



Council of the
European Union

Brussels, 21 March 2017
(OR. en)

6835/17

LIMITE

PV/CONS 10
ENV 214
CLIMA 50

DRAFT MINUTES¹

Subject: **3522nd** meeting of the Council of the European Union (**Environment**),
held in Brussels on 28 February 2017

¹ Information on Council legislative deliberations, on other cases of Council deliberations open to the public and on public debates may be found in [Addendum 1](#) to these minutes.

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1. **Adoption of the agenda**

6419/17 OJ CONS 10 ENV 147 CLIMA 41

The Council adopted the above agenda.

NON-LEGISLATIVE ACTIVITIES

2. **Approval of the list of "A" items**

6559/17 PTS A 15

The Council adopted the "A" items listed in 6559/17.

The documents on item 1 should read as follows:

Item 1: 6250/3/17 REV 3 ENV 127 COMER 21 MI 124 ONU 25 SAN 62 IND 36
5925/17 ENV 101 COMER 17 MI 100 ONU 23 SAN 48 IND 26

+ COR 1
+ ADD 1
+ ADD 1 COR 1
+ ADD 2
+ ADD 2 COR 1

Statements related to these items are set out in the Annex.

LEGISLATIVE DELIBERATIONS

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

3. **Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments [First reading]**

Interinstitutional file: 2015/0148 (COD)

= General approach

6307/17 CLIMA 37 ENV 134 ENER 44 TRANS 63 IND 38 COMPET 93 MI 131
ECOFIN 91 CODEC 212

11065/15 CLIMA 88 ENV 499 ENER 289 TRANS 241 IND 116
COMPET 370 MI 498 ECOFIN 621 CODEC 1059

+ ADD 1

The Council reached agreement on a general approach to the above-mentioned proposal. The text as agreed following the discussion at Council was issued in 6841/17.

Croatia requested a statement to be recorded in the Council minutes as set out in the Annex.

NON-LEGISLATIVE ACTIVITIES

4. Implementation of the 2030 Agenda for Sustainable Development: Implications for the EU environmental policy

= Exchange of views

6082/17 ENV 111 DEVGEN 19 ONU 24 RELEX 109 FIN 89
14774/16 DEVGEN 261 ONU 132 ENV 735 ACP 169 FIN 821
RELEX 984

The Council discussed the implementation of the 2030 Agenda for Sustainable Development and the implications for EU environmental policy on the basis of a Presidency note with questions (6082/17) and the recent Commission communication on next steps for a sustainable European future (14774/16).

Ministers highlighted the need to keep a high level of ambition in the implementation process. They stressed the importance of mainstreaming sustainable development in all policy areas and to promote policy coherence for sustainable development, which requires a comprehensive approach.

The Presidency recalled that the Council (General Affairs) was expected to adopt conclusions on the implementation of the 2030 Agenda at EU level at its meeting on 20 June 2017.

5. Greening the European Semester and the EU Environmental Implementation Review (EIR)

= Exchange of views

6063/17 ENV 109 ECOFIN 75 UEM 20 SOC 79 EMPL 54 COMPET 80
EDUC 37 RECH 33 ENER 40 JAI 98
5967/17 ENV 103 ECOFIN 70 SOC 68 COMPET 74 POLGEN 9 CONSOM 37
+ ADD 1
14357/16 ECOFIN 1032 UEM 361 SOC 698 EMPL 478 COMPET 580
ENV 708 EDUC 371 RECH 311 ENER 382 JAI 937
+ REV 1 (da)

In the context of the European Semester process and on the basis of a note prepared by the Presidency (6063/17), the Council exchanged views on the 2017 Annual Growth Survey (AGS) and on the Environmental Implementation Review (EIR).

Ministers welcomed the Commission's new EIR initiative as a useful tool to improve the implementation of EU environmental policy and legislation at national level and to contribute to the greening of the European Semester. They considered it a good opportunity for developing closer cooperation, addressing common challenges and sharing best practices. Some of them underlined the need for national report findings to be based on sound scientific data.

The Presidency announced that it would prepare a contribution on the basis of the debate for the Synthesis report in view of the European Council meeting in March.

6. **Any other business**

a) **Current legislative proposal**

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

- Proposal for a Regulation of the European Parliament and of the Council amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 [First reading]

Interinstitutional file: 2017/0017 (COD)

= Information from the Commission

The Commission presented its recent proposal concerning aviation within the EU ETS.

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

b) **Low-emission mobility and NER 300**

= Information from the Commission
6653/17 CLIMA 47 ENV 188 ENER 87 TRANS 79 IND 46 COMPET 144
MI 157 ECOFIN 150

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

c) **Paris Agreement: International developments**

= Information from the Netherlands and French delegations
6320/17 ENV 136 CLIMA 38 ONU 27 RELEX 136

The Council took note of the information provided by the Netherlands and French delegations as set out in 6320/17 on the importance of the continuous EU commitment to the implementation of the Paris Agreement, in particular the ongoing work on the Paris rulebook and preparation for the 2018 Facilitative dialogue under the UNFCCC.

d) EU Action Plan for the Circular Economy

= Information from the Commission on recent developments

The Council took note of the information provided by the Commission on the new initiatives taken on circular economy, one of which is the Commission communication on the role of waste to energy.

The Commission also reported on the implementation of the EU Action Plan for a circular economy and encouraged the Presidency to make as much progress as possible on the waste legislative package, given its importance for the transition to a circular economy.

e) Natura 2000 in the European Solidarity Corps

= Information from the Commission
6275/1/17 ENV 131 CADREFIN 19 JEUN 20 EDUC 46 SOC 92 EMPL 62
REV 1

The Council took note of the information provided by the Commission and the support expressed for this initiative.

f) Luxembourg Circular Economy Hotspot (Luxembourg, 20–22 June 2017)

= Information from the Luxembourg delegation
6262/17 ENV 129 COMPET 91 AGRI 71 TRANS 60 MI 127 IND 37
CONSOM 46 ECOFIN 86 ENER 43 RECH 39 SAN 63 ENT 37

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

g) Environmental concerns regarding Belarus nuclear power plant

= Information from the Lithuanian delegation
6211/17 ENV 122 ENER 42 UNECE 2 RELEX 125

The Lithuanian delegation reiterated its concerns on the construction of the Ostrovest nuclear power plant which was not complying with international environmental obligations. In view of the upcoming Espoo Convention Meeting of the Parties in June in Minsk it sought EU and Member States support. Several delegations expressed support to LT, and the Commission informed about ongoing outreach with Belarus regarding this issue.

The Council took note of the information provided by the Lithuanian delegation

h) Scientific Conference on "Sustainable development and climate changes in the light of the encyclical letter of Holy Father Francis, entitled Laudato Si'" (Warsaw, 15 October 2016)

= Information from the Polish delegation
6212/17 ENV 123 CLIMA 35 RECH 38 EDUC 40

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

i) State of the implementation of the Environmental Liability and Mining Waste Directives

= Information from the Commission, requested by the Hungarian delegation
6630/17 ENV 187 IND 45 TRANS 77 ENER 86 CONSOM 58 ECOFIN 146
EF 33

The Commission presented the main conclusions of the implementation reports under the two Directives and its recommendations for further action in this area. The Hungarian delegation, supported by the Polish delegation, recalled in this context its proposal to create an EU-wide insurance scheme that would allow to cover large-scale disasters as well as preventive safety measures.

The Council took note of the information provided by the Commission and the abovementioned interventions.

STATEMENTS FOR THE COUNCIL MINUTES

Ad "B" item 3: **Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments [First reading]**
Interinstitutional file: 2015/0148 (COD)
= **General approach**

STATEMENT BY CROATIA

"The Republic of Croatia in principle supports the goals and objectives of the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, since we deem that this Proposal is of crucial importance for the EU climate policy, as well as for the successful implementation of the Paris Agreement.

However, the Republic of Croatia believes that the current text of the Directive 2003/87/EC, as well as the current Proposal for a Directive amending Directive 2003/87/EC puts Croatia into unequal position when it comes to the total quantity of allowances to be auctioned by each Member State.

Therefore, the Republic of Croatia considers it necessary to amend Article 10, paragraph 2, subparagraph 2 of the Directive 2003/87/EC, since the existing provision does not cover the calculation of Croatian part of the auctioning rights. The said provision stipulates which verified emissions should be used by the Member states which did not participate in the Community scheme in 2005. In this regard, the Republic of Croatia has put forward a proposal to delete the words "*under the Community scheme*" in Article 10, paragraph 2, subparagraph 2 of the Directive 2003/87/EC.

The above proposed amendment is required in order to avoid possible different interpretations regarding the application of the provisions of the Directive 2003/87/EC on the Republic of Croatia and accordingly, ensure consistent and uniform application of Article 10, paragraph 2, point (a) of the Directive in all Member States, including the Republic of Croatia."

Ad "A" item 1: **Proposal for a Council Decision on the conclusion of the Minamata Convention on Mercury
= **Request for the consent of the European Parliament****

STATEMENT BY DENMARK AND THE UNITED KINGDOM

"Denmark and the United Kingdom recognise the need for a declaration of competence by the European Union pursuant to Paragraph 3 of Article 30 of the Minamata Convention on Mercury (the Convention).

Denmark and the United Kingdom are, however, of the opinion that the declaration exceeds the requirement laid down in Paragraph 3 of Article 30 of the Convention by attempting to define the nature of the competence of the European Union.

Denmark and the United Kingdom consider that the European Union's declaration pursuant to Paragraph 3 of Article 30 of the Convention does not alter the distribution of competences between the European Union and its Member States as set out in the Treaty on the Functioning of the European Union. The declaration cannot, therefore, be read as implying exclusive European Union competence in relation to any matter under the Convention where competence is shared between the European Union and its Member States."

STATEMENT BY THE REPUBLIC OF POLAND

"The Republic of Poland is aware of the need for ratification of the Minamata Convention on Mercury ('the Convention') by the European Union. However, the Republic of Poland:

- recognises that the agreement in the Council on the ratification, on behalf of the EU, of the Convention does not in any way pre-empt or prejudge the role of national parliaments in the respective national ratification processes in the Member States in accordance with their national constitutional provisions;
- underlines that the process of ratification of the Convention by the Union and its participation at the Conference of the Parties may not affect the division of competences between the Union and the Member States;
- emphasises that during the Conference of the Parties the Member States and the Commission should cooperate closely during the negotiation process, ensuring unity in the external representation of the European Union;
- notes that the positions to be adopted by the EU and its Member States at the Conference of the Parties will be determined in the usual manner, in accordance with the existing Union rules and working arrangements.

The Republic of Poland recognises the need for a declaration of competence by the European Union pursuant to paragraph 3 of Article 30 of the Convention. However, Poland is of the opinion that the declaration exceeds the requirement laid down in paragraph 3 of Article 30 of the Convention by attempting to define the nature of the competence of the European Union.

The Republic of Poland considers that the European Union's declaration pursuant to paragraph 3 of Article 30 of the Convention does not alter the distribution of competences between the European Union and its Member States as set out in the Treaty on the Functioning of the European Union. The declaration cannot, therefore, be read as implying exclusive European Union competence in relation to any matter under the Convention where competence is shared between the European Union and its Member States."

Ad "A" item 4: **Draft Council conclusions on European Court of Auditors' Special Report No 23/2016**
= **Adoption**

STATEMENT BY THE NETHERLANDS AND THE UNITED KINGDOM

"The Netherlands and the United Kingdom welcome the special report 'Maritime transport in the EU: in troubled waters – much ineffective and unsustainable investment' from the European Court of Auditors. The assessment carried out by the European Court of Auditors concludes that there is a clear need for additional Commission guidance on state aid for ports. The Netherlands and the United Kingdom firmly share this assessment. The report indicates that stakeholders (port authorities, port operators, ship owners and logistics companies) have called for Commission guidelines on state aid to ports, in order to clarify what is permitted and what is not permitted in terms of state aid to seaports. The European Court of Auditors highlights in this context the inclusion by the Commission of such guidelines in its own actions for 2014-2019.

The Netherlands and the United Kingdom fully support the recommendations from the European Court of Auditors related to state aid, in particular the call upon the Commission to issue guidelines on state aid for seaports, with the aim of ensuring fair competition and a stable legal framework for port investment. The Council Conclusions on the European Court of Auditors' special report No. 23/2016 recall the Council Conclusions of 5 June 2014 on the Mid-Term Review of the EU's Maritime Transport Policy until 2018 and Outlook to 2020 and reiterate the agreed language on state aid for seaports from the Athens Declaration from 2014. The Netherlands and the United Kingdom consider this to be an important confirmation by the Council of the recommendation of the Court of Auditors to the Commission to issue such guidelines without further delay."

Ad "A" item 5: Draft Council Decision on the conclusion on behalf of the European Union of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the implementation Protocol thereto
= **Adoption**

STATEMENT BY THE COMMISSION

"By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)a(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU.

In relation to the decision on the signature and conclusion of the new Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the Implementation Protocol thereto, the Commission regrets the Council's amendment replacing the legal basis of Article 43(2) in conjunction with Article 218(5), 218(6)a and Article 218(7) TFEU with Article 43 (without mentioning the paragraph) in conjunction with article 218(5), 218(6)a and 218(7) TFEU, and therefore maintains its initial proposal."

Ad "A" item 6: Recommendation for a Council Decision to authorise the Commission to open negotiations, on behalf of the European Union, for the renewal of the protocol to the Fisheries Partnership Agreement with the Republic of Guinea-Bissau
= **Adoption**

STATEMENT BY THE COMMISSION

"The Commission does not consider it necessary that a Council Decision authorising the opening of negotiations indicates a substantive legal basis."
