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COUNCIL OF THE EUROPEAN UNION
(Transport, Telecommunications and **Energy**)

28 March 2023

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1. Adoption of the agenda


The Council adopted the agenda set out in document 7456/23.

Legislative deliberations

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


2. **Directive on common rules for the internal markets in renewable and natural gases and in hydrogen (recast)**  7808/23
7557/23
General approach

The Council reached a general approach, on the basis of the text submitted to the Council, including one amendment proposed during the meeting.

3. **Regulation on the internal markets for renewable and natural gases and for hydrogen (recast)**  7808/23
7556/23
General approach

The Council reached a general approach, on the basis of the text submitted to the Council.

Non-legislative activities

4. Council Regulation amending Regulation (EU) 2022/1369 on coordinated demand reduction measures for gas  7649/1/23 REV 1
(Legal basis proposed by the Commission: Art. 122 TFEU)
Political agreement
Decision to use the written procedure for the adoption

5. Approval of "A" items

a) Non-legislative list

7457/23

The Council adopted all "A" items listed in document 7457/23 including all linguistic COR and REV documents presented for adoption. Statements to these items are set out in the Addendum.

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

7458/23

Environment

1. Revision of Decision (EU) 2015/1814 (market stability reserve)



7398/23
PE-CONS 5/23
CLIMA

Adoption of the legislative act

approved by Coreper, Part 1, on 22.03.2023

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Poland voting against and Belgium and Bulgaria abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU).

2. Revision of Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)



7397/1/23 REV 1
7397/23 ADD 1
REV 1
PE-CONS 75/22
CLIMA

Adoption of the legislative act

approved by Coreper, Part 1, on 22.03.2023

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Poland voting against and Hungary, Portugal and Sweden abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU). Statements to this item are set out in the Annex.

3. Revision of Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 (ESR)

Adoption of the legislative act

approved by Coreper, Part 1, on 22.03.2023



7396/1/23 REV 1
+ 7396/23 ADD 1
PE-CONS 72/22
CLIMA

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Poland voting against and Belgium and Austria abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU). A statement to this item is set out in the Annex.

4. Revision of Regulation (EU) 2019/631 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles

Adoption of the legislative act

approved by Coreper, Part 1, on 27.03.2023



6740/3/23 REV 3
6740/23 ADD 1
REV 3
PE-CONS 66/22
+ COR 1 (nl)
CLIMA

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Poland voting against and Bulgaria, Italy and Romania abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU). Statements 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)

6. Electricity market design

Policy debate



7455/23

The Council held a policy debate on the Electricity market design.

Any other business

7. a) Winter preparedness 2023/2024 7679/23
Information from the Commission

b) **The Nature Restoration Regulation – its effects on energy production and deployment** [2] 7670/23
Information from the Danish delegation

The Council took note of the information from Denmark.

c) **The need for an EU electricity grid capable of sustaining and accelerating the green transition** [2] 7742/23
Information from the Greek delegation

The Council took note of the information from Greece.

[1] First reading

[C] Item based on a Commission proposal

[2] Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)

Statements to the legislative "A" items set out in document 7458/23

Ad "A" item 2: **Revision of Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)**
Adoption of the legislative act

STATEMENT BY ESTONIA

“Estonia as many other countries has increased climate ambition in recent years. Our aim is to achieve climate neutrality by 2050. Estonia is approaching to its net zero target as an opportunity to increase competitiveness and energy independence. Compared to 1990, we have reduced greenhouse gas emissions by 65%, including the LULUCF sector.

The LULUCF negotiations have been complex and tense. Estonia has been supporting the EU wide target (-310 Mt CO₂) and we appreciate the outcome for additional flexibilities and concessions in reaching this target. Nevertheless, Estonia’s challenging LULUCF target for 2030 is our main concern.

Despite the challenging nature of the agreement, we acknowledge the urgency of strengthening climate change mitigation measures in all sectors. Among other things, it is essential to maintain carbon sequestration in the LULUCF sector both in the short and long term perspective. However, carbon removals by natural processes are highly uncertain and unpredictable. Therefore, it is important to increase Member States ability to provide the best available information on LULUCF to present transparent inventory. It is not a balanced way forward to rely prevalingly on short-term increase in sinks without thinking of their vulnerability to climate change and annual weather variabilities and the need to maintain healthy biodiversity-rich land sectors that can sequester carbon and provide us with food and materials over a long-term.

Land use sectors will need to undergo important changes in order to meet both climate change and biodiversity targets in the coming decades. These changes will incur social and economic impacts, especially for the companies active in these sectors and the people whose livelihoods depend on them. In order to secure a just transition to net-zero, a just transition mechanism for the LULUCF sector would prove to be useful.

Russia’s aggression in Ukraine and its global consequences, particularly the energy crisis, has made it more difficult to reach targets in sectors contributing to energy and resource security.

We are fully convinced that green transition is our best option to reduce greenhouse gas emissions. Still, there is a need to keep solutions realistic and fair for everybody to gain society’s support for and participation in the reforms.”

STATEMENT BY HUNGARY

“Hungary is not able to vote in favor of the final compromise reached on LULUCF, presented to Member States on 9 of December, 2022, therefore, it abstains from its endorsement.

Hungary is committed to the 2030 emission reduction target of 55% and the climate neutrality objective for 2050. On 28 June 2022, Hungary was ready to accept the compromise presented at the Environment Council, including the LULUCF and the highly ambitious -310 Mt Union level target together with the national target, as it found the overall package balanced and fit for purpose.

During the negotiations, Hungary was able to demonstrate flexibilities in order to preserve the fragile balance in LULUCF, however, we believe that the final compromise goes beyond that, by adopting measures, which would make compliance an extremely heavy burden for Member States, and against which Hungary was advocating very vocally from the beginning. Therefore, while appreciating the compromise on some elements of the proposal, we cannot provide our support on others.

First, we are discontent about the introduction of the governance mechanism (Article 13c.) within the regulation aggravated by the multiplier of 1.08. We believe, that such instrument is not in line with the sectoral specificities of the LULUCF and does not provide an effective incentive for increasing sinks, but further aggravates the situation for Member States, who are already struggling to reach their ambitious targets.

Second, we truly regret the deletion of Article 10. on natural disturbances. This measure could be essential in dealing with unexpected events beyond the control of Member States under the framework of the LULUCF, especially during times, when we are facing the exacerbating effects of climate change.

Third, we have concerns about the significant strengthening of MRV rules and the application of Tier3 methodology. However, Hungary supports in principle improving the tools, which would enable better monitoring and reporting, and is doing its best to improve our own methodology, we believe, that it is already challenging to meet with the requirements of what is adopted in the Council general approach. The measures adopted in the compromise would make it even more challenging for Member States to meet the obligations than the Commission proposal, further increasing the administrative burden and red tape. Member States would need sufficient time and resources, to prepare for such requirements, which is extremely difficult in the case of small Member States with a limited number of experts available.

Finally, we believe that due to the nature of the LULUCF sector and its significant fluctuations, it is not appropriate to assess its compliance for one given year, but a longer, at least five-year period should be taken into consideration.”

STATEMENT BY POLAND

“Poland strongly opposes the adoption of the revision of the LULUCF Regulation. The target set for Poland of 38.1 million tonnes of CO₂ equivalent by 2030 is unrealistic; moreover, specific targets have been imposed without any discussion or explanation. The fact that some countries, including Poland, are being allocated significantly increased targets for removals while the existing targets for other countries are being lowered makes the Regulation unfair.

The solutions set out in the revision of the LULUCF Regulation do not take account of the geographical diversity of forests in Europe or the age structure of Polish and European forests, nor do they make any allowance for the forecast decline in sink levels. Binding annual targets are not appropriate for the land sector due to its natural instability and the associated uncertainty resulting from possible disruption to forest ecosystems caused by the consequences of climate change. Moreover, the flexibilities offered are insufficient and will not allow the targets to be met.

The solutions adopted in the revision of the LULUCF Regulation place an excessive burden on forests in terms of achieving the climate targets, and at the same time may result in a reduction in timber harvesting, thereby having a negative impact on the labour market in the forest-based sector, which employs around 400 000 people in Poland. This contradicts the objectives of the EU’s policy in relation to the bioeconomy, in which wood is an important ecological, sustainable and renewable raw material; moreover, it is dangerous in view of the current geopolitical crisis.

Poland would point out that the LULUCF Regulation should not be amended on an incorrect legal basis. The LULUCF Regulation is part of the EU’s ‘Fit for 55’ package, which – as a whole – aims to make far-reaching changes to Member States’ energy mix; consequently, its individual components (including the revision of the LULUCF Regulation) should be dealt with under Article 192(2), point (c), TFEU as the only admissible treaty basis in view of the interference with Member States’ energy mix.

In the light of the above, Poland objects to this legislation.”

STATEMENT BY SLOVAKIA

“Forests represent an important part of the land use, land use change and forestry (LULUCF) sector. As highlighted in the Bratislava Ministerial Declaration “The Future We Want: The Forests We Need”, signed by European Ministers responsible for forests at the Eighth FOREST EUROPE Ministerial Conference, forests play a vital role in providing multiple benefits for the environment, economic and social development, and livelihoods in Europe.

Slovakia is convinced that, in order to ensure those multiple benefits of forests, we need to promote and apply a holistic and long-term vision on our forests in line with the relevant international commitments that promote sustainable forest management, including those taken within the framework of the FOREST EUROPE process. Only such an approach will ensure the fulfilment of all forest functions demanded by European citizens, including carbon sequestration, in a balanced and integrated way and in a long run.

Carbon emissions and removals in forests may be and often are a subject to significant short term (inter-annual) as well as long-term fluctuations. Similarly, removals in forests achieved in the past may be released back to the atmosphere in case of natural disasters or during longer natural cycles. Therefore, long-term stability and adaptive capacity of forests and thus long-term stability of carbon stored in forests is a matter of a priority that goes beyond of any specific LULUCF target set for any particular year. This is also what the above mentioned internationally agreed principles for sustainable forest management say, among many other things.

In addition, Slovakia is convinced that long-term fluctuations of carbon emissions and removals in forests influenced by changes in the forest age structure may also have significant effects on the capacities and the ability of the LULUCF sector in some Member States to meet their nationally determined targets in the period before as well as after 2030. Therefore, we are of the view that those effects should be more adequately and specifically taken into account when setting national targets for the period after 2030.

Slovakia is of the view that only by respecting the above mentioned principles we will ensure that our forests and the forest sector can adequately contribute to the overall Union's objective of climate neutrality.”

STATEMENT BY FINLAND

“Finland endorses the final compromise text provided to the Member States on 9 December 2022.

Finland views that due to the sector specificities, the compliance in LULUCF should be assessed at minimum five year periods and not on one solitary year.

Finland agrees that there is a need for a governance mechanism to secure the LULUCF commitments and targets. However, Finland regrets that a penalty mechanism has been included into the LULUCF Regulation together with the ambitious EU level target of -310 Mt CO₂ eqv. This goes beyond the LULUCF contribution determined in the European Climate Law and the Council General Approach.

The political agreement of the LULUCF Regulation has increased the burden of land use sector reporting and monitoring compared to Commission proposal. Such micro-managing of Member States will force Member States to direct their resources to governance of reporting and monitoring instead of implementation of climate action in land use sector. Finland doubts that this evolution would support results in land use sector climate mitigation.”

STATEMENT BY SWEDEN

“Sweden has high ambitions for its climate policy and are dedicated to achieving EU climate goals and sees the green transition as an opportunity to increase competitiveness and economic prosperity. Sweden recognises the importance of climate action in all sectors and see the need for a LULUCF-legislation. We strongly support the aim and overall approach of the Fit for 55 package in delivering ambitious goals in the crucial decade up to 2030. Carbon sequestration in the LULUCF sector is important in the long and short term.

During the negotiations, we see that many of our stand points have been taken into account. Nevertheless, the introduction into the agreement on the LULUCF-legislation, at the last stage of negotiations, of a “corrective action mechanism” (Article 13d), linked to the flexibility mechanism (Article 13b) is a matter of concern to Sweden. The corrective action mechanism, as well as the single year target for 2030, is ill-suited in the LULUCF-sector given the general level of uncertainty regarding the accuracy and lag-times of the underpinning scientific data on removals.

We are fully committed to achieving a green transition for Sweden and the EU as a whole.”

JOINT STATEMENT BY CYPRUS, GREECE, FRANCE, ITALY, PORTUGAL AND SPAIN

“The signatories of this Declaration are fully committed with the greenhouse gas neutrality objective both at EU and at Member States level. We strongly support the aim and overall approach of the Fit for 55 package in delivering ambitious goals in the crucial decade up to 2030.

We recognize the essential role of the Land Use, Land use Change and Forest sector (LULUCF) within the climate instruments.

Therefore, we acknowledge the merit of the Commission’s proposal to establish an ambitious target for the sector and based on clear information from inventory data.

We would like to underline that this Regulation has successfully accommodated several specificities of different Member States.

In the negotiation of this Regulation, we highlighted a specific concern related natural disturbances, particularly those caused by extreme events, of non-anthropogenic origin and beyond human control. They are, by definition, temporary, and geographically located. These are events such as extreme forest fires, reaching far beyond the background level of fires and beyond other disturbances, such as the effects of pests or effects of anthropogenic origin.

Treating natural disturbances as these ones, in the context of the overall flexibility, fails to consider the specificities of Member States and fails to address the extreme events described above. This is so because it places emissions deriving from events that are outside of that control at the same level of emissions from policy options under the control of Member States.

Therefore, we must express our deep disappointment with the exclusion of Article 10 of the agreement.

We believe this decision severely limits Member States ability to achieve their targets. It also introduces a level of uncertainty that is very hard to manage and prepare for. The solution that results from the final agreement fails to provide an adequate solution and risks condemning Member States affected by extreme natural disturbances to their own fate.

We therefore call for a profound reflection that considers the forecasts of the impact of climate change.

As such, we look forward to the proposals the Commission will bring forward in respect to the implementation of the EU Climate Law, most notably the post-2030 framework. These will provide the opportunity to amend the lapse generated by the elimination of Article 10 in this Regulation.”

STATEMENT BY THE COMMISSION

“In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation and take that assessment into account as appropriate in any possible subsequent legislative proposal.”

Ad "A" item 3: **Revision of Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 (ESR)**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

“In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation and take that assessment into account as appropriate in any possible subsequent legislative proposal.”

Ad "A" item 4: **Revision of Regulation (EU) 2019/631 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles**
Adoption of the legislative act

STATEMENTS BY ITALY

Statement 1

“Italy shares and is fully committed to the objective of decarbonising the road transport sector, since reducing the sector’s CO₂ emissions, in particular those deriving from passenger cars and light commercial vehicles, is key to achieving the Union’s climate objectives.

In our view, decarbonisation in the road transport sector should be pursued in accordance with the principles of an economically sustainable and socially fair transition to zero emissions and of technological neutrality.

We are certainly in favour of the electrification of light vehicles. We do not believe, however, that during the transition phase this should be the only route to achieving zero emissions.”

Electrification requires significant changes across the automotive sector, which need to be planned and guided with due care in order to avoid undesirable economic, industrial and social impacts. Cars with combustion engines are owned by low-income citizens and will remain in circulation beyond 2035. The success of electric cars will depend very much on how they become accessible to these citizens.

In the meantime, technological neutrality will allow Member States to use all solutions at their disposal to decarbonise the transport sector, depending on national circumstances and starting points. The use of renewable fuels which are compatible with combustion engines will ensure an immediate reduction in emissions without requiring disproportionate economic sacrifices from citizens. Forcing electrification may, on the contrary, entail the risk of non-acceptance by the market, which could harm car and van producers. It would also prevent the technological development of hybrid engines with a very low environmental impact.

From an industrial point of view, increasing demand for renewable fuels will give the petrochemical sector an important opportunity to adapt.

In setting a 100 % emission reduction objective for 2035 and providing no incentive for the use of renewable fuels, the proposed Regulation is not in line with the principle of technological neutrality. Consequently, Italy cannot support it.

We would point out that achieving a 100 % emission reduction objective depends on several conditions, including:

- the development of a value chain for electric motors and batteries in the Union;
- a sustainable and diversified supply of the necessary raw materials;
- adequate recharging and refuelling infrastructure;
- an upgrade of the electricity grid so that it can cope with increased demand;
- adaptation of the entire automotive sector, including by providing the necessary skills;
- market acceptance of new vehicles, which should be available at an affordable price, in particular for the most vulnerable households and consumers.

If these conditions, the fulfilment of which does not depend solely on the implementation of Regulation (EC) No 2019/631 and will require significant investment and compensation measures, were not to be achieved, the impact of the objective would be serious, in economic, social and environmental terms, as well as for the Union's strategic autonomy.

We note, in this regard, that to date the Union's approach to the automotive sector has been predominantly regulatory, while the United States (with the IRA) and China have also adopted stimulus plans.

We therefore believe that the Commission should:

- support the transition of the automotive sector, in particular its SMEs, using all available legislative and financial means;
- monitor and report in a timely and comprehensive manner on progress towards zero-emission road mobility, considering all factors contributing to a fair and cost-efficient transition, including an assessment of possible funding gaps, as set out in the Regulation (Article 14a);
- ensure, on the basis of the monitoring, assessment and reporting referred to above, a rigorous and credible review of the targets in 2026, as provided for by the Regulation (Article 15);

- follow up on the provision for the registration, after 2035, of vehicles exclusively fuelled with zero CO₂ emission fuels (recital 11);
- make a proposal to include in the Regulation mechanisms to account for the benefits, in terms of CO₂ emissions reduction, of renewable fuels.”

Statement 2

“Italy takes note of the Commission’s written statement on recital 11 of the new Regulation on emissions from cars and vans concerning the registration after 2035 of vehicles with internal combustion engines that will operate on carbon-neutral fuels.

The Commission’s recognition that these vehicles can still be registered and that they will therefore also contribute to achieving the emission reduction targets laid down in the Regulation is a positive development.

We consider this step to be a response to the request made in Italy’s statement of 28 February this year, which led to the postponement of the vote on the Regulation which is now being submitted for assessment by the Member States.

In this regard, we take note of the Commission’s commitment to implement recital 11 before the review of the objectives of the Regulation scheduled for 2026, by submitting proposals for legislation as early as in the coming months.

In the light of this openness, Italy has asked for a more in-depth discussion between the Member States, covering all available solutions, in order to be more effective.

On the one hand, we welcome the decision to reconsider internal combustion engines, which are essential for the economic and social sustainability of many EU countries; on the other hand, we consider that the Commission, in providing in its statement for only synthetic fuels, adopts an overly restrictive interpretation, which still does not allow for full implementation of the principle of technological neutrality for which Italy has always fought on the basis of technical and scientific data.

We believe that biofuels can also be included in the category of fuels that are neutral in terms of overall CO₂ balance and that contribute to the progressive decarbonisation of the sector.

We will therefore make all efforts, in the context of the procedures for approving the legislative acts referred to by the Commission, to ensure that biofuels are also considered carbon-neutral fuels and, in the hope of there being further fruitful discussion, we abstain from voting on the final decision of this Council.”

STATEMENT BY POLAND

“Poland firmly opposes the adoption of this legislative act.

It is not in favour of the new fees and burdens being passed on to citizens, e.g. by increasing the cost of access to fuels. Any additional costs resulting from the new burdens should be borne by manufacturers and not passed on to citizens. EU legislation should provide an incentive for car manufacturers to offer zero-emission vehicles at the lowest possible cost to citizens. It should also take into account the differing circumstances of the individual Member States so as to avoid exacerbating social stratification, poverty or exclusion.

Trends aimed at reducing vehicle emissions should take account of the market potential in terms of both the technological particularities of vehicle or vehicle equipment manufacturers and the economic aspects, with due regard for the financial capacity of the country’s citizens.

Furthermore, Poland cannot accept the inclusion of exemptions for manufacturers of certain luxury brands; this is incompatible with the general principle that emissions should be reduced by all sectors in a manner which is socially fair. In times of crisis, derogations should be directed at the poorest citizens rather than at luxury car manufacturers. Poland therefore expresses its opposition to this legislative act.”

JOINT STATEMENT BY ESTONIA AND FINLAND

“We fully support the ambitious Fit for 55 package and welcome the outcome of voting on the Commission proposal in the European Parliament which reflects the compromise agreement reached between the institutions in the trilogues.

While we agree with the aims of the Regulation of reducing emissions from road transport in line with Union’s climate goals, we regret that gas-fuelled vehicles are not taken into account in the Regulation. For us, promoting the utilisation of biomethane in transport is important and during the negotiations we made a proposal for an incentive for gas-fuelled vehicles. We would also like to emphasize to the Commission the recital regarding registering vehicles running on CO2 neutral fuels after 2035.

Finally, we find it vital that in the revision of the CO2 standards for heavy-duty vehicles, technology neutrality is maintained.”

STATEMENT BY THE COMMISSION

“The European Commission is committed to a technologically neutral climate regulation in particular with respect to the regulation of CO₂ emission standards for cars and light duty vehicles. The Commission acknowledges and confirms the decision of the European Parliament and the Council to include recital 11 in the agreed compromise text of the revision of the Regulation setting CO₂ emission performance standards for new cars and vans. The Commission will take this recital as a starting point for respective legislative initiatives.

As a first step, immediately upon the adoption of the Regulation by the European Parliament and by the Council, the Commission submits an Implementing Regulation for type approvals of these vehicles, thereby setting up a robust and evasion-proof type approval process for vehicles that are fuelled exclusively, in a permanent manner, with RFNBOs. The Commission will work for swift proceedings within the Technical Committee on Motor Vehicles (TCMV) and devote itself within the legal framework to a successful finalisation of the decision process.

The Commission also will work without delay on the further implementation of recital 11. Following the consultation of stakeholders, the Commission also will propose in line with the legal empowerment in autumn 2023, a Delegated Act specifying how E-Fuels-only vehicles would contribute to the CO₂ emission reduction targets, in relation to the regulation of CO₂ emission standards for cars and light duty vehicles. In the case the co-legislators reject the proposal, the Commission will follow another legislative path such as a revision of the CO₂-regulation to at least implement the legal content of the Delegated Act.”
