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WORKING PAPER

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NOTE

From:	General Secretariat of the Council
To:	Friends of the Presidency Group on the Connecting Europe Facility (CEF)
Subject:	Position of the Council at first reading with a view to the adoption of a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 - Draft Statement of the Council's reasons

Delegations will find attached the Council's draft statement of reasons intended to accompany the Position of the Council at first reading on the above subject.

In the absence of comments by delegations sent to the Council secretariat (viktoriasilla.kerekes@consilium.europa.eu, with copy to: avia-mar@consilium.europa.eu) **by 12h00 on Friday, 14 May**, the draft statement will be submitted, together with all other relevant documents, to an upcoming Coreper and Council meeting in view of the adoption of the Council's position at first reading.

Position of the Council at first reading with a view to the adoption of a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014

- Draft Statement of the Council's reasons

I. INTRODUCTION

1. On 6 June 2018, the Commission adopted its proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility (CEF) and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014, as one of the proposals related to the Multiannual Financial Framework (hereinafter: MFF). The proposal aims to establish the legal basis for the CEF Programme for the period beyond 2020.
2. In the European Parliament, the Committee for Industry, Research and Energy (ITRE) and the Committee on Transport and Tourism (TRAN) were chosen as the lead joint committees. The report was voted jointly by the two committees in November 2018 and confirmed in plenary in December 2018. In the new legislature Mr Dominique RIQUET (Renew, FR), Mr Jean-Marian MARINESCU (EPP, RO) and Ms Henna VIRKKUNEN (EPP, FI) were appointed co-rapporteurs for the proposal.
3. The European Economic and Social Committee adopted its opinion on 19 September 2018.
4. The European Committee of the Regions adopted its opinion on 10 October 2018.
5. In the Council, following discussions at technical level at the Friends of the Presidency Group, the TTE Council reached a partial general approach on the proposal at its meeting on 3 December 2018. Subsequently, trilogue negotiations with the European Parliament took place. Elements put in square brackets in the text of the partial general approach were left outside of the scope of the negotiations at that stage, as more progress at horizontal level, including political guidance of the European Council on the Multiannual Financial Framework (MFF) 2021-2027, was needed first for the Council to be able to establish its position on these parts.

6. On 13 March 2019, the Permanent Representatives Committee took note of a progress report¹, and confirmed the common understanding, reflecting the state of play of negotiations with the European Parliament reached at the trilogue on 7 March 2019. The plenary of the European Parliament also confirmed this common understanding on 17 April 2019 by adopting its first reading position.
7. Following its meeting on 17-21 July 2020, the European Council issued political guidance for all MFF-related files (cf. doc. 00010/20). Consequently, with a view to continuing the negotiations with the European Parliament, the Friends of Presidency (FoP) CEF prepared a revised mandate² that was approved by Coreper on 23 September 2020.
8. Subsequently, three informal trilogues took place on 26 October 2020, 11 December 2020 and on 22 January 2021.
9. At the final trilogue held on 11 March 2021, an overall provisional agreement between the Council and the European Parliament was reached in line with the mandate which was renewed by Coreper on 10 March 2021. On 24 March 2021, The Permanent Representatives Committee confirmed the final compromise text as agreed at the trilogue.
10. At the European Parliament's joint meeting of the TRAN and ITRE committees of 15 April 2021, the same provisional compromise text was endorsed. Subsequently, the Chairs of the TRAN and ITRE Committees addressed a joint letter dated 23 April 2021 to the Chair of the Permanent Representatives Committee stating that, if the Council adopted its position at first reading in accordance with the agreed overall provisional agreement, they would recommend to the Plenary that the Council's position be accepted without amendment at Parliament's second reading, subject to legal-linguistic verification.

II. OBJECTIVE

11. The overall objective of the proposal is to establish the legal basis for the CEF Programme for the period beyond 2020. CEF has the general objective to build, develop, modernise and complete the trans-European networks in the fields of transport, energy and digital and to facilitate cross-border cooperation in the field of renewable energy, taking into account the

¹ ST 7207/19, 7207/19 ADD 1 and 7207/19 COR 1.

² ST 11137/20.

long-term decarbonisation commitments, increasing European competitiveness, smart, sustainable and inclusive growth, territorial, social and economic cohesion, access to and integration of the internal market and with emphasis on synergies among transport, energy and digital sectors.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

Procedural context

12. On the basis of the Commission proposal, the Parliament and the Council conducted negotiations with the aim of concluding an early second reading agreement on the basis of the Council's first reading position. The text of the draft Council position fully reflects the compromise reached between the two co-legislators.

Summary of the main issues

13. The Council's position at first reading contains the following main elements, on which an agreement between the co-legislators has been found:

Horizontal and transport-related provisions:

14. Civilian-military dual use of infrastructure: In order to enable a civilian-defence dual use of the infrastructure of the TEN-T core or comprehensive networks, the Council's first reading position defines the additional specific eligibility requirements which will apply to actions relating to the adaptation of the network to civilian-defence dual use.
15. Eligible actions: Co-legislators have agreed to enlarge the actions eligible for funding to a number of projects which will cover *inter alia* cross-border links and missing links listed in Part III of the Annex, maritime and inland waterways ports on the comprehensive network as well as overseas countries and territories with the aim to improve the connectivity of peripheral and isolated territories.

16. Co-financing rates (transport & energy): Co-legislators have agreed to maintain the principle of differentiating the co-financing rates between different types of actions with the objective to focus the CEF on the most crucial actions, especially on cross-border projects. The maximum co-financing rates have been increased in support of a number of actions which aim in particular at integrated management structures, such as joint ventures, as well as synergies. These actions concern *inter alia* maritime, inland waterways and railway interoperability, while CEF will continue to focus on cross-border measures. Furthermore, a dedicated amount from the CEF will be used for the completion of missing major cross-border railway links between cohesion countries to support the functioning of the Single Market, and the co-financing rules of the transfer from the Cohesion Fund to CEF will apply to this amount.
17. CEF Budget: The Council position at first reading reflects the budget amounts agreed by the Heads of State and Governments at their meeting of 17-21 July 2020. Additionally, the provisions have also been brought in line with corresponding provisions of the Common Provisions Regulation as regards the amounts transferred from the Cohesion Fund.
18. Reciprocity provision: Co-legislators have agreed to include a provision that ensures reciprocal participation of legal entities established in the Union in equivalent programmes of third countries that participate in the CEF Programme.
19. Several other provisions have been changed following the Council's horizontal approach to all MFF files. These concern in particular the establishment of the Programme in Article 1 for the period 2021-2027, and the provisions regarding cumulative and alternative funding. Furthermore, in order to ensure continuity in providing support in the relevant policy areas and to allow implementation as of the beginning of the Multi-annual Financial Framework 2021-2027, a retroactive application provision as from 1 January 2021 was introduced.

Energy provisions:

20. Cross-border renewable energy projects: In the spirit of allocating a certain percentage of funding to climate objectives, the Council increased the amount that can be allocated to cross-border renewable energy projects, and foresaw a possible transfer for the remainder of such allocated funds to the renewable financing mechanism, if actual market uptake by cross-border renewable energy projects lags behind.

21. Award criteria and work programmes: The Council also required consistency with the energy efficiency first principle when defining award criteria, and called for particular emphasis in the work programmes to actions aimed at further integrating the internal market for energy, ending energy isolation and eliminating electricity interconnection bottlenecks.

Digital provisions:

22. Synergies of the actions: The Council position at first reading aims to maximise synergies of the actions supported by the Programme, with regard to the socio-economic drivers in a given area and the level of funding needed to deploy digital infrastructure. While supporting state-of-the-art connectivity for the socio-economic drivers, it also aims to achieve comprehensive coverage around them, including households, too, as gaps in areas that are already covered are uneconomic to address at a later stage.
23. Digital infrastructure: In order to ensure that CEF maintains the focus on funding infrastructure, individual digital services and applications, such as distributed ledger technologies or artificial intelligence, will remain out of scope of the Programme as they can be addressed through other financing instruments, such as the Digital Europe.
24. Territorial cohesion: With the aim to increase territorial cohesion of the Union, the Council's position at first reading puts an emphasis on creating and, where it already exists, providing redundancy for the backbone infrastructure connecting the outermost regions, islands, overseas countries and territories, via the Member States' territorial waters and exclusive economic zones.
- In this respect, the Council's position is also aimed to complement the provision of adequate terabit-capacity connection with the European high-performance computing resources.
25. Eligible entities: The list of eligible entities has been extended also to joint ventures, and legal entities established in overseas countries and territories associated to CEF. Furthermore, a clause has been added which ensures that legal entities established in third countries or nationals of third countries or by entities established in third countries associated to the programme, but directly or indirectly controlled by third countries, should not be eligible for participation in all, or some of the actions, for duly justified security reasons.

IV. CONCLUSION

26. The Council's position underlines the main objective of the Commission proposal and fully reflects the compromise reached in the informal negotiations between the Council and the European Parliament, with the support of the Commission.
 27. The Council therefore believes that its position at first reading is a balanced representation of the outcome of the negotiations and that, once adopted, the Regulation will continue to play a key role in building, developing, modernising and completing the trans-European networks in the fields of transport, energy and digital.
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