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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC (NEC) - lessons learnt
- Information from the Polish, Hungarian and Romanian delegations

Delegations will find in the Annex an information note from the Polish, Hungarian and Romanian delegations on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 17 October 2016.

Proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC (NEC) - lessons learnt

- Information from the Polish, Hungarian and Romanian delegations -

Poland, Hungary and Romania would like to draw attention to the expected effects of the entry into force of the NEC Directive as agreed by the Council. The three countries fully acknowledge that air pollution is a serious risk to human health and are committed to taking all necessary measures to reduce emissions in order to improve air quality, thus protecting both human health and the environment. However, considering the economic impact of the necessary measures, it is also essential that legislative proposals in this field are adopted in a transparent manner, taking into account the individual circumstances and capacities of the Member States. Since the beginning of the negotiations on the NEC Directive in the Council, the proposal has been challenged by Member States because of the methodology used by the Commission to determine the reduction levels required, in particular for the year 2030, as well as the assumptions used for 2030 emissions projections. Despite the new data provided by the Member States and bilateral discussions with the Commission, the final TSAP 16 report (January 2015) did not entirely respond to the objections raised and contained major discrepancies as regards the national projections of the Member States.

During the negotiations, Poland, Hungary and Romania, like many other Member States, expressed the opinion that the Directive's targets should be ambitious, but also realistic, fair and cost-effective. These principles were reflected in the general approach text, but were abandoned during the trilogue negotiations.

Poland, Hungary and Romania underline that the required reductions in emissions of pollutants contained in the NEC Directive (Annex II) have a significant impact on all sectors of the national economy, and thus entail costs which the Member States will be obliged to bear. Therefore, in our opinion, it is vital that the reduction commitments for all Member States undergo a reliable evaluation based on a clear and transparent methodology. In this case, the method by which the respective reduction targets were established was not presented or explained sufficiently to Member States, either at the time the decision was taken or since.

We express our concern that this mode of negotiation could create a negative precedent for future negotiations in the Council. We are deeply convinced that all negotiations should be fully transparent and result in an outcome which is proportionate and fair. We are convinced that solidarity among the Member States in the Council is a crucial building block throughout the decision-making process. It is particularly important that the qualified majority vote is not, in particular in the case of country-specific obligations, used in a way that puts an unjustified and unacceptable burden on a group of Member States which does not constitute a blocking minority.

In view of the above, Poland, Hungary and Romania emphasise the need to guarantee that work on EU legal acts is fully transparent, in particular with regard to discussing and determining country-specific commitments.

It must be guaranteed that, in future, we will avoid situations in which legal acts with country-specific obligations are adopted without the submission of adequate and timely explanations and without substantive discussions with all Member States.

We thus call for greater transparency in Council negotiations, taking into account the specific situations of Member States. This will ensure the proper context for Member States to take ownership of and accept responsibility for the legislation adopted.