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REPORT

From: General Secretariat of the Council

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Subject: Fit for 55

- Proposal for a Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on ensuring a level playing field for sustainable air transport
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the use of renewable and low-carbon fuels in maritime transport

- Guidance for further work

Context and content of the proposals

1. On 14 July 2021, the Commission submitted to the Council and the European Parliament the ‘Fit for 55’ legislative proposals aimed at making the EU's climate, energy, land use, transport and taxation **policies fit for achieving the EU target of** a net domestic reduction of at least 55% in greenhouse gas emissions by 2030 compared to 1990.
2. The objective of the ‘Fit for 55’ package is to deliver on the targets agreed in the European Climate Law¹ so as to fundamentally transform the economy and society for a fairer, greener and more prosperous future. Reducing emissions in the next decade is crucial to Europe becoming the world's first climate-neutral continent by 2050 and making the European Green Deal a reality.
3. The package consists of twelve Commission proposals in the field of energy, environment, taxation, trade and transport; additional proposals in the field of energy policy are still expected before the end of this year. Three legislative proposals are directly related to transport policies - ReFuel Aviation, FuelEU Maritime, Alternative Fuel Infrastructure Regulation (AFIR).
4. The underlying assumption of the proposals is that climate ambition must be maintained across the files in order to meet the climate neutrality objective, which was endorsed by the European Council and Parliament and is legally binding manner under the European Climate Law.
5. In order to reach the goal of putting the EU on a path to becoming climate neutral by 2050, a reduction of approximately 90% in transport emissions would be needed. The abovementioned proposals would play a significant role in this; their main aspects can be summarised as follows:

¹ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021).

- The proposed **Regulation on the use of sustainable aviation fuels in the aviation industry – ‘ReFuel Aviation’²**: the main objective of this proposal is to establish an EU-wide blending mandate for alternative fuels, that is to say: sustainable aviation fuels and synthetic aviation fuels. The main provisions of the proposal focus on the following:

(i) An obligation on fuel suppliers to provide blended fuel across the Union. The percentage of the blend would increase with time as specified in the annex to the proposal.

(ii) An obligation on airlines to uptake most of the fuel needed in a year from the airport where they take-off. This anti-tankering provision is meant to ensure a level playing field, both between Union airlines but also vis-à-vis third country operators.

(iii) A transitional period that allows fuel suppliers to reach the targets set out in the annex as a weighted average across the Union. This transitional period ends at the end of 2029.

(iv) Reporting obligations for both airlines and fuel suppliers.

The definitions of sustainable aviation fuels and synthetic aviation fuels in the ReFuel Aviation proposal are taken from the Renewable Energy Directive (RED)³. One Article in this proposal refers also to the infrastructure in the Union airports regulated by AFIR. Finally, it should be recalled that the economic situation in the sector will be influenced by the proposal for an amended Directive on aviation’s contribution to the ETS⁴ and the proposal for an amended Energy Taxation Directive⁵.

² Proposal for a Regulation of the European Parliament and of the Council on ensuring a level playing field for sustainable air transport - COM/2021/561 final.

³ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018).

⁴ Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC as regards aviation's contribution to the Union’s economy-wide emission reduction target and appropriately implementing a global market-based measure - COM/2021/552 final.

⁵ Proposal for a Council directive restructuring the Union framework for the taxation of energy products and electricity (recast) - COM(2021)563 final.

- The proposed **Regulation on the use of renewable and low-carbon fuels in maritime transport – ‘FuelEU Maritime’**⁶: the main objective of this proposal is to increase demand and consistent use of renewable and low-carbon fuels in the maritime sector, while ensuring the smooth operation of maritime traffic and avoiding distortions in the internal market.

The main provisions focus on the following:

- (i) setting reduction targets for the greenhouse gas intensity of energy used on-board by ships;
- (ii) laying down requirements for the use of on-shore power supply or zero-emission energy at berth for ships applicable as of 2030;
- (iii) establishing the principles on counting biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuels within the greenhouse gas intensity reduction targets;
- (iv) establishing the FuelEU certificate of compliance and the obligation for ships to carry it;
- (v) introducing monitoring, reporting, verification, inspection, and enforcement procedures, and financial provisions (including penalties for ships for non-compliance as well as their allocation to the Innovation Fund).

The definition of fuels referred to in FuelEU Maritime as well as some parameters used for their counting (e.g. greenhouse gas saving criteria as well as the certification of renewable and low carbon fuels) come from RED. Certain provisions of AFIR proposal also relate to electricity supply in maritime ports. It should also be recalled that the pace of decarbonisation in the sector will be significantly influenced by the revision of the ETS that now also addresses maritime transport and introduces a carbon pricing mechanism.

⁶ Proposal for a Regulation of the European Parliament and of the Council on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC - COM(2021) 562 final.

- The proposed **Regulation on the deployment of alternative fuels infrastructure** – ‘**AFIR**’⁷: the objective of this proposal is threefold: (i) to ensure that there is an infrastructure network for the (re)charging or (re)fuelling of road vehicles or vessels with alternative fuels, (ii) to provide alternatives to the use of on-board engines (powered by fossil fuels) for vessels at berth or stationary aircraft, and (iii) to ensure full interoperability and user friendliness of the infrastructure.

It is important to ensure that users can be sure of the capacity for recharging and refuelling with alternative (zero- or low-carbon) power or fuel before they decide to buy and use alternative fuel vehicles or vessels. The deployment of (re)charging or (re)fuelling infrastructure needs to be accelerated to follow the speed of the sales of such vehicles and vessels, otherwise those vehicles and vessels will not be marketable and their uptake will be delayed. It is equally important to provide clean alternatives for fossil fuel-powered vessels at berth in ports and for aircraft in commercial use stationed at gates or at outfield posts. It should be noted that the definition of alternative fuels refers to that given in RED. The pace of deployment of the (re)charging pools and (re)fuelling stations as well as their interoperability and user friendliness will influence the uptake of zero- and low-emission vehicles and vessels and consequently the level of emissions in all modes of transport too.

Work within Council preparatory bodies

6. The Council preparatory bodies have started to examine all proposals of the package and it is expected that they will also be examined by the relevant Council configurations in December.
7. As regards the transport files, the Slovenian Presidency has organised a significant number of meetings at the level of the Working Parties on Shipping, on Aviation and on Intermodal Questions and Networks. So far the working party for Intermodal Questions and Networks has dealt with the AFIR proposal at 13 working party meetings, the Working Party on Aviation has discussed the ReFuel Aviation proposal at seven meetings and the Shipping Working Party dealt with FueEU Maritime at nine meetings.

⁷ Proposal for a Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council - COM(2021) 559 final.

The three proposals have been thoroughly analysed and the work on some files in the package has advanced further than the work on others. In particular, progress has been made on ReFuel Aviation and AFIR. For the AFIR, the consolidated Presidency compromise⁸ was prepared by the Presidency and discussion is foreseen on 8 and 9 November. The third revision for the ReFuel Aviation proposal will be discussed on 11 November at the Aviation Working Party. For the Fuel EU Maritime proposal, a technical and editorial revision will be prepared in November.

8. As far as the **AFIR proposal** is concerned, the discussions in the working party showed overall consent about the fact that more infrastructure will be needed to support faster transition to the use of alternative fuels in transport. Progress was made specifically with regard to clarifying the underlying assumptions for future developments and the needs in the Union regarding alternative fuels infrastructure. In the compromise text (ST12495/21), the Presidency attempted to address the main issues raised by delegations. In addition to numerous proposals on technical aspects, adjustments were proposed in relation to targets for recharging and refuelling infrastructure in all modalities, in particular by including possible flexibilities for Member States in meeting the targets. However, parts of the text related to the overall ambition were kept in square brackets, as Presidency assesses that guidance at a higher level is needed.
9. In the discussion on **ReFuel Aviation** proposal, the Presidency noted overall support for the proposal. With three compromise proposals, progress has been made on technical issues, such as a possible opt-in for airports, which are not within the scope of the proposal. The text regarding the articles on reporting obligations and the role of the competent authorities was also adjusted. Furthermore, the proposed level of ambition and the availability of sustainable aviation fuels in Europe were discussed. With the third compromise proposal, the Presidency has addressed the issue of ambition, particularly the definition of sustainable alternative fuels (SAF) and the EU-wide ambitions regarding the use of SAF.

⁸ ST12495/21

10. The **Fuel EU Maritime** proposal and its impact assessment have been thoroughly examined at the working party level. Additionally, a first examination of the articles and annexes has been carried out. The debate has proved the importance of the proposal for the Member States, while also showing the technical and political complexity of the issues addressed which deserve time for proper examination by Member States. The main political issues underlined during the discussions relate to the following: scope, the greenhouse gas intensity reduction targets, the on-shore power supply (OPS) requirements, the use of renewable and low-carbon fuels and the governance of the proposal. Discussions were also devoted to interlinkages with other proposals in the package and beyond the package, in particular the AFIR, RED, ETS and the MRV proposals. The Presidency is currently in the process of preparing a revised text, which will be limited to technical and editorial elements of the file. An exchange of views on the main aspects of the proposal is scheduled to take place at the TTE Transport Council on 9 December.

Aspects for further guidance

11. It is the view of the Slovenian Presidency and as can be seen from points 8, 9 and 10 above, that the discussions held so far at working party level show that delegations have made solid progress in examining the three transport proposals.
12. Discussions have also brought to light a number of different technical and political aspects related to the specificities of each transport mode and the need to ensure overall coherence between the transport files and the other proposals of the package.
13. Given the close interlinkages of the three transport proposals with other proposals from the package, the Presidency seeks guidance on the way forward for the transport files, in particular the extent to which they should proceed concurrently with other proposals of the package, especially with the closely interlinked proposals. For the AFIR and ReFuel Aviation proposals, the Presidency also seeks guidance in relation to the parts of those proposals that are related to their overall ambition.

Conclusion

14. In the light of the above, the Permanent Representatives Committee is invited to:
- comment on the interlinkages between the transport files and the other files in the package and on the importance Member States attach to those linkages; and
 - provide guidance on the way forward for the transport files, in particular as regards the level of ambition and possible general approaches by the end of the year for the AFIR and the ReFuel Aviation proposals, taking into account their implementation timelines, maturity and developments in other files and the need to ensure consistency within the package.
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