshold for industrial minerals is raised. However, when raising the threshold, it should be considered that there is a need for exempting smaller mines. Furthermore, the environmental impact of the mine is not exclusively related to the size of the mine. Against that background, the Presidency proposes to raise the threshold from 100, as was proposed recently to the WPE, to 300 tonnes per day (Annex I point 3.6).

IV. ISSUES FOR POLITICAL GUIDANCE

1. In light of the above, the Presidency is seeking guidance on the following questions:
 - a) Could you agree to the Presidency compromise package proposal for the agri-sector, including the proposed LSU-number for cattle, pigs and poultry, as set out in the Annex? If not, what further adjustments are deemed necessary to the LSU number and/or other related measures?
 - b) Do you agree to the Presidency's proposal of keeping extractive industries in the proposal with a raised threshold for industrial minerals to 300 tonnes per day? If not, what further adjustments are deemed necessary to the threshold and/or other related measures?

CLUSTER 6 – RULES AND SCOPE OF AGRO-INDUSTRIAL ACTIVITIES

Definition of 'Installations operating under extensive production regimes' -Article 3.23d

'Installations operating under extensive production regimes' means installations with rearing of cattle where the stocking density is less than 2 LSU/hectare used for grazing [or fodder/forage].

Transitional provisions - Article 2 a paragraph 5 (of the proposal)

In relation to installations carrying out activities referred to in Annex I a Member States shall apply the laws, regulations and administrative provisions adopted in accordance with this Directive

- within 4 years of the entry into force of the implementing act referred to in Article 70i (2), if the installation has a capacity of 600 LSU or more.
- within 5 years of the entry into force of the implementing act referred to in Article 70i (2), if the installation has a capacity of 400 LSU or more.
- within 6 years of the entry into force of the implementing act referred to in Article 70i (2), if the installation has a capacity of 250 LSU or more.

Until the relevant date of application as referred to in the first subparagraph such installations shall comply with Directive 2010/75/EU, in the version in force on... [the day before this Directive enters into force].

ANNEX Ia- Activities referred to in Article 70a

1. Rearing of cattle, pigs or poultry in installations of [250] 450 livestock units (LSU) or more, **excluding rearing of cattle in installations operating under extensive production regimes.**

Rearing of any mix of the following animals: cattle, pigs, poultry, in installations of [250] 450 LSU or more, **excluding rearing of cattle in installations operating under extensive production regimes.**

The approximate equivalent in LSU is based on the **following** conversion rates: ~~established in Annex II to Commission Implementing Regulation (EU) No 808/2014*.~~

Type of animal	Characteristic of animal	Coefficient	
Bovine animals	Less than 1 year old	0,400	
	1 to less than 2 years old	0,700	
	Male, 2 years old and over	1,000	
	Heifers, 2 years old and over	0,800	
	Dairy cows	1,000	
	Non-dairy cows	0,800	
Pigs	Piglets, live weight of under 20 kg	0,027	
	Breeding sows, live weight 50 kg and over	0,500	
	Other pigs	0,300	
Poultry	Broilers	0,007	
	Laying hens	0,014	
	Other poultry		
	Turkeys	0,030	
	Ducks	0,010	
	Geese	0,020	

	Ostriches	0,350
	Other poultry fowls n.e.c.	0,001

CLUSTER 7 - SCOPE OF INDUSTRIAL ACTIVITIES

Annex I, point 3.6 Extraction and treatment of minerals

Extraction and treatment (operations such as comminution, size control, beneficiation and upgrading) of the following ~~non-energy~~ minerals **and ores**:

- (a) ~~industrial minerals, including~~ barite, bentonite, diatomite, feldspar, fluorspar, graphite, gypsum, kaolin, magnesite, perlite, potash, salt, sulphur and talc **with a capacity exceeding [300] tonnes per day**;
- (b) ~~metalliferous ores, including~~ bauxite, chromium, cobalt, copper, gold, iron, lead, lithium, manganese, nickel, palladium, platinum, tin, tungsten and zinc.