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From: General Secretariat of the Council
To: Permanent Representatives Committee

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Subject: Just Transition Fund: Update following the EUCO conclusions of July 2020
- Partial mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 11 December 2019, the Commission adopted a Communication on the European Green Deal, setting out its roadmap towards a new growth policy for Europe. In line with the objective of achieving EU climate neutrality by 2050 in an effective and fair manner, the European Green Deal proposed a Just Transition Mechanism. The Mechanism consists of three pillars: (1) a Just Transition Fund implemented under shared management, (2) a dedicated scheme under InvestEU, and (3) a public sector loan facility with the EIB Group to mobilise additional investments to regions concerned.

2. On 14 January 2020, the Commission adopted a proposal for a Regulation establishing the Just Transition Fund. The Regulation establishing the Just Transition Fund (JTF Regulation) was presented to the Structural Measures Working Party (SMWP) on 21 January 2020, during the Croatian Presidency. On 28 May 2020, following the COVID-19 outbreak, an amended proposal was submitted. Detailed examination of the JTF Regulation by the SMWP followed during February, March, May and June. The Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament on the JTF Regulation on 24 June 2020¹.
3. The partial mandate for negotiations has to be updated to take account of the European Council Conclusions adopted in a special meeting of the European Council of 17, 18, 19, 20 and 21 July 2020.

II. WORK WITHIN THE COUNCIL

4. Updates reflecting the European Council Conclusions were discussed in the Structural Measures Working Party in its meetings on 8, 11, 15, 18 and 28 September 2020.
5. In the compromise text set out in the Annex, the changes compared to the working papers discussed by the Structural Measures Working Party of 18 and 28 September (WK 9640/20 and WK 10067/20, respectively) are reflected in bold/underline/strikethrough. The allocation method for resources of the Just Transition Fund in Annex I to the JTF Regulation is replaced by the table set out in WK 10286/20 issued on 29 September 2020 for the attention of the members of the Ad hoc Working Party on the Multiannual Financial Framework (MFF) 2021-2027 and of the Working Party on Structural Measures.
6. Substantial progress has been made on those updates of the JTF Regulation at working party level. Following the Structural Measures Working Party on 28 September, **the Presidency is submitting to Coreper a compromise proposal, including a new compromise text on Article 3b on Conditional access to resources, which the Presidency considers to be well-balanced and reflecting the outcome of the discussions at working party level.**

¹ Doc. 8502/1/20 REV 1.

III. WAY FORWARD

7. The Permanent Representatives Committee is, therefore, invited to agree on a partial mandate for negotiations with the European Parliament and to confirm the compromise proposed by the Presidency on the updates of the JTF Regulation reflecting the July European Council Conclusions, as set out in the Annex to this note.
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Regulation establishing the Just Transition Fund

Elements from the EUCO conclusions

Article 3

Geographical coverage and resources for the JTF under the Investment for jobs and growth goal

1. The JTF shall support the Investment for jobs and growth goal in all Member States.
2. The resources for the JTF under the Investment for jobs and growth goal available for budgetary commitment for the period 2021-2027 shall be EUR 7 500 000 000 in 2018 prices, which may be increased, as the case may be, by additional resources allocated in the Union budget, and by other resources in accordance with the applicable basic act.

0.35% of the amount referred to in the first subparagraph shall be allocated to technical assistance at the initiative of the Commission.
3. The Commission shall adopt a decision by means of an implementing act setting out the annual breakdown of resources, including any additional resources referred to in paragraph 2, by Member State in accordance with the methodology set out in Annex I.

Article 3a

Resources from the European Union Recovery Instrument

1. Measures referred to in Article 1(2) of Regulation [ERI] shall be implemented under the Just Transition Fund with an amount of up to EUR 10 000 000 000 in 2018 prices referred to in point (v) of Article 2(2)(a) of that Regulation, subject to its Article 3(3), (4), (7) and (9).

That amount shall be considered other resources as referred to in Article 3(2) and shall constitute external assigned revenue as set out in Article 3(1) of Regulation [ERI].

They shall be made available for budgetary commitment under the Investment for jobs and growth goal for the years 2021 to 2023 in addition to the global resources set out in Article 3 as follows:

- 2021: EUR 2 000 000 000;
- 2022: EUR 4 000 000 000;
- 2023: EUR 4 000 000 000.

In addition, [EUR 15 600 000 in 2018 prices] shall be made available for administrative expenditure from the resources referred to in the first subparagraph.

2. 0.35% of the amount referred to in the first subparagraph of paragraph 1 shall be allocated to technical assistance at the initiative of the Commission.
3. The annual breakdown of the amount referred to in paragraph 1 by Member States shall be included in the Commission decision referred to in Article 3(3) in accordance with the methodology set out in Annex I.

[Paragraph 4 is deleted]

5. By way of derogation from Article 14(3) of the Financial Regulation, the de-commitment rules set out in Chapter IV of Title VII of Regulation (EU) [new CPR] shall apply to the budgetary commitments based on resources referred to in paragraph 1. By derogation from Article 12(4)(c) of the Financial Regulation these resources shall not be used for a succeeding programme or action.

Article 3b
Conditional access to resources²

1. Where a Member State has not made a commitment to implement the objective of achieving a climate-neutral EU by 2050, only 50% of the annual amounts for that Member State referred to in Article 3(3) and 3a(3) shall be made available for programming and included in the priorities.

By way of derogation from Article 6(1), the remaining 50% of the annual amounts shall not be included in the priorities. In such cases, the programmes supported from the JTF and submitted in accordance with Article 16 [new CPR] shall include only 50% of the annual JTF amounts in the table referred to in Article 17(3)(f)(ii) [new CPR]. The table referred to in Article 17(3)(f)(i) [new CPR] shall identify separately the amounts available for programming and the amounts that shall not be programmed.

2. The Commission shall only approve programmes containing a JTF priority or any amendment **thereof** to it, where the **requirements set out in** ~~programmed allocation part is in line with~~ paragraph 1 **are respected**.
3. As soon as the Member State has committed to implement the objective of achieving a climate-neutral EU by 2050, it may submit a request for the amendment of each programme supported from the JTF in accordance with Article 19(1) [new CPR] **and to include the non-programmed amounts that have not been decommitted** ~~which had not been programmed~~. The Commission shall proceed in accordance with Article 19 [new CPR].

² *An additional recital is added: (new) In order to ensure the effective use of the JTF resources, access to the JTF should be limited to 50% of the national allocation for those Member States that have not yet committed to implement the objective of achieving a climate-neutral EU by 2050, in line with the objectives of the Paris Agreement, the other 50% being made available for programming upon acceptance of such a commitment. **In order to ensure fairness and equal treatment of Member States, the general decommitment principles and rules should apply.***

4. Budgetary commitments will be made on the basis of the table referred to in Article 17(3)(f)(i) [new CPR]. ~~Article 99 [new CPR] shall apply to both programmed commitments and non-programmed commitments.~~ The commitments related to the non-programmed amounts ~~cannot~~ **shall not** be used for payments and shall not be included in the basis for the calculation of the pre-financing in accordance with Article 84 [new CPR] until they are made available **for programming** in accordance with paragraph 3.

In the absence of the Member State's commitment to implement the objective of achieving a climate-neutral EU by 2050, commitments related to non-programmed amounts shall be decommitted by 31 December of the third calendar year following the year of the budget commitments for the years 2021 to 2026, and by 31 December of the second calendar year for the 2027 budget commitment.

~~[Without prejudice to the decommitment principles and rules as set out in Article 99 [new CPR], the commitments constituted for the amounts that had not been programmed in accordance with paragraph 1 shall also be made available accordingly. Where the Member State has not committed to implement the objective of achieving a climate-neutral EU by 2050 before 31 December 2026, the amounts stemming from Article 3a(3) that had not been made available for programming shall be decommitted. Where the Member State has not committed to implement the objective of achieving a climate-neutral EU by 2050 before 31 December 2030, the resources stemming from Article 3(3) that had not been made available for programming shall be decommitted.]~~

~~[To the extent that the pre-financing paid and payment applications submitted cover both programmed and non-programmed amounts that have been committed in the programme, no decommitment shall take place.]~~

Article 6
Programming of the JTF resources

[...]

2. JTF priority or priorities shall comprise the JTF resources consisting of all or part of the JTF allocation for the Member States and the resources transferred in accordance with Article 21a of Regulation (EU) [new CPR]. The total of the ERDF and ESF+ resources transferred to the JTF shall not exceed three times the amount of support from the JTF to that priority excluding the resources referred to in paragraph 1 of Article 3a.
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ANNEX I

ALLOCATION OF ~~METHOD FOR~~ RESOURCES OF THE JUST TRANSITION FUND

For each Member State, the financial envelope is determined in accordance with the following steps:

- ~~(a) the share of each Member State is calculated as the weighted sum of the shares determined on the basis of the following criteria, weighted as indicated:~~
 - ~~(i) greenhouse gas emissions of industrial facilities in NUTS level 2 regions where the carbon intensity, as defined by the ratio of greenhouse gas emissions of industrial facilities as reported by Member States in accordance with Article 7 of Regulation (EC) No 166/2006 of the European Parliament and of the Council compared to the gross value added of the industry, exceeds by a factor of two the EU-27 average. Where that level is not exceeded in any NUTS level 2 regions in a given Member State, greenhouse gas emissions of industrial facilities in the NUTS level 2 region with the highest carbon intensity is taken into account (weighting 49%);~~
 - ~~(ii) employment in mining of coal and lignite (weighting 25%);~~
 - ~~(iii) employment in industry in the NUTS level 2 regions taken into account for the purposes of point (i) (weighting 25%);~~
 - ~~(iv) production of peat (weighting 0,95%);~~
 - ~~(v) production of oil shale (weighting 0,05%);~~
- ~~(b) the allocations resulting from the application of point (a) are adjusted to ensure that no Member State receives an amount exceeding EUR [8] billion (in 2018 prices). The amounts exceeding EUR [8] billion per Member State are redistributed proportionally to the allocations of all other Member States. The Member States shares are recalculated accordingly;~~

~~(c) the Member State shares resulting from the application of point (b) are adjusted negatively or positively by a coefficient of 1.5 times of the difference by which that Member State's GNI per capita (measured in purchasing power parities) for the period 2015-2017 as used for cohesion policy in the context of the MFF 2021-2027 negotiations exceeds or falls below the average GNI per capita of the EU 27 Member States (average expressed as 100%).~~

~~This adjustment does not apply to Member States for which the allocation has been capped in accordance with point (b);~~

~~(d) the allocations resulting from the application of point (c) are adjusted to ensure that the final allocation from the JTF results in a per capita aid intensity (measured on the basis of the entire population of the Member State) of at least EUR [32] (in 2018 prices) over the entire period.~~

~~The amounts to ensure the minimum aid intensity are deducted proportionally from the allocations of all the other Member States, except those for which the allocation has been capped in accordance with point (b).~~

~~The allocation of the Just Transition Fund is additional to the allocation resulting from paragraphs 1 to 20 of Annex XXII of [new CPR proposal] and is not included in the allocation basis to which points 10 to 15 of Annex XXII of the [new CPR proposal] are applied.~~

Just Transition Fund

| EUR m, 2018 prices | Allocation under the European Union Recovery Instrument | Allocations under the Investment for jobs and growth goal | Total | Share |
|-----------------------|--|---|---------------|---------------|
| BE | 95 | 71 | 166 | 0,9% |
| BG | 673 | 505 | 1.178 | 6,7% |
| CZ | 853 | 640 | 1.493 | 8,5% |
| DK | 46 | 35 | 81 | 0,5% |
| DE | 1.288 | 966 | 2.254 | 12,9% |
| EE | 184 | 138 | 322 | 1,8% |
| IE | 44 | 33 | 77 | 0,4% |
| EL | 431 | 324 | 755 | 4,3% |
| ES | 452 | 339 | 790 | 4,5% |
| FR | 535 | 402 | 937 | 5,4% |
| HR | 97 | 72 | 169 | 1,0% |
| IT | 535 | 401 | 937 | 5,4% |
| CY | 53 | 39 | 92 | 0,5% |
| LV | 100 | 75 | 174 | 1,0% |
| LT | 142 | 107 | 249 | 1,4% |
| LU | 5 | 4 | 8 | 0,0% |
| HU | 136 | 102 | 237 | 1,4% |
| MT | 12 | 9 | 21 | 0,1% |
| NL | 324 | 243 | 567 | 3,2% |
| AT | 71 | 53 | 124 | 0,7% |
| PL | 2.000 | 1.500 | 3.500 | 20,0% |
| PT | 116 | 87 | 204 | 1,2% |
| RO | 1.112 | 834 | 1.947 | 11,1% |
| SI | 134 | 101 | 235 | 1,3% |
| SK | 239 | 179 | 418 | 2,4% |
| FI | 242 | 182 | 424 | 2,4% |
| SE | 81 | 61 | 142 | 0,8% |
| EU27 | 10.000 | 7.500 | 17.500 | 100,0% |

* All amounts reflect gross allocations, before transfers for technical assistance

** Totals may not tally due to rounding