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**PV/CONS 20
AGRI 251
PECHE 167**

DRAFT MINUTES

Subject: **3234th meeting of the Council of the European Union (AGRICULTURE
AND FISHERIES), held in Luxembourg on 22 April 2013**

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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).

"A" ITEMS

NON-LEGISLATIVE ACTIVITIES - PUBLIC ADOPTIONS

(Pursuant to Article 9(1) of the Council's Rules of Procedure [proposed by the Presidency])

22. Council Decision on guidelines for the employment policies of the Member States

7116/13 SOC 144 ECOFIN 168 EDUC 72 OC 122

The Council adopted the above Decision (Legal basis: Article 148(2) of the TFEU).

LEGISLATIVE DELIBERATIONS

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

1. Regulation of the European Parliament and of the Council on the European system of national and regional accounts in the European Union [First reading] (LA + S)

PE-CONS 77/12 STATIS 106 ECOFIN 1090 UEM 345 CODEC 3081 OC 768
+ ADD 1 to ADD 26

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 338(1) of the TFEU).

Commission Statement

"The Commission is of the view that Article 290 is to be interpreted as meaning that it is autonomous in the preparation and adoption of delegated acts. The standard recital on expert advice contained in the Common Understanding agreed between the three institutions is a reflection of this interpretation. The Commission therefore regrets that recital 16 deviates from the Common Understanding."

Statement by Slovenia

"Slovenia shares from the very beginning the main objective of the Proposal for a Regulation of the European Parliament and of the Council on the European System of National and Regional Accounts in the European Union (ESA 2010). Large majority of concerns that Slovenia expressed towards the Commission's proposal was addressed during procedure so far. The compromise is thus almost fully satisfactory for Slovenia.

However, according to the current Regulation (Regulation ESA 1995, Regulation No. 2223/1996) Slovenia has so-called permanent derogations for the transmission of the following statistics: GDP by the output approach at current prices, quarterly, for years 1995-1999; employment in hours worked, for years 1995-1999; financial accounts, for years 1995-2001; government expenditure by function, for years 1995-1999. Slovenia will do its best to compile the missing statistics and fill the gaps but this will not be possible for all mentioned data. This relates in particular to financial accounts and government expenditure by function. Data sources needed to compile mentioned statistics are not available and they cannot be created for the past. Consequently, Slovenia will never be in a position to compile these statistics and to comply with requirements of the Regulation. Therefore, Slovenia abstains."

2. Decision of the European Parliament and of the Council on accounting rules on greenhouse gas emissions and removals resulting from activities related to land use, land-use change and forestry and on information concerning actions relating to those activities [First reading] (LA)

PE-CONS 2/13 ENV 8 ONU 3 FORETS 1 AGRI 2 CODEC 10 OC 5

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU).

3. Regulation of the European Parliament and of the Council on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC [First reading] (LA + S)

PE-CONS 1/13 ENV 7 ENER 3 TRANS 3 IND 2 ONU 2 AGRIFORET 2
ECOFIN 2 CODEC 8 OC 4
+ COR 1 (fi)

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU).

Commission statements

"The Commission takes note of the deletion of Article 10 of its original proposal. However, in order to improve data quality and transparency on CO₂ emissions and on other climate-relevant information relating to maritime transport, the Commission agrees to instead address this issue as part of its upcoming initiative on monitoring, reporting and verification of shipping emissions that the Commission undertakes to adopt during the first half of 2013. The Commission intends to propose an amendment to this Regulation in that context."

"The Commission notes that supplementary rules concerning the establishment, maintenance and modification of the Union system for policies, measures and projections as well as the preparation of approximated greenhouse gas inventories may be required in order to ensure the proper functioning of the Regulation. As of early 2013, the Commission will examine the matter in close cooperation with Member States and will, if appropriate, make a proposal to amend the Regulation."

4. Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) [First reading] (LA + S)
PE-CONS 79/12 CONSOM 163 MI 852 JUSTCIV 381 CODEC 3130 OC 773

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 German and Spanish delegations 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 Spain

"Since the 1998 and 2001 Recommendations were adopted, Spain has supported all initiatives relating to alternative dispute resolution for consumer disputes, and will continue to encourage the establishment and development of ADR bodies, in accordance with the text adopted today.

However, we cannot accept the content of Article 13 insofar as it requires those traders who are obliged to or have committed to make use of ADR entities to provide duplicate information.

Firstly, they must refer to this obligation or commitment on their websites and in all contracts or general terms and conditions. Secondly, they must repeat this information each and every time they reject a complaint submitted directly to them. Furthermore, in such cases they must once again specify whether they will make use of the entities, although the fact that they have previously committed to or are obliged to use them means that the answer can only be yes.

On the other hand, traders who have not committed to or are not obliged to make use of an ADR entity only have to mention the ADR entities by which they are covered when they reject a complaint submitted directly to them by a consumer, specifying at that time whether or not they will make use of the entities, something that is entirely up to them to decide.

In order to avoid the twofold obligation which is thus imposed on traders who have already committed to make use of ADR entities but not on those who have not, the former will find it more attractive to refrain from accepting the intervention of ADR entities prior to a complaint. In this way, they will avoid having to provide the information on their websites and in all of their contracts. This will also prompt new traders not to commit in advance to using ADR entities, thereby simplifying the information requirement imposed on them by the Directive.

The purpose of the Directive, which is to improve the retail internal market and provide redress for consumers by creating ADR entities, increasing their coverage and making them more widely available, could be undermined, and the impact on the strengthening of consumer protection in terms of access to justice could be negative.

After 20 years of development, the Spanish system of mediation and arbitration, which is publicly managed and funded, covers the whole country and all economic sectors. More than 80 % of the complaints received by our ADR entities come from companies which are committed to using them and will now be required by the new text to give duplicate information. These include the major telecommunications companies, which receive around 25 million complaints per year and account for over 60 million users receiving monthly bills.

Spain showed its support for the text of the Council general approach. We would also have accepted without hesitation the proposal as set out in the Commission's original text, which would have helped improve awareness of ADR entities since it required all traders to provide information about them. However, for the reasons set out above, we will abstain from voting on the adoption of the Directive because we cannot accept the final wording of Article 13."

Statement by the United Kingdom
regarding the implications of Article 13(3)

"The UK has concerns that imposing compulsory information requirements in this manner on traders who have no intention of using ADR will cause confusion for traders and consumers, impose unnecessary burdens on traders, and create difficulties with compliance and enforcement. The impact of this provision should be closely monitored by the Commission and feature prominently in the report on the application of the Directive."

Statement by the United Kingdom

"The Council is being asked to adopt the Proposal for a Directive on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) with Article 114 as its legal base. The United Kingdom believes that Article 12 of the Directive falls within the scope of Article 81 TFEU and that this Title V legal base should therefore have been cited. In light of the fact that Article 12 is adopted pursuant to Title V, the United Kingdom considers that this provision should have been split from the Directive and placed in a discrete instrument, or removed from the text of the Directive. As the United Kingdom can accept the policy objective of Article 12, it has opted in pursuant to Protocol 21 of the Treaty on the Functioning of the European Union."

5. Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) [First reading] (LA)

PE-CONS 80/12 CONSOM 164 MI 853 JUSTCIV 382 CODEC 3131 OC 774

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 German delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU).

6. Decision of the European Parliament and of the Council derogating temporarily from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community [First reading] (LA + S)

PE-CONS 11/13 ENV 217 AVIATION 46 MI 203 IND 73 ENER 94

CODEC 592 OC 149

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 Polish delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU).

Statement by Poland

"Throughout the negotiations Poland had been consistently pointing out that the proposal for a *Decision of the European Parliament and of the Council derogating temporarily from Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community* as presented by the European Commission provides only for a partial solution to the problem which has arisen in the application of the ETS in the aviation sector. Poland has been of the opinion that the optimum solution would have to cover all the flights, both to and from the EU as well as within the EU. As the text negotiated with the European Parliament does not provide a response to Polish concerns, yet endeavours to facilitate the global climate negotiations, Poland will abstain from voting."

Statement by the United Kingdom

"The British Crown Dependencies - the Isle of Man, the Bailiwick of Guernsey, and the Bailiwick of Jersey - recognise that the purpose of "stop the clock" is to improve the prospects of securing a global deal within the framework of ICAO in September 2013. The Crown Dependencies strongly support this objective. The Crown Dependencies also recognise that the inclusion of certain third countries (ie the Overseas and Dependent Territories, and the EEA/EFTA countries) is helpful for the EU's negotiating position ahead of the ICAO meeting.

For this reason, the Crown Dependencies are, exceptionally, prepared to accept continued inclusion within the EU ETS aviation scheme on the temporary basis set out in the Commission "stop the clock" proposal in order to maximise the chances of securing a global deal within the framework of ICAO.

However in the event of no global agreement being reached in September within the framework of ICAO, the UK supports the view of the Crown Dependencies governments that the exclusion of the dependent territories from the temporary derogation should not be treated as a precedent for any successor regime which may or may not be required after the expiry of the temporary measure.

In such an event (ie no global agreement in ICAO), the UK would expect the Commission to engage in full and timely consultations with all interested parties, including the Crown Dependencies, before submitting any proposal for a successor to the temporary “stop the clock” regime."

Statement by the Commission

"The Commission recalls that, according to Article 3d of the Directive 2003/87/EC, revenues generated from the auctioning of aviation allowances should be used to tackle climate change in the EU and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the Community scheme. The proceeds of auctioning should also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.

The Commission notes that Member States shall inform the Commission of actions taken pursuant to Article 3d of the Directive 2003/87/EC on the use of revenues generated from the auctioning of aviation allowances. Specific provisions on the content of this reporting are set out in Regulation (EU) No .../2013² on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC. Further details will be set out in a Commission implementing act under Article 18 of that Regulation. Member States will make the reports public, and the Commission will publish aggregate Union information on these in an easily accessible form.

The Commission emphasizes that a global market-based mechanism putting an international price on carbon emissions from international aviation transport could, in addition to achieving its primary goal of emission reductions, help provide the necessary resources to support international climate change mitigation and adaptation measures."

² To be soon published in the Official Journal.

7. Proposal for a Regulation of the European Parliament and of the Council on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 [First reading] (LA + S)

- Adoption
 - a) of the Council's position at first reading
 - b) of the statement of the Council's reasons
- 8351/1/13 REV 1 CODEC 783 DENLEG 33 AGRI 235 SAN 122 OC 201
+ REV 1 ADD 1
5394/13 DENLEG 4 AGRI 20 SAN 17 CODEC 94 OC 21
+ ADD 1 REV 1
approved by Coreper, Part 1, on 17.04.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union, with the German delegation voting against and the United Kingdom delegation abstaining. (Legal basis: Article 114 of the TFEU).

Statement by the Federal Republic of Germany

"Germany is opposed to the current proposal for a Regulation on food intended for infants and young children and on food for special medical purposes.

Germany has always supported revision of the European legislation on dietetic foods in principle. The desired objectives of simpler and better regulation and more far-reaching harmonisation of this area of law are not, in Germany's view, adequately achieved by the proposed Regulation.

In particular, Germany considers that the new Regulation does not take adequate account of the special level of protection required for highly vulnerable target groups. The German view is that, for reasons of preventive health protection, it is problematic to allow the unrestricted addition of various substances added, because of their nutritional or physiological effect, to foodstuffs within the scope of the Regulation.

In this context, Germany observes *inter alia* an irreconcilable discrepancy between the stringent requirements of the Health Claims Regulation on the scientific verifiability of nutrition and health claims in food advertising on the one hand, and the clearly less stringent safety requirements with regard to preventive consumer health protection in relation to foods for special medical purposes on the other.

Furthermore, the proposed Regulation no longer contains the procedure for approving an extension of the positive list that was originally included, so that the addition of substances not hitherto covered in the positive list is now left to the sole initiative of the European Commission. Food producers are thereby deprived of the possibility of obtaining European approval for a substance by a clearly regulated procedure and thus securing legal certainty for innovations. The new Regulation consequently does not meet the requirement to promote innovation."

Statement by the United Kingdom

"The United Kingdom supports the aim to simplify the regulatory framework for foods for vulnerable groups and considers that the proposed text largely achieves this objective. However, the UK does not support the use of delegated acts to amend the Union list of substances and therefore is unable to support the proposal. Decisions on the authorisation of individual substances should be achieved by means of implementing acts using the examination procedure in Regulation (EU) 182/2011. The use of a delegated act in this particular circumstance must not be considered as a precedent for other areas of food policy."

AGENDA ITEMS

4. CAP Reform Package:

- (a) Proposal for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (First reading)**
- (b) Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (First reading)**
- (c) Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (Horizontal regulation) (First reading)**
- (d) Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) (First reading)**
- State of play

The Council took note of the information provided by the Presidency on the state of play on CAP reform, particularly as regards the ongoing informal trilogue process with a view to reaching on agreement on the CAP Reform package with the European Parliament in June. The Council further took note of the comments made by delegations as well as of the Commission representative.

5. Reform of the Common Fisheries Policy

(a) Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy (First reading)

- Orientation debate
12514/11 PECHE 187 CODEC 1166
7959/13 PECHE 120 CODEC 681

During the orientation debate, Ministers supported the Presidency's work programme over the coming weeks, intended to finalise negotiations with the European Parliament in first reading under the Irish Presidency. Ministers also gave their views on the core political issues which the Presidency had highlighted. As regards the concept of regionalisation, many delegations pointed out that the reform should not result in a re-nationalisation of the Common Fisheries Policy. Many delegations also reiterated their view that scope for moving towards the European Parliament's position on capacity management and landing obligation was very limited, while some delegations saw room for converging the positions on maximum sustainable yield. On the issue relating to inter-institutional responsibilities, delegations encouraged a legally neutral approach to negotiating the chapter of the proposal related to multi-annual management plans, thus respecting the positions of the European Parliament and of the Council.

(b) Proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products (First reading)

- State of play
12516/11 PECHE 188 CODEC 1167
7959/13 PECHE 120 CODEC 681

The Presidency informed delegations about the outstanding issues resulting from two informal trilogue meetings, which concern the mandatory consumer information and delegated acts.

The Presidency expected to find an agreement on this Regulation with the European Parliament and the Commission next month.