**Council of the
European Union**

Brussels, 23 November 2016
(OR. en)

14582/16

NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	Any other business
	i) Proposal for a Regulation of the European Parliament and of the Council setting a framework for energy efficiency labelling and repealing Directive 2010/30/EU **(First reading)**
	Interinstitutional file: 2015/0149 (COD)
	ii) Proposal for a Decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU **(First reading)**
	Interinstitutional file: 2016/0031 (COD)
	- Information from the Presidency on the state of play

Delegations will find in Annex information from the Presidency on the state of play with the two above-mentioned files.

i) **Energy Labelling**

Following the vote of European Parliament its plenary session on 6 July 2016, three informal trilogues were held under the Slovak Presidency on energy efficiency labelling, on 14 July, 15 September and 11 October 2016. Technical meetings between the Presidency and the European Parliament representatives took place at expert level on 31 August, 16 and 21 September, and 7-8 November. Provisional agreement was reached on most non-core political issues, including scope, definitions, the obligations of market actors and Member States, market surveillance and harmonised standards.

On the core issues of rescaling and the database, the Presidency submitted compromise proposals in view of the third trilogue, and lastly on 23 November 2016. Regarding rescaling, the Council is ready to accept the European Parliament approach of setting a fixed timetable for the rescaling of existing products and move away from its general approach. The Council is also ready to show flexibility on other aspects of rescaling, such as rules for subsequent rescaling and the number of top classes to be left empty. On the database, the Council compromises responded to the concerns of the European Parliament on confidentiality and security of data by introducing a number of safeguards, database requirements and limiting the scope of the technical documentation to be entered into the database. However, the significant flexibility demonstrated by the Council was insufficient to close the gap between the position of the co-legislators, and the European Parliament insists on seeing an outcome closer to its plenary position. On the delegation of power, the European Parliament also rejects the Council's hybrid approach combining both implementing and delegated acts, and firmly insists on the use of delegated acts only. Negotiations could not advance on this subject.

The Presidency is ready to schedule further technical meetings with the European Parliament and explore the way forward.

ii) ***Intergovernmental agreements ('IGAs')***

As regards this proposal for a Decision, Council agreed on a general approach on 6 June of this year. After the vote of the ITRE Committee on 13 October, three informal trilogues were planned, with the first one having taken place on 8 November, and the second one scheduled for 24 November. The first trilogue and Technical Meetings allowed for substantial progress to be made, with both sides showing substantial flexibility and a constructive attitude. The final informal trilogue will be held on 7 December.

The most difficult issues relate to the inclusion of <u>non-binding instruments</u> (which Council deleted), and the <u>scope of the *ex ante* assessment</u> of IGAs by the Commission (which Council preferred to be limited to gas-related IGAs only, leaving IGAs relating to oil and electricity subject to the *ex post* assessment). Since the negotiations are ongoing and 'nothing is agreed until everything is agreed', no further details can be given at this stage. The most recent state of play is reflected in the document that was submitted for the Coreper discussion on the mandate for the second trilogue: doc. 13444/1/16 REV 1.

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