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NOTE

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee |
| No. Cion doc.: | 11483/16 CLIMA 92 ENV 511 ENER 293 TRANS 315 AGRI 432 ECOFIN 730 CODEC 1098 IA 55 - COM(2016) 482 final + ADD 1 + ADD2 + ADD 3 and 11494 CLIMA 93 ENV 512 AGRI 434 FORETS 35 ONU 88 CODEC 1101 IA 56 - COM(2016) 479 final + ADD 1 + ADD 2 + ADD 3 |
| Subject: | Non-ETS sectors a) Proposal for a Regulation of the European Parliament and of the Council on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 for a resilient Energy Union and to meet commitments under the Paris Agreement and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (First Reading) b) Proposal for a Regulation of the European Parliament and of the Council on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change (First Reading) - Exchange of views on the impact assessments |

I. INTRODUCTION

1. At its meeting on 23-24 October 2014, the European Council agreed on the 2030 climate and energy policy framework for the European Union and endorsed a binding EU target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990 ¹. The European Council conclusions contain specific guidance, *inter alia*, on the methodology to be used for setting the national emission reduction targets for 2030 in the non-ETS sectors, and on the availability and use of flexibility instruments within those sectors.
2. On 20 July 2016, the Commission adopted two legislative proposals on the contribution of the non-ETS sectors towards the overall effort: on binding annual greenhouse gas emissions reductions by Member States from 2021 to 2030 ("Effort Sharing Regulation")² and on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework ("LULUCF Regulation")³. Together with the proposal for the revision of the EU ETS, the two new proposals are intended to ensure achievement of the EU's overall target for greenhouse gas emission reductions by 2030 and the commitments of the EU and the Member States under the Paris Agreement.
3. The proposal for an Effort Sharing Regulation (ESR) sets the national reduction targets based on relative GDP per capita, with the targets for Member States with a GDP per capita above the EU average further adjusted to reflect cost-effectiveness within that group. The proposal maintains existing flexibilities (banking and borrowing, transfers between Member States), and proposes two new flexibilities: a limited use of net removals from certain LULUCF accounting categories towards the targets in the ESR sectors; and the possibility for certain Member States to cancel a limited amount of EU ETS allowances to help them fulfil their obligations under the ESR.

¹ Doc. EUCO 169/14

² Doc. 11483/16 + ADD 1 + ADD 2 + ADD 3.

³ Doc. 11494/16 + ADD 1 + ADD 2 + ADD 3.

4. The aim of the proposed LULUCF Regulation, which builds on the existing EU-wide accounting rules laid down in Decision No 529/2013/EU, is to define how to include the LULUCF sector into the 2030 climate and energy policy framework. The proposal requires Member States to ensure that accounted greenhouse gas emissions and removals stay in balance and that the overall LULUCF sector does not generate net emissions ("no-debit rule"). Several flexibilities are included to help Member States ensure compliance with that rule: the possibility to use excess allocations from the ESR, compensating emissions from one land category by removals from another, cumulating net removals over the period 2021-2030, and trading of excess removals among Member States. The proposal also introduces a new EU governance process for monitoring of forest management reference levels.

II. STATE OF PLAY

5. The Commission presented its proposals to the Permanent Representatives Committee and the Working Party on the Environment (WPE) on 20 July 2016. This was followed by a more detailed presentation of the impact assessments and the legislative proposals during the WPE meetings of 14 and 20 September 2016, respectively. The "indicative checklist for Working Party Chairs for examination of Commission Impact Assessments in the Council" (contained in the Annex to doc. 9790/16) was distributed to delegations beforehand to help them prepare their views.
6. A large number of delegations submitted written questions to the Commission on both the proposals and the impact assessments.⁴ On the latter, delegations put forward requests for further information and clarification as well as some concerns on e.g. the methodologies, scenarios and data used, the options considered, the economic and social impacts of policy choices, sometimes pointing to differences between the Commission's calculations or estimates compared to national ones. The Commission replied to the questions at the WPE meeting on 29 September 2016.

⁴ Questions were compiled and distributed in docs DS 1450/16 and DS 1451/16.

7. Ministers held a first policy debate on the proposals at the meeting of the Council (Environment) on 17 October 2016. Following the debate, discussions at the WPE on 27 October focused on certain key points raised by the Ministers, such as the starting point of the linear reduction trajectory towards the 2030 target in the ESR, the flexibilities put forward in the two proposals, and the proposed LULUCF accounting rules.
8. During the Coreper meeting on 28 October 2016, one delegation, supported by several others, suggested that Coreper should, in the context of the Interinstitutional agreement on Better Law-Making, discuss the impact assessments accompanying the non-ETS proposals at one of its forthcoming meetings. The Presidency decided that given the importance and significant economic impacts of the legislative proposals, a broad debate on their impact assessments at Coreper would be useful in order to provide guidance for further work at technical level.

III. QUESTIONS FOR THE DISCUSSION

9. Against this background and based on the WPE's examination of the impact assessments undertaken so far, the Presidency invites Coreper to discuss in particular:
 - whether the most relevant economic, environmental or social impacts for all stakeholders have been adequately considered in the impact assessments; and
 - if delegations do need further explanation of the impact assessments, including clarification of the methodology, and if so, on which aspects particularly? Do delegations have national information or data on impacts to complement such discussion?