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DRAFT MINUTES

Subject: **3363rd** meeting of the Council of the European Union (**ENVIRONMENT**),
held in Brussels on 17 December 2014

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE AND PUBLIC DELIBERATIONS

(In accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Council Decision concerning the dock dues in the French outermost regions (LA)

15406/14 POSEIDOM 19 REGIO 124

+ COR 1

The Council adopted the above Decision by unanimity. (Legal basis: Article 349 of the Treaty on the Functioning of the European Union)

2. Proposal for a Regulation of the European Parliament and of the Council concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC [First reading]

– Political agreement

16345/14 ENT 285 MI 967 CODEC 2411

+ COR 1

approved by Coreper, Part 1, on 10.12.2014

The Council reached a political agreement on the above draft Regulation.

3. Proposal for a Regulation of the European Parliament and of the Council on appliances burning gaseous fuels [First reading]

– General approach

16789/14 ENT 296 MI 992 ECO 182 IND 378 CONSOM 276 CODEC 2483

approved by Coreper, Part 1, on 10.12.2014

The Council reached a general approach on the above draft Regulation.

"B" ITEMS

4. Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 (MRV) [First reading]

(Legal basis proposed by the Commission: Art. 192 of the TFEU)

Interinstitutional file: 2013/0224 (COD)

– Political agreement

11851/13 ENV 658 MAR 86 MI 602 ONU 71 CODEC 1661

+ ADD 1

16238/14 CLIMA 113 ENV 949 MAR 186 MI 960 ONU 152 CODEC 2390

+ ADD 1 REV 1

+ ADD 2

The Council reached a political agreement on a draft Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 (MRV) on the basis of the compromise text agreed with the European Parliament, in view of an early second reading agreement on the file. EL, CY and MT indicated they could not support the text. PL and UK abstained.

The Council will adopt its position at first reading, following finalisation by the legal/linguistic experts, at one of its forthcoming meetings.

EL, MT, CY, FI, NL, SE, PL and the Commission made statements to the Council minutes (as set out below).

Statement by the Hellenic Republic and Malta

- "1. The Hellenic Republic and Malta consider that the text of the final agreement on the Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 fails to take fully under consideration concrete practices of the global shipping industry and, to that extent, it is rather questionable as to its suitability to achieve the desired purpose, namely the facilitation of the development of international rules within the IMO for the monitoring, reporting and verification of CO₂ emissions from international transport.

2. We consider that not all data required for each ship to be monitored and reported are relevant for the purpose of monitoring, reporting and verifying CO2 emissions from ships, thus increasing the administrative burden and costs for both the flag States and the ship-owners with no evident benefit to the marine environment. For these reasons, Greece and Malta have, from the beginning of the deliberations for the proposed Regulation, supported that the focus should be on the collection of data from ships' fuel consumption in combination with distance travelled, i.e. data already available on ships.
3. In addition, the Hellenic Republic and Malta are not convinced about the proportionality and added value of publishing commercially sensitive data, especially those related to "transport work" and "cargo carried", taking especially into account that ships operate in an environment subject to many variables which are not under the control of any party and influence their performance.
4. Furthermore, we still consider that the technical parts of the proposed Regulation have not been given the necessary consideration and sufficient time for elaboration, in order to enable the development of an MRV system which shall be workable both for the industry and for the authorities.
5. At the same time, the Hellenic Republic and Malta question the added value of the proposed EU MRV system, as included in the text of the final agreement, to serve as a model and promote the adoption of a global system, given that the ongoing discussions within the IMO follow a less complex and easy to implement approach towards the development of a global data collection system for fuel consumption of ships. It is of significant importance to ensure that, as soon as an international system is established through the IMO, the Regulation is reviewed, in order to be fully aligned to the global system.

Bearing in mind the above, the Hellenic Republic and Malta are not in a position to consent to the final agreement on the proposed Regulation."

Statement by Cyprus

"Cyprus had clearly expressed preference for a broadly agreed international monitoring, reporting and verification (MRV) system under the aegis of the International Maritime Organization (IMO). Within this context we also conveyed our view that an appropriately structured EU-level MRV regime could be acceptable. Our support was conditional on the mechanism being efficient and not distorting competition. Unfortunately, we have serious concern that certain provisions included in the text of the proposed Regulation, to be adopted, are problematic and the specificities of the maritime sector are not adequately taken into account.

In particular Cyprus believes that the provisions included in Article 21 of the Regulation that are related to the publication of information relevant to the energy efficiency of ships will result in distortionary competitive effects. Also, the information to be published regarding the energy efficiency of ships are not uniformly comparable and thus will lead to inappropriate conclusions and affect the market and the decision making for new rules.

Another important issue that will be generated by the publication of information relevant to the energy efficiency of ships is the disclosure of commercially sensitive operational information such as the ships' fuel consumption, volume of cargo handled, and distance travelled.

Cyprus, therefore, is not in a position to consent to the adoption of the Regulation."

Statement by Finland, the Netherlands and Sweden

"Finland, the Netherlands and Sweden are in favour of monitoring maritime CO₂ emissions and support the outcome reached in the negotiations between the Council and the European Parliament.

All sectors need to contribute to reducing greenhouse gas emissions to keep efforts in line with the global objective of limiting increases in global temperatures to 2^o C. In view of the international nature of shipping, the most effective method of reducing greenhouse gas emissions in international maritime transport will be by a global agreement in the International Maritime Organization (IMO). It is therefore crucial that the EU MRV Regulation contribute to the development of international rules in IMO.

The EU MRV Regulation lays down a system for monitoring CO₂ emissions and other relevant data, while preserving the confidentiality of commercial and industrial information. The Regulation can among other things contribute to the removal of market barriers and help setting goals by providing reliable data.

In order to ensure a level-playing field for ships operating in less favourable climate conditions, it is also important that specific information relating to the ship's ice class and the navigation through ice can be added to the data monitored according to the Regulation.

We would like to stress that there is a need for further work on some of the elements of the regulation. In particular it will be important to further elaborate the calculation of transport work and the energy efficiency of ships so as to allow for a fair and robust comparison between different ship types. This will be challenging for all ship types, especially for ship types like general cargo, Ro-Pax and Ro-Ro ships. Specifying the parameters to be used in the calculation of cargo carried for all ship types is essential, both including those in the category of implementing acts and those in the category of delegated acts.

We would also like to underline the importance that the EU Member States continue to play a constructive role in the discussions at the IMO on the development of international rules."

Statement by Poland

"Poland supports efforts to reduce carbon dioxide emissions from maritime transport but is of the opinion that such efforts should be made within the forum of the International Maritime Organization (IMO) because of the international nature of shipping and the global effects of climate change. Therefore, any legislative solutions should be of a global rather than a regional nature.

Poland takes the view that the International Maritime Organization is the most appropriate forum for the establishment of legal standards for the reduction of carbon dioxide emissions from international maritime transport. The IMO's decisions do not pose a risk of reactive measures being introduced by non-EU States in response to provisions introduced on the basis of EU requirements. Poland actively supports and promotes measures undertaken within the IMO forum which aim to establish appropriate global instruments.

In Poland's opinion, the adoption of the proposed regulation in its current form will not facilitate negotiations and efforts by the IMO to establish global solutions since the draft regulation contains elements on which a consensus in the IMO is unlikely to be achieved in the short term (for example on the issue of reporting quantitative information about cargo).

Poland cannot support the draft regulation. However, since in the course of work on the draft some aspects have been taken into account in such a way as to make the regulation more acceptable and bring it closer to solutions proposed within the forum of the IMO, Poland is abstaining from voting on the issue of political agreement on the draft."

Statement by the Commission

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5, paragraph 4, second subparagraph, point (b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

6. Proposal for a Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste to reduce the consumption of lightweight plastic carrier bags [First reading]

(Legal basis proposed by the Commission: Art. 114 of the TFEU)

Interinstitutional file: 2013/0371 (COD)

– Political agreement

15845/13 ENV 1028 MI 974 IND 305 CONSOM 186 CODEC 2473

16137/14 ENV 943 MI 949 IND 362 CONSOM 259 CODEC 2373

+ COR 1

The Council reached a political agreement on a draft Directive to reduce the consumption of lightweight plastic carrier bags in the framework of an early second reading agreement with the European Parliament. The common position will be adopted at a later stage, after the legal linguistic revision of the text.

7. Proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants [First reading]

Interinstitutional file: 2013/0442 (COD)

– General approach

18170/13 ENV 1236 ENER 601 IND 389 TRANS 694 ENT 357 SAN 557

PARLANT 326 CODEC 3089

+ ADD 1

+ ADD 6

16817/14 ENV 987 ENER 508 IND 380 TRANS 589 ENT 297 SAN 481

PARLNAT 296 CODEC 2489

The Council reached a general approach on the draft Directive. The text will serve as a basis to start negotiations with the European Parliament at a later stage, with a view to an agreement in first reading. EE indicated it could not support the text while CZ/BG/PL/NL abstained. EE and NL made a statement to the Council minutes (as set out below).

Statement by Estonia

"Estonia supports the overall objective of the proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants.

Estonia cannot, however, support the proposed compromise text, because the proposal as it stands right now is not cost-effective.

Medium combustion plants' contribution to Estonia's air pollution is minor: they provide only 13% of sulphur dioxide (SO₂) emissions, 6% of nitrogen oxide (NO_x) emissions, and 10-15% of particulate matter emissions. Furthermore, Estonia has a very good air quality and no exceedances in air quality standards (according to Directive 2008/50/EC).

Firstly, very strict emission limit values for dust will not entail cost-effective investments comparing to the environmental benefits gained. Estonia has been supporting and promoting the use of solid biomass and other renewable energy sources. Operators have retrofitted their combustion plants accordingly. With the dust emission values of the compromise proposal, additional significant investments need to be undertaken that are not cost-effective. This would lead to giving up district heating and preferring local heating instead (i.e. plants under 1 MW), which would have an overall negative effect on the air quality.

Secondly, using indigenous, unique shale oil fuel (retort gases) will be impossible due to the new emission limits for gaseous fuels other than natural gas. Utilising these by-product gases is the most optimal way to use all the emerging energy from shale oil production. It is important for Estonia to maintain that possibility.

Estonia looks forward to further negotiations and hopes to find appropriate solutions to the above mentioned issues."

Statement by the Netherlands

"The Netherlands is of the opinion that the improvement of the air quality is very important and that in this respect European source control measures are essential. After all, air pollution is a transboundary issue.

The current proposal lacks ambition and will hardly reduce the emissions of middle size combustion plants in Europe in the coming 15 to 20 years, in spite of the fact that cost effective ways to reduce these emissions exist. As a result, the improvement of air quality in Europe does not meet its full potential. The Netherlands believes this is a missed opportunity."

9. Any other business

(a) Current legislative proposal

- **Proposal for a Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC**

Interinstitutional file: 2014/0011 (COD)

- Information from the Presidency on the state of play
16360/14 CLIMA 114 ENV 955 MI 969 IND 367 ENER 495 COFIN 1146
TRANS 572 COMPET 656 CODEC 2414

The Council took note of the information by the Presidency on the above, as set out in doc. 16360/14, and of comments from delegations.

(h) Current legislative proposal

- **Proposal for a Decision of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment [First reading]**

Interinstitutional file: 2014/0201 (COD)

- Information from the Presidency on the state of play
17012/14 ENV 1004 COMPET 681 SAN 491 MI 1011 IND 384 CONSOM 284
ENT 302 CODEC 2536

The Presidency briefed the Council on the state of play of the legislative proposal.

The Council expressed disappointment with the Commission's proposed work programme for 2015 wherein it suggests withdrawing this legislative proposal with a view to submit a new and more ambitious one.

In particular, Ministers stressed that significant work has already been carried out on the basis of the current proposal, albeit not perfect, and expressed willingness to keep working on this basis. Some ministers also argued that withdrawal would send a negative message.

Ministers also sought clarifications from the Commission with respect to the way forward. They also added that should the Commission proceed with the withdrawal, a revised proposal should be balanced and realistic and reflect the concerns already expressed by Member States to date.

The Commission confirmed that it has taken good note of all the points raised by ministers on the importance of the circular economy and reassured the Council that it does not intend to back off from its objective. On the contrary, the intention is to withdraw the proposal as to table a more ambitious one.