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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council establishing the Connecting Europe Facility and repealing Regulations
(EU) No 1316/2013 and (EU) No 283/2014**

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 6 June 2018
(document COM(2018) 438 final – 2018/0228 COD):

Date of the opinion of the European Economic and Social Committee: 19 September 2018

Date of the opinion of the Committee of the Regions 10 October 2018

Date of the position of the European Parliament, first reading: 17 April 2019

Date of transmission of the amended proposal: 9 June 2021

Date of adoption of the position of the Council: 14 June 2021

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The Connecting Europe Facility (CEF) is one of the funding instruments under the 2021-2027 Multiannual Financial Framework. The general objective of the CEF is to develop and modernise the trans-European networks in the fields of transport, energy and digital and to facilitate cross-border cooperation in the field of renewable energy.

For transport, CEF aims at contributing to the completion of the trans-European transport core network by 2030 and the comprehensive network by 2050. CEF also supports the modernisation of the TEN-T network, in particular the deployment of alternative fuels infrastructure and digitalisation of transport. In addition, civilian-military dual-use transport projects will be implemented through the CEF.

For energy, the focus is on contributing to the development of the trans-European energy networks and further integration of the internal energy market and interoperability of networks across borders and sectors; facilitating the cross-border cooperation in the area of renewable energy and enabling decarbonisation through integrating renewable energy sources.

For digital, CEF aims at contributing to the deployment of safe and secure very high capacity digital networks and 5G systems and to the increased resilience and capacity of digital backbone networks in line with the European digital connectivity objectives for 2025 and 2030.

3. COMMENTS ON THE POSITION OF THE COUNCIL

The Council's position at first reading, adopted on 14 June 2021, supports the main objectives of the Commission's proposal. The most important changes introduced compared to the Commission's proposal include:

Budgetary elements, co-financing rates

New provisions were included in relation with the European Council Conclusions of 21 July 2020 regarding specific support from the Heading 1(2), European Strategic Investment for the completion of missing major cross-border railway links between Cohesion countries. The Commission can support these provisions.

The Commission can accept provisions specifying the allocation of Cohesion envelope which lay down the dates until certain thresholds will be applicable: (1) for the Member States whose gross national income (GNI) per capita measured in purchasing power standards and calculated on the basis of Union figures for the period 2015-2017 is less than 60% of the average GNI per capita of the EU-27, 70% of 70% of the amount they have transferred to the CEF shall be guaranteed until 31 December 2024; (2) until 31 December 2025, the total amount allocated to actions in a Cohesion Member State shall not exceed 170% of the share of that Member State in the total amount transferred from the Cohesion Fund.

The Commission can accept the modification of the indicative percentages of the allocation of the Cohesion envelope, which sets up that 85% of the envelope will be used for actions relating to efficient, interconnected and multimodal networks and 15% of the envelope will be used for the actions relating to smart, sustainable, inclusive, safe and secure mobility.

A provision in the transport sector setting up a threshold of up to 10% of the General envelope, which can be used for blending operations, was included. A provision specifying that the Cohesion envelope shall not be used for blending operations was included. The provisions provide for flexibility and therefore the Commission can accept these modifications.

A threshold was included indicating that up to 15% of the overall energy sector budget shall be distributed for the cross-border projects in the field of renewable energy with the possibility to increase it up to 20%. The Commission can accept this amendment.

A threshold was laid down that up to 1% of the overall budget may be used for the technical and administrative assistance. The Commission can accept this modification.

The following amendments on the co-financing rates were included in the transport sector: for the General envelope, actions supporting inland waterways, railway interoperability, and actions adapting the transport infrastructure for Union external border checks purposes were included with the possibility to receive higher co-financing rate of 50%. For the actions concerning the completion of missing major cross-border railway links between the Cohesion Member States, the maximum co-financing rate shall be 85%. The co-financing rate for civilian-defence dual-use projects was laid down up to 50%. The maximum co-financing rate for the Cohesion envelope shall not exceed 85%. A possibility to increase the co-financing rate by 5% for projects carried out by integrated management structures, including joint ventures, was included for both the General and Cohesion envelopes. For actions implemented in the outermost regions, the maximum co-financing rate was increased up to 70% for transport, energy and digital sectors, and for the actions implemented under the synergy work programmes, the co-financing rate may be increased by 10%. The Commission can accept these modifications.

Eligibility

In the transport sector, the eligibility scope of actions was extended. On the TEN-T core network, connections to airports were included. On the TEN-T comprehensive network, maritime and inland ports as well as components of the comprehensive network located in the Member States which do not have a land border with another Member State were introduced. The Commission can accept these amendments.

A new article on the adaptation of the TEN-T network to the civilian-defence dual-use was included which sets up the eligibility requirements of actions contributing to the development of dual-use infrastructure, and includes an implementing act which determines dual-use infrastructure requirements. A provision was included allowing the Commission to request a transfer from the Military Mobility envelope to the General envelope if there are any uncommitted funds. The Commission can accept these amendments.

Amendments in the indicative lists of transport core network corridors and cross-border links on the comprehensive network were made. The Commission can accept these modifications.

A provision was included which lays down that the costs related to purchase of land are eligible for the Cohesion envelope only in line with the Common Provisions Regulation. The Commission can accept this amendment.

A new provision on a possibility to co-fund the Union renewable energy financing mechanism was included. The Commission can accept this amendment.

A new cybersecurity clause was introduced for the digital sector. It provides that for all or some of the actions under the specific objectives set out for the digital sector, calls for proposals and calls for tenders can, for duly justified security reasons, be restricted to entities established, or deemed to be established, in Member States and directly or indirectly controlled by Member States, or by nationals of Member States. The Commission can support this amendment.

Programming, grants, management of grant agreements

A new provision on work programmes was included setting up that the first work programmes will cover the calls, their topics and indicative budget for the first three years as well as a prospective framework for the remaining period. The Commission can accept this amendment.

A provision was included in the energy sector concerning the projects of common interest and specific targets for interconnections and synchronisation of electricity systems with the EU networks. The Commission can accept this amendment.

The provision on the Member States' approval with the submission of the proposals was further elaborated. A new provision, which enables to carry out project selection procedure in two stages, was included. The list of the award criteria the Commission needs to take into account, to the extent applicable, was extended. A new article was included on granting of the Union financial assistance which sets out that the selection decisions shall be adopted by implementing acts and lays down further obligations for the implementation of the grant agreements. The Commission can accept these amendments.

A provision allowing the actions which have been awarded with the Seal of Excellence certificate to receive co-financing under the Cohesion Fund was retained. The Commission can accept this provision.

4. CONCLUSION

In general, the agreement reached preserves the objectives of the Commission's initial proposal, maintaining the level of ambition but allowing the flexibility required for the implementation of the CEF. The Commission accepts the position taken by the Council.

A joint declaration by the Council of the European Union and the European Commission on the implementation of the Connecting Europe Facility 2021-2027 was agreed (in the annex).

Annex:

“Joint declaration by the Council of the European Union and the European Commission on the implementation of the Connecting Europe Facility 2021-2027.

In accordance with the European Council Conclusions of 21 July 2020, the Council and the Commission recall that, in the implementation of the Connecting Europe Facility 2021-2027, from the amount specified in Article 4(2), point (a)(i), of the CEF Regulation, an amount of EUR 1 384 000 000 (in 2018 prices) will be used for the completion of missing major cross-border railway links between Member States eligible for funding from the Cohesion Fund.”