



**Brussels, 13 November 2020
(OR. en)**

12743/20

**MAP 13
MI 455
COMPET 545
IND 203**

'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 1)
Subject: Draft Council Conclusions:
Public Investment through Public Procurement: Sustainable Recovery and Reboosting of a Resilient EU Economy
- Approval
- Decision to use the written procedure

1. On 27 August, the Presidency submitted draft Council Conclusions on public investment through public procurement for a sustainable recovery and reboosting of a resilient EU economy.¹
2. The draft Conclusions were discussed at three Public Procurement Working Party meetings held via video-conference on 3 and 29 September, and on 23 October 2020, followed by rounds of informal written consultations. The Working Party has reached a provisional agreement on the text of the Conclusions as set out in document ST 12802/20.
3. The importance and the timing of the Conclusions were highlighted in no uncertain terms at the EU Conference on Public Procurement, which the Presidency organised together with the European Commission in Berlin and via video-link on 21 October 2020.

¹ ST 10289/20

4. The text of the Conclusions is centred on the ambition to boost public investment, go ahead with the aim to accelerate transparency in the process, equal treatment, fair competition, and integrity in public procurement. It emphasises the need for innovation and a strong and deep Single Market, as manifest in the objectives of the Green Deal and the UN Guiding Principles on Business and Human Rights.
5. The Conclusions consider measures for public procurement to contribute to a more resilient EU economy and enhance the efficiency of public procurement in its crucial role in the post-Covid recovery of the economy, and in the framework of instruments to avoid potential detrimental economic and social impact of major future crises. The Conclusions call for evaluation of the need to review and adjust the present legislation, and recognise that public buyers and investors may be exposed to unfair competition through either lack of reciprocity with third countries or participation of bidders with activities in jurisdictions included on the EU list of non-cooperative jurisdictions for tax purposes.
6. In view of the above, the Permanent Representatives Committee is invited to:
 - confirm the informal agreement reached at the level of the Working Party on Public Procurement as set out in document ST 12802/20;
 - agree on the publication of these Council Conclusions in the *Official Journal of the European Union*, and
 - decide, in accordance with the first sub-paragraph of Article 12(1) of the Council's Rules of Procedure² and Article 1 of Council Decision 2020/430³, that the Council use the written procedure for the adoption of the Council Conclusions as set out in document ST 12802/20.

² Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35);

³ Council Decision (EU) 2020/430 of 23 March 2020 on a temporary derogation from the Council's Rules of Procedure in view of the travel difficulties caused by the COVID-19 pandemic in the Union (OJ L 881, 24.3.2020, p. 1), as most recently extended by Decision (EU) 2020/970 of 4 September 2020 (OJ L 294, 8.9.2020, pp. 1–2).