



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 November 2012

**6747/12
ADD 1 REV 1**

**PV CONS 9
ECOFIN 175**

ADDENDUM to DRAFT MINUTES

Subject: **3148th** meeting of the Council of the European Union (**ECONOMIC and FINANCIAL AFFAIRS**) held in Brussels on 21 February 2012

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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 DELIBERATIONS

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Regulation of the European Parliament and of the Council on short selling and certain aspects of credit default swaps

PE-CONS 68/11 EF 164 ECOFIN 818 CODEC 2154 OC 74

6216/12 CODEC 307 EF 30 ECOFIN 115 OC 46

+ ADD 1 REV 1

approved by Coreper, Part 2, on 16.02.2012

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU).

Statement by the Commission

"The Commission remains committed to availing itself of all relevant expertise. The Commission regrets that the wording in recital 43 on consultations does not fully reflect the Common Understanding on delegations of legislative power under Article 290 of the TFEU".

Statement by the United Kingdom and the Czech Republic

"At May ECOFIN the Council and Commission committed "to work during Trilogue to find a solution taking into account the concerns expressed by Member States in ECOFIN Council regarding the powers of ESMA in Article 28". Despite this commitment the concerns were not addressed. The United Kingdom and the Czech Republic continue to have significant concerns that, as drafted, Article 28 would be unlawful and contravene the principle set out in the judgment of the Court of Justice of the European Union in the case of *Meroni*. The British and Czech governments cannot therefore support the text in Article 28 and will be considering how best to ensure legal certainty is provided."

2. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items (first reading) (LA)

- a) adoption of the position of the Council in first reading
- b) adoption of the statement of the Council reasons

18144/11 COMER 248 PESC 1603 CONOP 89 ECO 151 UD 355

ATO 157 CODEC 2315 OC 83

+ ADD 1

6212/1/12 REV 1 CODEC 305 COMER 26 PESC 125 CONOP 20 ECO 15

UD 35 ATO 14 OC 58

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union (Legal basis: Article 207(2) of the TFEU).

3. Directive of the European Parliament and of the Council amending Council Directive 78/660/EEC on the annual accounts of certain types of companies as regards micro-entities

PE-CONS 79/11 DRS 133 COMPET 624 ECOFIN 896 CODEC 2464 OC 99

+ COR 1 (lt)

+ COR 2 (de)

+ COR 3 (ro)

+ COR 4 (nl)

The Council approved the European Parliament's amendment to the Council's position with the Portuguese delegation abstaining. The Directive is deemed to have been adopted in the form of the Council's position at first reading thus amended, pursuant to Article 294(8)(a) of the Treaty on the Functioning of the European Union. (Legal basis: Article 50(1) of the TFEU).

Statement by Spain, France, Greece, Luxembourg and Italy

"Spain, France, Greece, Luxembourg and Italy support the objective of reducing unnecessary administrative burdens for micro-entities in order to contribute to their development.

At the Competitiveness Council on 30 and 31 May 2011, these Member States supported the common position on the draft Directive regarding the development of a simplified accounting regime for micro-entities. Though they still have some concerns, they are not opposing the text on which agreement has been reached with the European Parliament, so that the draft Directive can be adopted, and they would reiterate that this agreement does not in any way set a precedent for future legislation and/or lighter regimes for micro-entities.

Spain, France, Greece, Luxembourg and Italy will, in particular, examine the recent proposals concerning the revision of the Fourth and Seventh Accounting Directives as well as any future initiatives aimed at establishing exemptions or simplified regimes for micro-entities, in the light of the following principles:

- their impact on the functioning of the internal market: harmonisation is in itself an element of simplification for enterprises and increases the fairness of transactions. This objective should not be affected; on the contrary, it must be pursued and reinforced. There should be no deharmonisation of the internal market.
- whether fundamental objectives such as respect for human health, preservation of the environment and respect for social rights are met.
- whether the principle of transparency, the principles of European accounting law and, more generally, the objectives of European financial legislation are met."

Statement by Germany

"Germany supports the reduction of accounting and financial reporting requirements for micro-entities in order to reduce unnecessary administrative burdens.

Germany therefore supported the original proposal of the Commission. That proposal provided the Member States with the necessary options for providing exemptions and is consistent with the general efforts to reduce administrative burdens, which have been repeatedly expressed at the European level as well.

The current draft position of the Council will achieve considerable reduction of regulatory requirements for micro-entities in the area of accounting. However, Germany would have preferred to set the thresholds as high as in the Commission proposal. This would have given Member States the option to exempt more small companies. Furthermore, the current text no longer includes real possibilities for exemptions from the publication requirement, which would have substantially reduced administrative burdens. Nevertheless Germany agrees with the current package as it does not intend to obstruct the first step to reduce administrative burdens for micro-entities arising from accounting and financial reporting requirements. Germany will continue to advocate for a more ambitious reduction of administrative burdens."

AGENDA ITEMS

3. Proposals from the Commission on Economic Governance

= General approach

6565/12 ECOFIN 154 UEM 35 CODEC 397

6566/12 ECOFIN 155 UEM 36 CODEC 398

6568/12 ECOFIN 157 UEM 37 CODEC 400

The Council agreed a general approach on two draft regulations on economic governance and agreed to have the following statement into the minutes:

"The Council, acting by qualified majority of the members of the Council representing Member States whose currency is the euro, agreed on the text of the general approach as set out in document 6568/12. In the course of the deliberations all Council members expressed political support to the idea of the suspension by Article 8 and Article 9 of the generally applicable procedures when a Member State is under programme."

4. AOB

- **Information from the Presidency on current legislative proposals**

The Council took note of the information by the Presidency regarding the state of play on the negotiations and next steps in relation to:

- the Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (DGS); and,
- the Regulation of the European Parliament and of the Council on OTC derivative transactions, central counterparties and trade repositories (EMIR).

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