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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	PSLF - Outcome note on 2nd technical trilogue

Delegations will find attached the outcome note on the 2nd technical trilogue of the Public Sector Loan Facility, in view of the Financial Counsellors Working Party meeting on 23 February 2021.

Outcome of the 2nd PSLF trilogue

- The lines sent from the technical level were approved except for line 13 who will continue to be discussed at the technical level.
- Budgetary aspects: The Commission suggested a joint declaration that if the reflows don't reach the levels foreseen in their estimates, an effort will be made to match that level of financing for the PSLF. The European Parliament will circulate a draft compromise. On the amounts to be devoted to technical assistance, the co-legislators and the Commission agreed it was a policy choice, a trade-off between funding projects or its technical preparation.
- Conditionalities: the Commission suggested to add climate compliance to the objectives and to put all the other subjects as horizontal principles either in an article or in recitals and not on a project by project basis. The Council could only agree to work on the framework if they were set out in a recital and not in an article. IT was agreed that the language is worked at the technical level. Suggested text by the Commission:

Horizontal Principles

1. *Beneficiaries and the Commission shall ensure respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union and, in particular, ensure that equality between men and women is taken into account, as appropriate, throughout the preparation, implementation and evaluation of eligible projects.*
 2. *Beneficiaries and the Commission shall avoid any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, implementation, monitoring, reporting and evaluation of eligible projects. In particular, accessibility for persons with disabilities, when relevant, shall be taken into account throughout the preparation and implementation of projects*
 3. *The objectives of the Facility shall be pursued taking into account the UN Sustainable Development Goals, the European Pillar of Social Rights, the polluter pays principle, the Paris climate agreement and the "do no significant harm" principle.*
- Duration: The Commission and the Council could agree to an extension of 1 year for the dates set out in lines 85-86. Parliament suggested June 2026.
 - Less developed regions:

The Commission and the Council disagreed to change the allocation key.

The Council expressed an openness on percentage of grant and on the issue of technical assistance in the context of the broader balance of the instrument.

For line 86, the Commission proposed the following wording:

3. *For grants awarded pursuant to calls for proposals launched as from 1 January 2025, Union support awarded to eligible projects shall be provided without any pre-allocated national share and on a competitive basis at Union level until exhaustion of remaining resources. The award of such grants shall take into account the need to ensure predictability of investment and the promotion of regional convergence, **paying special attention to less developed regions***

The Council proposed and the European Parliament agreed to delegate the work to the technical level regarding the lines on less developed regions and technical assistance, to be seen as a package.

- Transitional provisions

The Council explained the rationale of its amendment, which was understood by the Parliament, but which explained that given the slow rolling out of the Facility, some flexibility would be needed. It was agreed to work at the technical level.

- Retroactivity

The co-legislators and the Commission agreed that it was not the best line to place the concept. On this, the Commission explained resources are scarce and therefore the Facility should focus on projects that completely fit the purpose. The Council showed some openness to the concept depending on the overall equilibrium of the wording on the Facility. Work will continue at the technical level. Parliament explained that if the principle is stated in line 17, it could be dropped from the definitions.

- Energy target

The Commission showed sympathy for the addition from Parliament. Council will have to check with Member States on the possible addition to the energy targets.

- Gender IA

The European Parliament indicated that it could work with the wording proposed by the Commission in the horizontal principles and insisted on an article. The Council stressed that they could only consider such a wording if it is placed in a recital. It was agreed to continue the discussion at technical level.

- DNSH, no lock-in effect

Whilst the Council and the Commission were suggesting to consider the concepts at a horizontal level, the Commission suggested an approach aligned with the CPR. The European Parliament insisted that it was needed at the project level, to which Commission and Council disagreed. The Council recalled that they were at its very red line regarding climate issues and that in any case it would have to be in a recital.

- Low carbon

The Council explained it would need to ask Member States on the matter. The issue will be tackled at the technical level.

- Review (line 102)

The Commission explained its doubts on the technical feasibility that on top of a revision in 2025, having another one focusing on DNSH was overburdening the functioning of the scheme. The European Parliament explained that they could agree to its deletion and work on a general review clause depending on the drafting in Article 8.

- Work programmes

It was agreed to continue the work at technical level on the specification of the criteria.

- Selection of finance partners and Monitoring and reporting

It was agreed on line 128 to go back to the original European Parliament amendment and in line 139 not to make a reference to any particular article of the Financial Regulation.

- Evaluation, line 143

It was agreed to continue the work at the technical level. The Parliament could accept the current date and remove the reference to additionality but wanted the reference to article 8 and the Taxonomy.

- The European Parliament proposed to include the respect of publicity obligations of EU financing in the final evaluation, which was accepted in principle by Council – as long as projects not financed are not included - and Commission. Technical team will work on drafting.

- Disclosure of information

The European Parliament agreed to drop line 160. Regarding line 161, Commission and Council opposed to disclosing information on failed projects. Agreement to look for a solution at technical level.

- KPI

The European Parliament explained that it would be open to drop some of the indicators, but would like to maintain the reference to decarbonisation and environmental objectives and to employment. It was agreed to continue the discussion at technical level.

- Recitals

It was agreed to explore technical solutions on recitals for the horizontal principles, lines 22-26 and 36. The Commission proposed the following text for line 37:

(3) The proposal for establishing the Just Transition Fund was adopted by the Commission on 14 January 2020 . For the better programming and implementation of the Fund, territorial just transition plans are to be adopted, setting out the key steps and timeline of the transition process and identifying the territories most negatively affected by the transition towards a climate neutral economy and with less capacity to deal with the transition

challenges. These territorial just transition plans may be amended to include new territories, which would be severely impacted by the climate transition, in a way which could not be anticipated at the time of their initial adoption.

Finally, the Commission also agreed to propose some wording for line 39 on Recital 15a.

Next trilogue will be scheduled for the week of the 22 February or the week after if this is not possible.

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Further information received from presidency and Commission
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The day before last trilogue, the Presidency asked to delete from point 2 of the trilogue's agenda line 27 and 149. A revised agenda was sent out.

Following explanations were given:

Line 27:

It seems that by mistake the Council text was not included in the 4th column.

It reads:

"In this case, the Commission should inform Member States about the intention to extend the Facility and select additional finance partners taking into account their capacity to fulfil the objectives of the Facility, to contribute own resources and to ensure an appropriate geographical coverage."

The Presidency asks if it would be ok for EP to include it.

Line 149: The Presidency informs that MS raised some issues so the Presidency asks if the EP would accept changing "shall" into "may": **"For the purpose of this mission, the Court of Auditors shall,..."**

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At the trilogue, Commission presented several proposal for compromises, here below what secretariats have received:

Commission proposed an article/recital on Horizontal Principles along these wording:

1. Beneficiaries and the Commission shall ensure respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union and, in particular, ensure that equality between men and women is taken into account, as appropriate, throughout the preparation, implementation and evaluation of eligible projects.
2. Beneficiaries and the Commission shall avoid any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, implementation, monitoring, reporting and evaluation of eligible projects. In particular, accessibility for persons with disabilities, when relevant, shall be taken into account throughout the preparation and implementation of projects
3. The objectives of the Facility shall be pursued taking into account the UN Sustainable Development Goals, the European Pillar of Social Rights, the polluter pays principle, the Paris climate agreement and the "do no significant harm" principle.

Commission proposed drafting on less developed regions in line 86

3. For grants awarded pursuant to calls for proposals launched as from 1 January 2025, Union support awarded to eligible projects shall be provided without any pre-allocated national share and on a competitive basis at Union level until exhaustion of remaining resources. The award of such grants shall take into account the need to ensure predictability of investment and the promotion of regional convergence, **paying special attention to less developed regions.**

Commission proposed drafting on partnership - recital 3

*(3) The proposal for establishing the Just Transition Fund was adopted by the Commission on 14 January 2020 . For the better programming and implementation of the Fund, territorial just transition plans are to be adopted, setting out the key steps and timeline of the transition process and identifying the territories most negatively affected by the transition towards a climate neutral economy and with less capacity to deal with the transition challenges. **These plans are prepared together with the relevant local and regional authorities and involving all relevant partners in accordance with Article [6] of Regulation (EU) [new CPR]***

Commission proposed drafting in recital 3 to meet positions in line 37 (recital 14 a)

(3) The proposal for establishing the Just Transition Fund was adopted by the Commission on 14 January 2020 . For the better programming and implementation of the Fund, territorial just transition plans are to be adopted, setting out the key steps and timeline of the transition process

*and identifying the territories most negatively affected by the transition towards a climate neutral economy and with less capacity to deal with the transition challenges. **These territorial just transition plans may be amended to include new territories, which would be severely impacted by the climate transition, in a way which could not be anticipated at the time of their initial adoption.***