



ENVIRONMENT Council

Luxembourg, 13 October 2017

Chair: **Mr Siim Kiisler**, Minister for the Environment of the Republic of Estonia

European Commission representatives: Commissioners **Karmenu Vella**, **M. Ángel Arias Cañete**

Starting time: 09.30

As the main point of this Environment Council meeting, EU ministers will discuss the **effort-sharing** regulation and the regulation on land use, land-use change and forestry (**LULUCF**) with a view to agreeing on a general approach (the Council's negotiating position) for each of the two legislative proposals to cut greenhouse gas emissions in sectors not covered by the ETS.

Together with the revision of the emissions trading system (ETS), the two pieces of legislation aim at cutting emissions by at least 40% by 2030 (compared to 1990 levels), which is also the EU's commitment under the Paris Agreement on **climate change**.

The effort-sharing regulation covers sectors such as **transport and buildings** and sets emission reduction targets for each member state. The LULUCF regulation covers contributions to the emission reduction targets in the **land use and forestry** sector.

Ministers will adopt conclusions on the Paris Agreement and preparations for the 23rd session of the Conference of the Parties (**COP 23**) to the United Nations Framework Convention on Climate Change (UNFCCC) taking place from 6-17 November 2017 in Bonn, Germany.

Ministers will adopt conclusions on the EU priorities for the 3rd meeting of the **United Nations Environment Assembly (UNEA-3)** to be held in Nairobi on 4-6 December 2017. The executive director of the UN Environment Programme, **Erik Solheim**, will join ministers for a working lunch to prepare for the assembly.

Under any other business, the Council will be briefed on a number of recent international meetings, including the Meeting of the Parties to the **Aarhus Convention** (MOP 6), the Protocol on **Pollutant Release and Transfer Registers** (MOPP 3), the Conference of the Parties to the **Minamata Convention** on Mercury (COP 1), the UN Convention to **Combat Desertification** and the international seminar "**Science for Peace the World Over**". Ministers will also be informed about the assessment of **chemical substances**, cooperation between the EU and China on **water**, the ratification of the **Kigali amendment** to the Montreal Protocol; and the coordination of and coherence between the integrated **national energy and climate plans** for 2030 and the **long-term** emission reduction **strategies**.

Press conference: at the end of the meeting

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¹ This note has been drawn up under the responsibility of the press office.

CLIMATE CHANGE

Non ETS sectors: Effort-sharing and LULUCF

Ministers will discuss the **effort-sharing** regulation and the regulation on land use, land-use change and forestry (**LULUCF**) with a view to agreeing on a general approach for each of the two legislative proposals to cut greenhouse gas emissions in sectors not covered by the ETS.

Together with the revision of the emissions trading system (ETS), the two pieces of legislation are intended to deliver on the EU's commitment under the Paris Agreement on **climate change**. They will contribute to reducing greenhouse gas emissions by at least 40% by 2030 compared to 1990 levels. Specifically, the reduction in non-ETS sectors should amount to 30% by 2030 compared to 2005.

Ministers are expected to focus the discussion on the additional **safety reserve** in the effort-sharing regulation and the new **managed forest land flexibility** included in the LULUCF regulation. Both are elements proposed by the presidency aimed at achieving a balance between the member states' different positions.

The general approaches on the two files will constitute the Council's negotiating positions for negotiations with the European Parliament.

Effort-sharing regulation

The **effort-sharing regulation** (ESR) addresses emissions from those sectors not covered by the EU ETS. These include buildings, agriculture (non-CO₂ emissions), waste management and transport. They accounted for almost 60% of total EU emissions in 2014. The regulation sets annual emission reduction targets for each member state for the period 2021-2030. Member states will decide what measures to take in order to achieve the targets.

Presidency compromise text

The main elements of the presidency compromise text are:

- National greenhouse gas emission **reduction targets for 2030**
- The definition of the **starting point of the linear reduction trajectory**
- **Existing flexibilities** for member states to achieve their annual limits, and **"new" ones** including the one-off flexibility and the LULUCF flexibility
- The **adjustment to the allocation for member states** which were allowed to increase emissions in 2020 compared to 2005
- The **safety reserve**

Based on the progress report from June 2017 and the latest discussions between the member states, the Estonian presidency has prepared a compromise text that preserves the main elements of the Commission proposal listed above and incorporates a **safety reserve** which can be used in addition to the adjustment and flexibilities under certain conditions.

This reserve will be the main contentious topic of the discussion. Its overall objective is to address the concerns of a number of delegations (e.g. on the starting point of the linear reduction trajectory) while preserving the **environmental integrity of the proposal** and without hindering the achievement of the EU's 2030 target in the non-ETS sectors.

The proposed reserve is meant to **help less wealthy member states** that have made early efforts to reduce their greenhouse gas emissions during the current period but may have problems reaching their 2030 targets. The reserve will be **available in 2032** in case of real need and after the member states in question have used the flexibilities provided for in the regulation. It can only be used in case the EU fulfils its 2030 targets, thereby making sure the ambition of the EU climate policy is maintained.

Most delegations agree with the introduction of the safety reserve. Some of them emphasise that their support for it is subject to the central elements of the initial proposal staying intact. However, the **size** of the reserve have yet to be resolved.

The suggested figure for the **maximum size of the reserve** is 100 million tonnes of CO₂ equivalent (this remains in square brackets in the text). Some delegations would like to see a higher amount. Others, however, are opposed to any increase and some even support a lower figure. A few member states remain reticent about the reserve as in their opinion it will still not solve their problems.

On the **LULUCF flexibility**, the presidency text essentially maintains the Commission proposal but strengthens the wording referring to the contribution from the category "managed forest land".

As for the **one-off cancellation of ETS allowances**, the presidency text provides further flexibility to the eligible member states. Although those member states have to set their initial plans on the intended use of the flexibility in 2019, they can revise the relevant figure downwards twice during the 2021-2030 period.

Presidency compromise text ([12830/17](#))

Main elements of the Commission proposal

Targets:

The overall target in these sectors is to reduce emissions by 30% by 2030 compared to 2005. All member states must contribute with **national targets ranging from 0% to 40%**. Targets are based on relative GDP per capita. For countries with a GDP per capita above the EU average, national targets are further adjusted to reflect cost-effectiveness.

Reduction trajectory and starting point:

The annual emission levels will be determined based on a **decreasing linear trajectory**. The starting point is set as the average emissions for 2016-2018 because this will be the most recent reviewed emission data available in 2020. For lower-income member states that are allowed (under the current effort-sharing decision) to increase their emissions until 2020, the sum of the allowed increases between 2017 and 2020 are added to their starting point.

Flexibilities:

The proposal incorporates the **existing flexibilities** in the current effort-sharing decision (banking and borrowing of annual emission allocations from one year to another within the trading period; transfers between countries). It also proposes two new flexibilities: **1. LULUCF flexibility**: limited use of removals from the land-use sector to count towards the targets in the ESR (in total 280 million); and **2. One-off flexibility**: the possibility to cancel a limited number of ETS allowances (in total 100 million) to be taken into account for compliance under the ESR. The latter is only available for countries that either have targets significantly above the EU average and their cost-effective reduction potential, or that did not have free allocation for industrial installations in 2013.

Reporting and compliance:

The proposal keeps annual reporting on emissions and biennial reporting on projections and policies and measures, but proposes compliance checks every five years instead of every year.

Proposed targets and access to new flexibilities

	2030 target compared to 2005	Maximum annual flexibility (as % of 2005 emissions)	
		One-off flexibility from ETS to effort sharing regulation	Flexibility from land use sector to effort sharing regulation*
LU	-40%	4%	0.2%
SE	-40%	2%	1.1%
DK	-39%	2%	4.0%
FI	-39%	2%	1.3%
DE	-38%		0.5%
FR	-37%		1.5%
UK	-37%		0.4%
NL	-36%	2%	1.1%
AT	-36%	2%	0.4%
BE	-35%	2%	0.5%
IT	-33%		0.3%
IE	-30%	4%	5.6%
ES	-26%		1.3%
CY	-24%		1.3%
MT	-19%	2%	0.3%
PT	-17%		1.0%
EL	-16%		1.1%
SI	-15%		1.1%
CZ	-14%		0.4%
EE	-13%		1.7%
SK	-12%		0.5%
LT	-9%		5.0%
PL	-7%		1.2%
HR	-7%		0.5%
HU	-7%		0.5%
LV	-6%		3.8%
RO	-2%		1.7%
BG	0%		1.5%
*These figures are estimates. The limit is expressed in absolute million tonnes over 10 years in the proposal.			

[Non-ETS sectors - Progress report \(9861/17\)](#)

[Commission proposal on effort-sharing - Original document \(11483/16\)](#)

[Commission proposal on effort-sharing - Factsheet \(European Commission\)](#)

LULUCF regulation

The LULUCF regulation sets out **accounting rules** and member states' **commitments** regarding greenhouse gas emission reductions in sectors linked to the **use of soil** (land use, land-use change and forestry). These sectors cover the use of soils, trees, plants, biomass and timber. Their particularity is that they not only **emit greenhouse gases** but can also **remove CO₂** from the atmosphere.

There is a broad support from member states for incorporating the LULUCF sectors into, and considering them as fundamental elements of, the 2030 climate and energy framework.

Presidency compromise text

On the basis of the discussions between the member states, the Estonian presidency has prepared a compromise text setting the **reference period for the forest reference level from 2000 to 2009** (compared to the 1990-2009 period suggested by the Commission) and introducing a **new flexibility** in the area of **managed forest land**. Accounting rules are kept as in the Commission proposal, ensuring that all emissions and removals will be accounted for.

The managed forest land flexibility is considered the **main outstanding issue** for discussion. It takes the form of a **compensation mechanism** and aims to help member states having difficulty in complying with the "no debit rule" in spite of managing their forests sustainably and having put in place policies to maintain or enhance the sink of their forests.

All member states can make use of it, but **certain conditions** have to be met before it can be applied in order to preserve the environmental integrity of the proposal, in particular the "EU no debit condition". This means that LULUCF removals must exceed emissions in the EU as a whole.

Member states can only receive compensation up to the point where their national forests still generate a sink and cannot exceed a **maximum amount** predetermined for each member state on the basis of their average sink for the period 2000-2009. The compensation can be used over the period 2021-2030. The **sum of the maximum amounts** of compensation for individual member states is approximately 360 million tonnes of CO₂ equivalent over 10 years. This corresponds to approximately 10% of the EU's average annual sink in the period 2000-2009.

There is support for having this new flexibility. A considerable number of delegations can accept the compensation mechanism as it is, with some insisting on not making any other change to the text that could jeopardise the balance of the proposal. However, a number of member states have reservations or doubts about issues concerning either the overall amount of compensation, the distribution criteria for compensation or the conditions for its application, in particular the "EU no debit condition". Therefore, it is expected that these matters will be discussed during the meeting.

Presidency compromise text ([12829/17](#))

Main elements of the Commission proposal

Accounting rules:

The proposal updates the **accounting rules** for emissions and removals from these sectors and is fit-for-purpose for the period from 2021 to 2030. Emissions from biomass will also be recorded and counted.

No-debit rule:

Member states have to ensure that accounted emissions and removals **stay in balance** (taken over a five-year period) and that their LULUCF sector as a whole does not generate net emissions.

Flexibilities:

To ensure compliance with the "no-debit rule", certain **flexibilities** have been introduced. Member states are allowed to use excess allocations from the ESR, compensate for emissions from one land category with removals from another, accumulate net removals over the period 2021-2030 and trade excess removals among countries. As the circumstances of the member states are very different, it's important to allow for different CO2 reduction paths, as long as the overall aims are achieved.

Forest reference levels:

The reference level for the category "managed forest land" is determined based on a **historical reference period** and will be used by the member states to calculate emissions and removals from managed forests. The proposal incorporates a new **EU governance process** to determine those forest management reference levels. Together with the "cap" on the use of credits, these are the key elements of the proposal as regards accounting for managed forest land.

[Non-ETS sectors - Progress report](#)

[Commission proposal on LULUCF - Original document](#)

[Commission proposal on LULUCF - Factsheet](#)

[Current decision on accounting rules for LULUCF](#)

EU emissions reduction target

In its October 2014 conclusions, the European Council agreed on the 2030 climate and energy policy framework for the EU. Leaders set a binding EU target to reduce greenhouse gas emissions by **at least 40% by 2030 compared with 1990 levels**. This target was submitted in March 2015 as the intended nationally determined contribution of the EU and its member states under the Paris Agreement.

The target is to be delivered **collectively** by the EU in the most cost-effective manner possible, with all member states participating in the effort, balancing considerations of fairness and solidarity. To achieve the overall EU target, European Council conclusions also indicated that the reduction will amount to 43% in **ETS sectors** and 30% in **non-ETS sectors**, in both cases by 2030 and compared with 2005 levels.

[European Council \(October 2014\) - Conclusions](#)

[Intended nationally determined contribution to the Paris Agreement](#)

Timeline and next steps

In July 2016, based on the European Council's October 2014 conclusions, the European Commission presented proposals for two regulations on the sectors not covered by the ETS. The proposal for a review of the ETS had been submitted previously in July 2015.

All three files follow the **ordinary legislative procedure** and, therefore, proposals will be discussed by the **Council** and the **European Parliament** with a view to agreeing on the final texts. Four trilogues have already been held on the ETS. Both co-legislators aim to reach an informal agreement during the fifth trilogue, scheduled for 12 October, in order to close the file at first reading.

Proposals for the "non-ETS" sectors are currently being discussed. A policy debate was held at the Environment Council on 17 October 2016 and EU environment ministers were debriefed on 19 December 2016 on the state of play. On 19 June 2017, ministers discussed the progress made so far on both files.

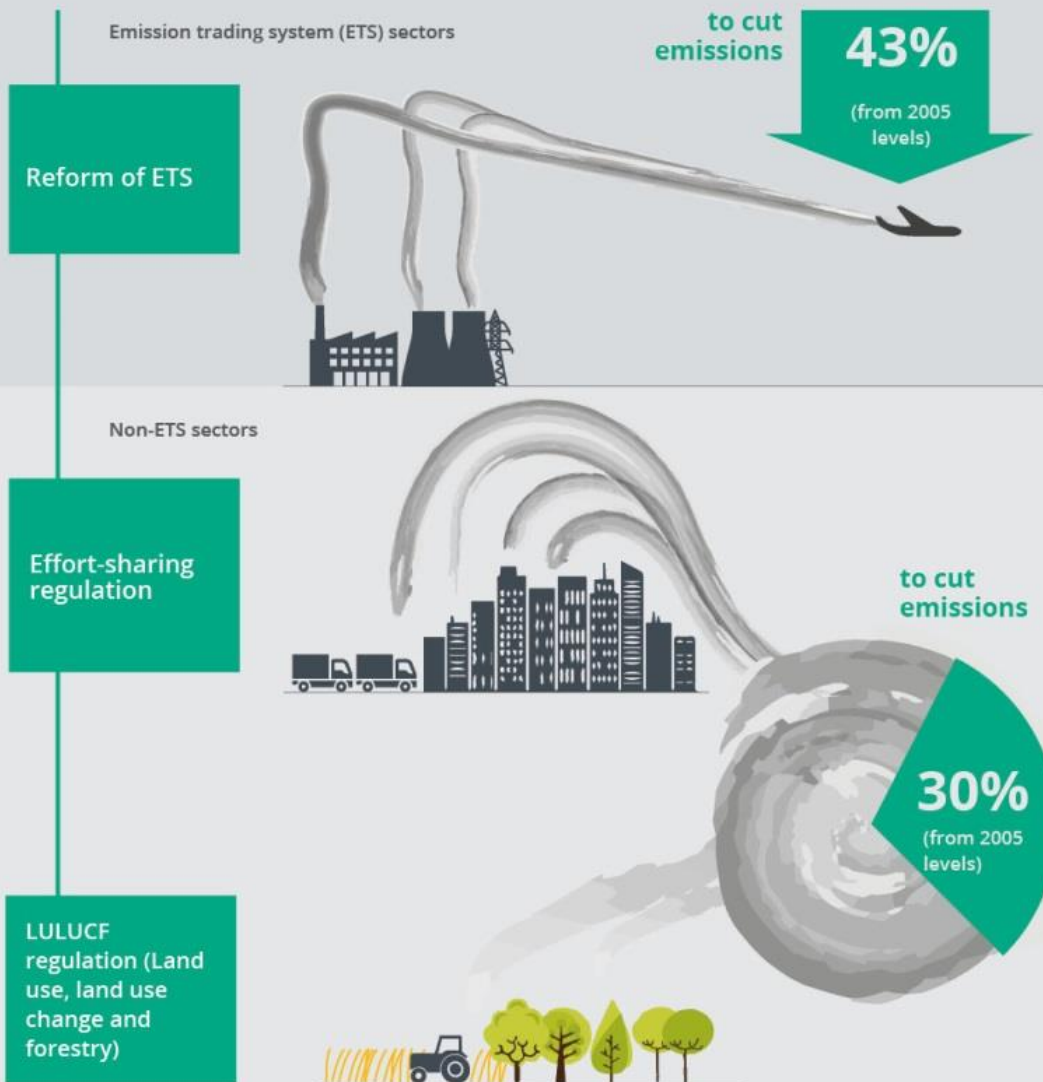
The European Parliament voted in plenary on its position on ESR and LULUCF on 14 June and 13 September respectively.

Paris Climate change: how will the EU deliver?

2030 goal: EU's commitment to Paris Agreement



How



COP 23 - UN Climate Change Conference

The Council will adopt conclusions on the **Paris Agreement** and preparations for the 23rd session of the Conference of the Parties (**COP23**) to the United Nations Framework Convention on Climate Change (UNFCCC). The conference takes place from 6 to 17 November 2017 in Bonn, Germany, and will be presided over by Fiji.

At COP23, world countries and the European Union will gather to advance the **implementation of the Paris Agreement** and develop a **set of guidelines** to help implement all of its provisions across a wide range of issues including transparency, adaptation, emission reductions, provision of finance, capacity-building and technology. The objective will be to complete these guidelines by COP24, which will take place next year in Katowice, Poland.

Among the issues under discussion will be the implementation rules of the Paris Agreement (the '**Paris work programme**'), NDCs (nationally determined contributions), NDC accounting rules, the transparency framework, the adaptation mechanism and the global stocktake. COP23 is also expected to determine the process and procedures of the **Facilitative Dialogue 2018**. That dialogue will take stock, in 2018, of collective efforts to achieve the objectives of the Paris Agreement.

The EU is determined to remain **at the forefront** of global efforts to combat climate change. At COP23, it particularly aims to make **substantial progress** on:

the implementation of the Paris Agreement (Paris work programme)

- preparations for the Facilitative Dialogue 2018
- the implementation of nationally-determined contributions (NDCs) at national level

Ahead of COP 23, the EU and its member states have also reiterated their commitment to contributing to the collective developed countries' goal of jointly mobilising USD 100 billion per year by 2020 through to 2025. The ECOFIN Council adopted **conclusions on climate finance** on 10 October. Helping developing countries to fight climate change continues to be a fundamental goal for the EU and its member states, which are considered to be the largest provider of public climate finance.

[COP23 Presidency website](#)

[COP 23 Information Hub - UNFCCC website](#)

[Council conclusions on climate finance – October 2017](#)

Paris Agreement

The **Paris Agreement** is a global, legally-binding instrument adopted by 195 countries in Paris on 12 December 2015 during the UN climate change conference, widely known as COP21. The agreement sets out the framework for global action on climate change.

The agreement **entered into force on 4 November 2016**, after reaching the required threshold of at least 55 party ratifications accounting for at least an estimated 55% of total global greenhouse gas emissions. The EU ratified the agreement on 5 October 2016. So far, a total of 166 parties have ratified the agreement, including all EU member states.

The first session of the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA 1) took place alongside COP22 in Marrakech, Morocco, from 15 to 18 November 2016.

The main elements of the agreement are as follows:

- It aims to keep the increase in global average temperature to **well below 2°C** above pre-industrial levels and pursue efforts to limit it to **1.5°C**
- Countries must submit comprehensive **national climate action plans** to reduce their emissions. These "nationally determined contributions" (NDCs) are to be communicated **every five years**, to allow for a gradual increase in ambition
- It also aims at increasing countries' ability to deal with climate impacts (**adaptation**) and to recover from them (**loss and damage**)
- To ensure **transparency** and oversight, the parties to the agreement agree to report on their progress in implementing their targets
- Developed countries commit to continue providing **climate finance** to assist developing countries, both to reduce emissions and to build resilience to climate change impacts, and other countries are also encouraged to provide or continue to provide support

[Paris Agreement - full text](#)

[Paris Agreement - UNFCCC website](#)

EU position

The EU has taken a proactive stance in committing itself to the Paris Agreement since the start of the process. The binding target set for the EU is the reduction of emissions by **at least 40% by 2030** compared to 1990 levels. This was submitted in March 2015 as the intended nationally determined contribution of the EU and its member states to the Paris Agreement.

Following the **US administration's** announcement of its **withdrawal** from the Paris Agreement, the Council adopted conclusions on climate change at the Foreign Affairs Council on 19 June 2017. On the same day, during the Environment Council, ministers unanimously welcomed those conclusions and reaffirmed in a public session their **strong commitment** to the **full and swift implementation** of the Paris Agreement.

[Council conclusions on climate change - June 2017](#)

[Environment Council public session – June 2017](#)

[Timeline - A new global climate change agreement \(gen. information and EU steps\)](#)

[Council statement on the ratification of the Paris Agreement - June 2016](#)

[Intended nationally determined contribution to the Paris Agreement](#)

ENVIRONMENT

UN Environment Assembly

The **UN Environment Assembly (UNEA)** is the world's highest-level decision-making body on the environment. This year, it will meet for its 3rd session (UNEA-3) from 4 to 6 December 2017 in Nairobi, Kenya, with its overarching theme being **pollution** – "Towards a Pollution-Free Planet". A ministerial high-level segment will take place on the last two days.

The Council will adopt a set of conclusions on the **EU priorities** for UNEA-3. This is on the agenda as the last item of the morning session. Then, a **ministerial lunch** is scheduled with United Nations Environment Programme (UNEP) Executive Director Erik Solheim to exchange views on the preparations for the assembly.

The key elements of the conclusions will include:

- recognising pollution as a **global challenge** with harmful consequences for our environment and human health (especially for vulnerable groups)
- supporting **international cooperation** and actions aimed at preventing and reducing pollution; this is considered a necessity for delivering on the 2030 Agenda
- signalling the importance of **taking action at all levels** and achieving international mobilisation to tackle pollution, keeping in mind links with other areas such as climate change, biodiversity loss and desertification

The conclusions will also cover others areas such as air quality, water quality, marine pollution, soil contamination, waste, chemicals and circular economy. At the assembly, side events will be organised on five sub-themes in order to tackle pollution in its different forms: water pollution, land pollution, marine pollution, air pollution, and sound management of chemicals and waste.

UNEA-3 will aim to achieve the following concrete outcomes:

- a **ministerial declaration** from all UN member states on combating pollution (final document of the conference)
- a set of **resolutions** focusing on different types of pollution
- a **global coalition** on pollution
- a series of **voluntary commitments** with specific actions to prevent and address pollution at regional and national level

The EU has tabled a **draft resolution on the environment and health** and is expected to actively contribute to a number of resolutions and voluntary pledges.

[UN Environment Assembly - website](#)

Background

During the United Nations Conference on Sustainable Development (Rio+20) held in June 2012, world leaders decided to strengthen and upgrade UNEP by replacing the former governing council with a new main governing body with universal membership (all 193 UN member states), namely UNEA.

The assembly takes place biennially, setting the global environmental agenda and providing a platform for leadership on global environmental policy.

Any other business

Recent international meetings

The Presidency and the Commission will brief ministers on several recent international meetings:

- Sixth session of the Meeting of the Parties (MOP 6) to the Aarhus Convention on Access to information, Public participation in decision-making and Access to justice in environmental matters (Budva, Montenegro, 11–13 September 2017)
- Joint high-level segment under the Meetings of the Parties to the Aarhus Convention and its Protocol on PRTRs (Budva, Montenegro, 14 September 2017)
- Third session of the Meeting of the Parties (MOPP 3) to the Protocol on Pollutant Release and Transfer Registers, (Budva, Montenegro, 15 September 2017)
 - Information note ([12930/17](#))
- First meeting of the Conference of the Parties to the Minamata Convention on Mercury (COP 1) (Geneva, 24–29 September 2017)
 - Information note ([12997/17](#))
- 13th meeting of the Conference of the Parties to the United Nations Convention to Combat Desertification (UNCCD COP 13) (Ordos, China, 6–16 September 2017)
 - Information note (13000/17)

Assessment of chemical substances

The French, Luxembourg and Italian delegations will report to the Council on a more transparent, more effective and safer assessment of chemical substances.

- Information note ([12893/17](#))

EU-China water cooperation

The Commission will inform the ministers about the cooperation between the European Union and China on water.

- Information note ([13047/17](#))

Coordination and coherence between the integrated national energy and climate plans for 2030 and the long-term emission reduction strategies

The Luxembourg delegation will inform the Council about the importance, for the implementation of the Paris Agreement, of good coordination of and coherence between the integrated national energy and climate plans for 2030 and the long-term emission reduction strategies, as well as of minimum quality, comparability and transparency standards.

- Information note ([12914/17](#))

International seminar “Science for Peace the World Over”

The Polish delegation will brief the ministers on the outcome of the 50th session of the international seminar "Science for Peace the World Over", held in Erice (Italy) from 20 to 23 August 2017.

- Information note ([12924/17](#))

Ratification of the Kigali amendment to the Montreal Protocol

The UK and Luxembourg delegations will inform the Council about the current state of play on the ratification of the Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer

- Information note ([12962/17](#))