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## OUTCOME OF THE COUNCIL MEETING

3550th Council meeting

### Environment

Luxembourg, 19 June 2017

President

**Jose A. Herrera**

Minister for sustainable development, environment and  
climate change of Malta

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's internet site or may be obtained from the Press Office.

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## **ITEMS DEBATED**

### **Non-ETS sectors: effort-sharing and LULUCF**

The Maltese presidency presented its progress report on the proposals for an effort-sharing regulation and a regulation on land-use, land use change and forestry (LULUCF regulation). Together with the revision of the emissions trading system (ETS), these two legislative proposals covering non-ETS sectors are the main tools for the EU and its member states to achieve the EU emission reductions target set for 2030 and thus meet their commitment under the Paris Agreement.

In light of recent international developments in the field of climate change and the forthcoming COP 23 climate change conference in Bonn, ministers emphasised that now more than ever the EU needs to make progress on these files to deliver on its commitment to the Paris Agreement and preserve its credibility as a global leader in climate action.

Ministers largely welcomed the significant progress achieved during the Maltese presidency, although some delegations regretted that a general approach on the non-ETS files could not be on the table at the meeting on 19 June.

The political debate focused on two core issues, one for each of the files, considered by the presidency as key to enable the advancement of negotiations: a new safety reserve to be incorporated into the effort-sharing regulation and the setting of national forest reference levels in the LULUCF regulation.

On the effort-sharing regulation, the delegations welcomed the presidency's efforts to find compromises and most of them were ready to discuss the safety reserve as a possible way forward. However, they pointed out that key aspects of the reserve still required further clarification, such as its total amount, and how it is constituted and shared out amongst eligible member states.

While some member states were inclined towards increasing the size of the reserve, some others mentioned the need to keep its overall amount limited.

Several member states considered that the central elements of the initial proposal from the Commission, such as the starting point of the linear reduction trajectory, should be kept intact. However, some other delegations suggested modifying the starting point proposed by the Commission, which in their view does not take adequately into account early efforts to reduce emissions. For them, the Member States' 2020 targets should be considered as the basis.

Repeatedly during the debate, ministers pointed out the fundamental need to balance flexibility with incentives for emission reductions and stressed the need to preserve environmental integrity.

On the LULUCF regulation, some member states were in favour of the presidency's proposal to set national forest reference levels based on a historical reference period from 2000 to 2009 but also to include a national threshold in order to provide more flexibility for those forest rich member states.

However, several delegations argued that the presidency text would jeopardise the environmental integrity of the proposal and instead, they favoured maintaining the Commission's original text based on a historical reference period from 1990 to 2009. Many of them recognised that some form of flexibility would have to be introduced, but that the extent and methods required further consideration.

The outcome of the political debate on the effort-sharing and LULUCF regulations will provide valuable guidance for structuring further discussions within the Council with a view to reaching a general approach ahead of the forthcoming COP 23.

[Non-ETS sectors - Progress report](#)

## **Paris Agreement**

During a public session, the Council discussed the recent developments in the field of international climate change. Environment ministers commented on the regrettable decision of the United States Administration to withdraw unilaterally from the Paris Agreement.

Ministers welcomed the conclusions adopted that day by their foreign affairs counterparts on the same matter. Likewise, environment ministers reconfirmed the unanimous and steadfast commitment of the EU and its member states to the full and swift implementation of this global legally-binding agreement.

Statements from all member states during the public debate sent a strong message to the international community about the EU's global leadership in taking action against climate change.

Ministers highlighted their cooperation with international partners under the Paris Agreement, particularly with the most vulnerable countries. Also, they underlined their support for those stakeholders and authorities at a state and local level in the US who remain committed and willing to comply with the Paris Agreement goals.

[See Conclusions](#)

[Timeline - policy page](#)

## **EU action plan for nature, people and the economy**

The Council adopted the following conclusions on the EU action plan for nature, people and the economy. Ministers expressed support for the EU action plan, which addresses current implementation gaps identified in the nature directives (birds and habitats) and as a result, helps them to deliver their full potential.

"THE COUNCIL OF THE EUROPEAN UNION:

RECALLING the new global 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly at its 70th session on 25 September 2015 and STRESSING the key objectives of the General European Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (the seventh Environment Action Programme - 7th EAP) <sup>1</sup>;

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<sup>1</sup> Decision No 1386/2013/EU of 20 November 2013.

RECALLING its conclusions of 16 December 2015 on the Mid-Term Review of the EU Biodiversity Strategy to 2020 <sup>1</sup>;

RECALLING its conclusions on the European Court of Auditors' Special Report No. 01/2017 entitled 'More efforts needed to implement the Natura 2000 network to its full potential' <sup>2</sup>;

NOTING that, while hosting some of the most densely populated areas in the world, Europe also has a very rich and diverse natural heritage, which is an inherent and vital component of Europe's natural, social, cultural and economic capital, and must therefore be protected, cared for and conserved for the benefit of nature, people and the economy;

UNDERLINING that the Nature Directives <sup>3</sup> are essential components of European nature protection and that they have so far played a vital role in the attainment of this objective; and RECONFIRMING their important role in achieving the targets of the CBD Strategic Plan for Biodiversity 2011-2020, including the Aichi Biodiversity targets, the 2030 Agenda for Sustainable Development and the Paris Agreement on climate change;

RECOGNISING that the conservation status of a number of species and habitats protected under the Nature Directives, despite many efforts, continues to be under serious pressure from unsustainable practices in economic sectors such as agriculture, forestry, fisheries and infrastructure as well as the impact of climate change and of alien invasive species;

STRESSING that the comprehensive evaluation of the Nature Directives known as the 'Fitness Check' undertaken by the Commission under its commitment to Better Regulation, in consultation with the Member States and a diverse range of stakeholders, including citizens, has found that, as a cornerstone of broader EU biodiversity policy, the Nature Directives are fit for purpose but that achieving their objectives and realising their full potential can only be accomplished by substantially improving their implementation<sup>4</sup>;

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<sup>1</sup> 15389/15.

<sup>2</sup> 9645/17.

<sup>3</sup> Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) — OJ L 206, 22.7.1992, p. 7 and Directive 2009/147/EC on the conservation of wild birds (Birds Directive) — OJ L 20, 26.1.2010, p. 7.

<sup>4</sup> 15671/16 - SWD(2016) 472 final (Commission Staff Working Document: Fitness Check of the EU Nature Legislation (Birds and Habitats Directives)).

**OBSERVING** that the Fitness Check has identified important gaps in the effectiveness and efficiency of the implementation of the Nature Directives and has identified the need for further action, including working in partnership with different stakeholder communities in the Member States and across the EU to deliver practical results on the ground, enhancing the integration of nature objectives into other policy areas, improving knowledge and access to data, strengthening enforcement and allocating additional resources;

**RECOGNISING** that the Fitness Check has shown that where targeted action takes place on a sufficient scale, the status of species and habitats improves, sometimes leading to remarkable recoveries;

**UNDERLINING** that Europe's natural heritage is inextricably linked to the quality of life of its citizens and to various sectors of Europe's economy and that investing in nature conservation and its sustainable use offers opportunities and value for nature, people and the economy;

**WELCOMING** the establishment of a 'European Natura 2000 Day' to be celebrated on 21 May each year through awareness-raising events and networking activities to be organised all over the EU;

1. **WELCOMES** the Commission's Communication on an Action Plan<sup>1</sup> to help improve and boost the implementation of the Nature Directives and the delivery of their objectives, as well as to strengthen their coherence with socio-economic objectives and to mobilise engagement with national, regional and local authorities, stakeholders and citizens;
2. **HIGHLIGHTS** the importance of further stakeholder engagement at national, regional and local level, given the strong territorial dimension of the Nature Directives;
3. **WELCOMES** the role that the EU institutions can play in supporting the delivery of the Action Plan, and in particular the Committee of the Regions as regards outreach and building ownership at regional and local level;

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<sup>1</sup> 8643/17 - COM(2017) 198 final + ADD 1 - SWD (2017) 139 final.



4. While taking into account economic, social, cultural and regional requirements, in line with the Habitats Directive, ACKNOWLEDGES the potential of the Action Plan to contribute to improving the practical implementation of the Nature Directives and moving closer towards the EU 2020 goal of halting and reversing the loss of biodiversity and ecosystem services<sup>1</sup>, thus benefitting Europe's nature, people and economy;
5. RECOGNISES that the four priority areas of the Action Plan respond to the findings of the Fitness Check, and thereby:

*Under Priority A: Improving guidance and knowledge and ensuring better coherence with broader socioeconomic objectives*

6. Without jeopardising the conservation objectives and requirements set within the Nature Directives, RECOGNISES that the flexibility of implementation approaches that take into account specific national circumstances contributes to the reduction and progressive elimination of unnecessary conflicts and problems between nature protection and socioeconomic activities, as well as to addressing the practical challenges resulting from the application of the annexes to the Directives;
7. In this context, WELCOMES the fact that the Commission, in close cooperation with the Member States, will update, develop and actively promote clear guidance and knowledge in all official languages of the EU to support the implementation of the Nature Directives, including updating by 2018 the guidance document on species protection rules and species action plans, whilst ensuring greater coherence between Europe's broader socioeconomic objectives and nature policy and engaging with stakeholders, land and marine users to explore smarter participative approaches;
8. WELCOMES the Commission's initiative to develop guidance on the integration of ecosystem services into decision-making, allowing for potential positive impacts on human wellbeing as well as sustainable economic growth and social development;

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<sup>1</sup> 9658/11 - COM(2011) 244 final.

9. WELCOMES the support mechanism that the Commission will establish to help Member State authorities address key challenges in applying the Nature Directives' requirements related to permitting procedures, without jeopardising the application of the principle of subsidiarity, and ENCOURAGES national, regional and local authorities to make full use of these opportunities;
10. AGREES that traditional, practical and scientific knowledge and access to data and information is key for the effectiveness and efficiency of conservation measures and, ultimately, the Nature Directives, and that continued efforts at all levels are needed to deliver improvements in these areas, including through effective and efficient monitoring and appropriate reporting by the competent authorities, and through public online access to knowledge and information necessary for the implementation of the Nature Directives;

*Under Priority B: Building political ownership and strengthening compliance*

11. While taking into account the dynamic nature of ecosystems, RECOGNISES that the completion and effective management of the Natura 2000 network and the establishment and implementation of the necessary conservation measures for all sites are key actions towards achieving the Directives' objectives, and are primarily a responsibility of Member States, therefore CALLS UPON national, regional and local authorities to increase efforts in these areas;
12. ACKNOWLEDGES the Commission's commitment to increase support to Member States in achieving this objective and the crucial role of stakeholder awareness and cooperation; in this regard, RECOGNISES the beneficial role of stakeholder platforms in promoting good practices and practical solutions under the Nature Directives;
13. UNDERSCORES the need to build and maintain political ownership for the implementation of the Nature Directives and to strengthen compliance, and WELCOMES the Commission's support to improve synergies between relevant EU Directives, Regulations, programmes and other policies;
14. WELCOMES the voluntary, dedicated bilateral dialogues between the Commission and Member States within the framework of the new Environmental Implementation Review process, aimed at addressing structural problems, responding to the needs of Member States and reflecting data submitted by them; CONSIDERS that the Environmental Implementation Review process complements and is without prejudice to compliance;

15. UNDERLINES the importance of focussed discussions at the biogeographical level to share experience, expertise and solutions regarding structural and cross-border challenges, as well as thematic discussions across those biogeographical regions and the importance of investing in capacity-building with a view to enhancing implementation and gaining experience on transboundary management of species; and WELCOMES the development of roadmaps as a possible tool for cooperative action in the context of the Natura 2000 Biogeographical Process;
16. UNDERLINES that improving the conservation status of protected species and habitats requires concerted action by Member States, especially in certain cases such as when considering migratory species, and RECOGNISES that Species and Habitats Action Plans may, among other tools, be appropriate to reach this goal and SUPPORTS their further development and implementation in collaboration with relevant international Conventions and Agreements;

*Under Priority C: Strengthening investment in Natura 2000 and improving synergies with EU funding instruments*

17. RECOGNISES that funding shortages are a key obstacle preventing the Natura 2000 network from delivering its benefits in full and are a major factor undermining the effective implementation of the Nature Directives, and, therefore, UNDERLINES the need to ensure predictable, adequate, regular and targeted EU financing; in this regard, ENCOURAGES the Commission to reflect on ways to better integrate nature protection into EU funding;
18. RECOGNISES the need to further improve multiannual financial planning for investment in nature, and, having regard to Article 8 of the Habitats Directive, AGREES that there is a need to update and improve the Prioritised Action Frameworks (PAFs), notably through a simplified template, in view of the next programming period, taking into account the experience of the current PAFs;
19. CALLS on the Commission and the Member States to more effectively integrate Natura 2000 and wider biodiversity with the common agricultural policy, cohesion policy, common fisheries policy, integrated maritime policy and research and innovation policy, and RECOGNISES the potential of these policies to positively contribute to the attainment of the objectives of the Nature Directives;

20. RECOGNISES the strategically important role of the LIFE programme and WELCOMES the Commission proposal for an increase in dedicated funding for nature and biodiversity within the current LIFE envelope, increasing opportunities for investment in Natura 2000 and other green infrastructure;
21. HIGHLIGHTS the particularly important role of the European Agricultural Rural Development Fund under the Common Agricultural Policy (CAP) and WELCOMES Commission plans to evaluate the impact of the CAP on biodiversity until 2019 that take into account proportionate control and verification requirements and also ensure compliance with the delivery of environmental outcomes, in order to further develop schemes that are adapted to the needs of Natura 2000 as well as of other high-value nature areas, including through results- and value-based payment approaches and training for farmers through Farming Advisory Services;
22. HIGHLIGHTS the importance of an updated needs assessment for the implementation of the Nature Directives, and of assessing the actual use of financial allocations for biodiversity protection, including Natura 2000, with a view to ensure their effective use during the current multiannual financial framework, and REITERATES its call for the Commission to analyse the effectiveness of the integrated approach for biodiversity financing <sup>1</sup>;
23. RECALLS its conclusions on the European Court of Auditors' Special Report, acknowledging the need for funding schemes to be tailored more effectively to the specific objectives of Natura 2000 and agreeing with the recommendation that the Commission establishes cross-cutting Natura 2000 indicators for all relevant EU funds for the next programming period and HIGHLIGHTS the need for Member States to include indicators and targets for the relevant funds specific to Natura 2000 and to allow for more precise and accurate tracking of the results generated by Natura 2000 funding;

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<sup>1</sup> 15389/15 - Council conclusions on the Mid-Term Review of the EU Biodiversity Strategy to 2020, paragraph 13.

24. UNDERLINES the importance of stimulating private sector investment in nature, and NOTES the support for biodiversity-related projects under the Natural Capital Financing Facility (NCF), as well as the development of pilot projects to promote private land stewardship and better involvement of the finance sector;
25. WELCOMES the development of guidance to support strategic deployment of green infrastructure that contributes to the goals of the Nature Directives, particularly through better connectivity of Natura 2000 in a cross-border context; and in this regard REITERATES its call on the Commission to put forward a proposal for a trans-European network for green infrastructure (TEN-G) <sup>1</sup>;

*Under Priority D: Better communication and outreach, engaging citizens, stakeholders and communities*

26. UNDERSTANDS that the success of the Action Plan ultimately depends on the awareness and engagement of Europe's citizens and all other stakeholders, including land-owners, and on the strengthening of links between natural and cultural heritage, and hence SUPPORTS the Action Plan's objective of strengthening and promoting such engagement at all levels, particularly at the local level and through the involvement of young people with the European Solidarity Corps;
27. NOTES that Member States are responsible for the implementation of the Nature Directives and ENCOURAGES the Commission, alongside national, regional and local authorities, to promote and implement the Action Plan in order to help them attain the objectives of the Nature Directives;
28. RECOGNISES that the timeframe for delivery of the Action Plan is short and therefore URGES the Commission to monitor its delivery across the 15 actions identified therein, in close collaboration with the Member States and the EU institutions, in particular the Committee of the Regions, the European Environment Agency, and all other relevant stakeholders."

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<sup>1</sup> 15389/15 - Council conclusions on the Mid-Term Review of the EU Biodiversity Strategy to 2020, paragraph 30.

**Any other business**

- ***Project on "Development of Urban Adaptation Plans for cities with more than 100.000 inhabitants in Poland"***

The Council took note of the information provided by the Polish delegation about the project. It also provided further details about how urban areas in Poland are adapting to climate change.

Information note ([10176/17](#))

- ***Ratification of the Kigali Amendment to the Montreal Protocol***

The Commission informed the Council about the current state of play on the ratification of the Kigali Amendment to the Montreal Protocol. Under this amendment, the EU commits to start cutting its use of hydrofluorocarbons, which are powerful greenhouse gases used as an alternative to ozone-depleting substances, by 2019.

The Kigali Amendment, adopted in 2016, will enter into force in 2019 upon ratification by 20 of the parties to the Montreal Protocol. The Council agreed its position to conclude and ratify the amendment, on behalf of the EU, on 11 May 2017. The Parliament was then asked to give its consent.

The Commission underlined the importance of having a coordinated ratification process between the EU and its member states considering that they also need to get approval from their national parliaments.

– ***Waste package***

The presidency informed the Council about the state of play of the ongoing negotiations on the waste legislative package. During the first trilogue held on 30 May, institutions presented their position on the four legislative files and had an initial discussion on one of them, the waste framework directive. Some of the outstanding aspects of the directive examined during the trilogue were exemptions, waste hierarchy, food waste, by-products and end-of-waste status.

The Council took note of the information provided in preparation for the second trilogue scheduled on 26 June.

Delegations expressed gratitude to the Maltese presidency for the progress made on these files and offered their support to the incoming presidency for the next round of negotiations in the coming months.

– ***Recent international meetings***

The Council took note of the information provided by the presidency and the Commission on several recent international meetings:

- Triple Conference of the Parties to the Basel (COP 13), Rotterdam (COP 8) and Stockholm (COP 8) Conventions (Geneva, 24 April-5 May 2017) ([10260/17](#))
- Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention): seventh session of the Meeting of the Parties to the Convention and third session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on SEA (Minsk, Belarus, 13-16 June 2017)
- ***International Conference on the Role of Women in Mountain Regions (Alpbach, Tyrol, 18-19 April 2017)***

The Council took note of the information provided by the Austrian delegation about the International Conference on the Role of Women in Mountain Regions that took place in Austria from 18 to 19 April 2017.

Information note ([10102/17](#))

– ***Outcome of the UN Ocean Conference (New York, 5–9 June 2017)***

The Council took note of the information provided by the Swedish delegation on the outcome of the Ocean Conference held in New York from 5 to 9 June 2017. The main goal of the UN high-level conference was to enhance international support for the implementation of Sustainable Development Goal (SDG) 14 on the conservation and sustainable use of oceans.

Sweden, acting as co-president, informed delegations that a call for action had been adopted and more than 1 300 commitments had been registered as a result of the discussions. Sweden also underlined the positive outcome of the partnership dialogues held during the conference in identifying critical gaps, exchanging best practices and creating new partnerships.

Finally, Sweden stressed that the conference could be considered a success as it served to build momentum for the implementation of the 2030 agenda and in particular SDG 14.

Information note ([10357/17](#))

– ***Vienna declaration: 11th Nano-Authorities Dialogue (Vienna, 29–30 March 2017)***

The Council took note of the information provided by the Luxembourg, Austrian and German delegations about the conclusions and recommendations adopted at the 11th Nano-Authorities Dialogue of 29-30 March 2017 in the context of the Vienna declaration.

Information note ([10156/17](#))

– ***Work programme (July to December 2017)***

The Council took note of the information provided by the Estonian delegation on the work programme of the incoming presidency.

Information note ([10328/17](#))



## **OTHER ITEMS APPROVED**

### **ENVIRONMENT**

#### **Conference of the Parties of the Minamata Convention on Mercury**

The Council adopted a decision on the position to be taken, on behalf of the EU, at the first meeting of the Conference of the Parties (COP 1) of the Minamata Convention on Mercury regarding the adoption of certain acts having legal effects ([9666/17](#)). These acts specifically concern the required content of the certification and of the guidance referred to in the Convention.

COP 1 of the Minamata Convention will take place in Geneva from 24 to 29 September 2017. The EU and 7 member states<sup>1</sup> deposited their instruments of ratification at the United Nations on 18 May 2017. This allowed the Convention to reach the milestone of 50 ratifications and triggered its entry into force, which is formally set for 16 August.

The EU took all the necessary legislative measures to ratify the Minamata Convention. On 11 May, the Council adopted a [decision](#) concluding and approving it on behalf of the EU. Prior to that date, on 25 April, a [regulation](#) was also adopted to align EU law with the Convention.

The Minamata Convention provides an international regulatory framework to protect human health and the global environment from the harmful effects of mercury. The Convention was signed by 128 states and economic integration organisations, including the EU and its member states<sup>2</sup>.

[Press release - Council decision on the conclusion of the Minamata Convention](#)  
[Press release - Regulation of the European Parliament and the Council on mercury](#)  
[Minamata Convention website](#)

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<sup>1</sup> Bulgaria, Denmark, Hungary, Malta, the Netherlands, Romania and Sweden

<sup>2</sup> 21 member states signed the Convention on 10 October 2013 while Croatia, Cyprus, Latvia and Poland did so on 24 September 2014 and Malta on 8 October 2014. Estonia and Portugal have not signed the Convention, but they have expressed their commitment to ratify it.

**ECONOMIC AND FINANCIAL AFFAIRS****Bank capital requirements**

The Council decided not to object to a Commission regulation supplementing regulation 575/2013 on bank capital requirements with regard to regulatory technical standards further specifying the additional objective criteria for the application of a preferential liquidity outflow or inflow rate for cross-border undrawn credit or liquidity facilities within a group or an institutional protection scheme ([10063/17](#) + [9885/17](#)).

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

**JUSTICE AND HOME AFFAIRS****Automated exchange of data**

Concerning the evaluation of Greece with regard to automated exchange of dactyloscopic data, the Council adopted conclusions on the implementation of the general provisions on data protection of chapter 6 of Council decision 2008/615/JHA ([9120/17](#)).

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