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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	COM(2021) 559 final
Subject:	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 – Preparation for the trilogue

I. CONTEXT AND CONTENT OF THE PROPOSAL

1. On 14 July 2021, the Commission submitted to the European Parliament and to the Council the proposal for a Regulation on the deployment of alternative fuels infrastructure (AFIR), as part of the ‘fit for 55’ package (the ‘package’).
2. The objective of the proposal is threefold: first, to ensure that there is a sufficient infrastructure network for the (re)charging or (re)fuelling of road vehicles or vessels with alternative fuels; second to provide alternatives to the use of on-board engines (powered by fossil fuels) for vessels at berth or stationary aircraft, and third to ensure full interoperability and user friendliness of the infrastructure.
3. The above proposal has interlinkages with other proposals of the ‘Fit for 55’ package. It is in particular linked to the proposal for revising the Regulation on CO2 emission performance

standards for cars and vans and the proposal for revising the Regulation on CO₂ emission performance standards for heavy-duty vehicles, which is foreseen for 2023. 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. At the same time, AFIR has linkages to FuelEU Maritime, and is also of relevance to emission reduction in aviation. Moreover, the proposal defines alternative fuels in coherence with the provisions of the proposal for the revision of the Renewable Energy Directive. Where the Directive on the Energy-Performance of Buildings regulates the deployment of private charging stations, AFIR is looking to ensure a sufficient number of publicly available charging stations.

II. STATE OF PLAY

4. The European Economic and Social Committee adopted its opinion on 9 December 2021, the European Committee of the Regions adopted its opinion on 26 January 2022.
5. The Council agreed on a general approach on 2 June 2022.
6. The European Parliament designated the Committee on Transport and Tourism (TRAN) as the committee responsible and Mr Ismail ERTUG (DE, S&D) was appointed as its rapporteur. The European Parliament adopted its position in plenary on 19 October 2022.
7. At a first informal trilogue on 27 October 2022, the co-legislators held an exchange of views on their respective positions and agreed to grant a broad mandate to the technical level. During the second informal trilogue on 13 December, significant progress was achieved. In particular, a preliminary agreement was found on Article 1 (subject matter), Article 8 (liquefied methane for road transport), Article 10 (shore-side electricity for inland waterway ports), Article 14a (content, structure and format of the national policy frameworks and national progress reports), Article 16 (progress tracking), Article 17 (user information) and Article 19 (common technical specifications) as well as Annex II (technical specifications). As regards Article 9 (shore-side electricity in maritime ports), Article 11 (liquefied methane in maritime ports) and Article 12 (supply of electricity to stationary aircraft), most of the text was agreed; only some of the thresholds in these articles need to be agreed upon. There was also an exchange of views on Article 15 (review of the national policy frameworks and national progress reports) and Article 18 (data provisions).

8. Between 11 and 25 January 2023 there were 3 technical meetings organised to prepare for the third trilogue planned on 7 February. The Presidency presented in the Intermodal Transport Working Party compromise proposals and drafting suggestions that were prepared in the technical meetings with the Parliament. Negotiations continued as regards the outstanding issues in Articles 9, 11 and 12 and the reporting cluster (Articles 13-15). Significant progress has been made on the data provisions in Article 18. The intention is to confirm as much as possible. Still, and especially in Article 18, there remains some aspects to be further developed and clarified.
9. Negotiations have started on Article 3 (electric recharging for light-duty vehicles), Article 4 (electric recharging for heavy-duty vehicles) and Article 6 (hydrogen refuelling for road transport). In the technical meetings the positions of the Council and the Parliament have been clarified as regards the charging capacity. The Presidency has insisted on the reasonable traffic thresholds and demonstrated this with figures to substantiate the fact that on those stretches, there is very little traffic work (in terms of vehicles km) and that the derogations should not jeopardise the availability of charging stations.
10. As regards Article 5 and Article 7, dealing with payments and the infrastructure for recharging and refuelling respectively, Council and Parliament have agreed to first look at Article 5 as this is the more specific article because recharging is more relevant for citizens. Once an agreement will be found on Article 5, the same approach will be adapted to Article 7.
11. There was also a discussion on the proposal from the Parliament in Article 12a to include railway infrastructure in the scope of AFIR.
12. Delegations have been informed about a preliminary agreement on Article 20 (exercise of the delegation), Article 21 (committee procedure) and Article 23 (repeal). This will need to be confirmed in the third trilogue.
13. Article 24 (entry into force and date of application) was also discussed. This Article will be left for the fourth trilogue.
14. The proposed mandate for the third informal trilogue is addressing all the outstanding articles as mentioned under points 8, 9, 10, 11 and 12 of the present report. The only aspect that has not been discussed in detail is the proposal from the Parliament to include Article 21a (compensatory regulatory reduction). Article 21a is considered as not necessary in the context of a sector-specific regulation like AFIR. It is better to ensure better regulation during the

negotiations than to ask the Commission to reconsider afterwards what could be further improved as regards regulatory reduction.

III. THE PROPOSED MANDATE

15. At the technical level, in preparation of this third trilogue, Council and Parliament have continued to look for compromises on the following issues that should allow for at least a partial agreement. Other aspects and elements will need further consideration at the fourth trilogue to find a comprehensive agreement.
16. In the third trilogue a first political discussion is planned on Article 3 (electric recharging for light-duty vehicles), Article 4 (electric recharging for heavy-duty vehicles) and Article 6 (hydrogen refuelling for road transport). As regards the targets for recharging and refuelling, the Presidency has acknowledged the need for more infrastructure and a specific level of ambition but the Presidency also explained the need to be reasonable and ensure sufficient flexibility to cater for specific circumstances. These circumstances relate in particular to areas with low population density and low traffic and to take into consideration ongoing technological developments that make some of the proposed targets not yet ready for full market deployment. The Presidency will defend the Council's general approach and does not intend to come to an agreement on these articles at the third trilogue. But discussions are expected to pave the way for an agreement in the fourth trilogue.
17. Negotiations on the recharging and refuelling infrastructure have mainly focused on the infrastructure and payment options for recharging in Article 5. The same logic should apply and will be adapted, where relevant, to Article 7, once an agreement has been found on Article 5. The main outstanding issues in Article 5 relate to payment methods, the price components, e-roaming, the monitoring of the price and retrofitting of existing charging stations.

As regards the payment methods, the Presidency is confident to find a reasonable outcome based on the general approach and the different options, based on the type of charger. The fact is that it is not possible, at least at this time, to change the payment security and allow for payments without pin-authorisation. However, the Presidency would like to propose to extend the scope of the retrofitting for the payment options in Article 5(2) (line 188) and to cover all the chargers with a power output equal to or more than 50 kW and not just those on the TEN-T. This also has implications for the requirement to show the information on the ad hoc price