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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Revision of the Renewable Energy Directive (bioenergy) - Presidency non-paper

In view of the Working Party on Energy on 31 January, delegations will find in the annex the Presidency non-paper on the proposal of the revision of the Renewable Energy Directive (bioenergy).

PCY non-paper

The first Interinstitutional Technical Meeting (ITM) on bioenergy related provisions in RED III under the Swedish Presidency was held on January 20th, followed by a second meeting on January 27th. Articles 3, 29, 30 and 31 as well as annex V and VI were discussed, based on the positions of the European Parliament and the Council, as well as the Commission proposal.

Regarding **Article 29 (Sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels)** and **Article 3(3) (Support to energy from biomass)**, the Parliament's position would make the sustainability framework for forest biomass considerably stricter compared to the Commission proposal and the General Approach reached in the Council. In particular, it maintains no-go-areas outside of the risk-based approach and introduces a new definition of 'primary woody biomass' for the purposes of capping the contribution of the energy share from solid biomass fuels derived from such biomass at 2017-2022 consumption levels and restricting financial support for such energy. The European Parliament's position on forest biomass elements thus significantly departs from the position of the Council.

From the Council's side it has been essential to keep the risk-based approach in the sustainability criteria in Article 29 and the general principles and derogations regarding the cascading principle established in Article 3. The Member States have also been clear that the new definition of 'primary woody biomass' according to the EP's proposal is not acceptable.

The discussions in two technical interinstitutional meetings were held in a constructive atmosphere. It was, however, clear that both co-legislators will need to move in order for a compromise to be reached. As a next step, the Presidency intends to explore some avenues with a view to an overall balanced outcome. The Presidency seeks Delegations' flexibilities on the following approach.

The Presidency would firmly maintain the general approach on:

- Article 3(3) on the cascading principle establishing that woody biomass should be used according to its highest economic and environmental added value, as well as derogations from this principle.

- Article 29 on the harvesting criteria (*line 290 and 292*) and keeping the forest biomass elements on “no-go areas” under the risk-based approach (*line 284b and 286b*).

The Presidency could envisage that the following elements may be explored within an overall agreement, and seeks the Delegations’ flexibilities on:

- a) In Article 2, consider defining the primary woody biomass as limited to quality roundwood, while applying the same derogations as in the general approach for the cascading principle;
- b) Consider introducing an implementing act to specify the Council’s derogations on the cascading principle in Article 3(3), on the condition that the framing of the implementing act is sufficiently narrowed down, and it does not negatively affect the scope of the derogations;
- c) Consider introducing a requirement for MS to report in their NECP measures taken to ensure the application of the cascading principle;
- d) Consider to not allow for any financial support to primary woody biomass used in for electricity-only installations, i.e. without the exceptions that apply for other forest biomass in those installations (*line 98*), in combination with a phasing-out provision;
- e) Consider lowering the threshold for installations that need to verify sustainability (*line 276*);
- f) Consider the EP’s proposal for a threshold of 85% for GHG-reductions in installations producing electricity, heating and cooling, while maintaining the grandfathering clause according to the EP’s proposal and the General Approach (*line 294 and 294a-d*);
- g) Consider the EP’s proposal to provide for an exception for financial support to electricity-only installations using biomass-CCS (*line 100*), and/or in existing installations where modifications are not possible (*line 100a*);
- h) Consider accommodating EP’s proposal regarding the outer most regions (*line 294h*).