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THE EUROPEAN UNION**

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ADD 1**

**PV/CONS 50
COMPET 286
RECH 325**

ADDENDUM TO DRAFT MINUTES

Subject: **3035th** meeting of the Council of the European Union (**COMPETITIVENESS (Internal Market/Industry/Research)**) held in Luxembourg on 11 and 12 October 2010

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PUBLIC DELIBERATIONS¹

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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).

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"A" ITEMS

1. **Directive of the European Parliament and of the Council amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market**

PE-CONS 29/10 EF 64 ECOFIN 407 DRS 26 CODEC 608
+ REV 1 (nl)

The Council approved the amendment set out in the European Parliament's opinion and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 50 and 114 of the TFEU).

Statement by the Portuguese and Cypriot delegations

"The proposed changes to the Prospectus Directive aim at limiting the burden to companies, especially to small and medium sized enterprises. This is certainly a laudable objective, but it should not jeopardize investor protection, the main goal of the Prospectus Directive, and the level of harmonisation across Member States previously achieved. In this context, Portugal and Cyprus consider that the potential negative impact of the current proposal on the two aforementioned key aspects of the Prospectus Directive - investor protection and harmonisation across Member States - should be borne in mind when drafting implementing measures and carefully reassessed by the Commission when further revisiting the Directive."

2. **Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies**

PE-CONS 35/10 ECOFIN 455 EF 79 CODEC 701

The Council approved the amendment set out in the European Parliament's opinion 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 53(1) of the TFEU).

Statement by the Finnish delegation

"Finland is of the opinion that the application of Art 3.1 of the Directive may lead to retroactive application of legislation to private contracts, which would be in conflict with the established interpretation of the constitutional protection of property. Finland will therefore apply the paragraph taking into account the necessary principles to ensure the constitutional protection of property."

Statement by the United Kingdom

"The UK notes the amendments to the treatment of covered bonds in paragraph 2 ba-bd of Annex I of the amending text. These affect the provisions on the risk-weights attached to covered bonds and the inclusion of securitisations in covered bond pools, which were due to be reviewed by December 2010. The risk weights have been made permanent and the inclusion of securitisations extended until 2013. After the initial agreement was reached between the Council and the European Parliament, the ECB Governing Council expressed serious concerns in relation to the inclusion of securitisations in covered bond pools. Given the concerns expressed and the importance of a sound prudential framework for banks in the European Union, the UK believes both the issues described above should be formally reviewed as soon as possible and, in any case, in time for the discussions of CRD4 proposals."

3. Decision of the European Parliament and of the Council providing macro-financial assistance to the Republic of Moldova

PE-CONS 44/10 ECOFIN 528 RELEX 771 COEST 277 NIS 104 CODEC 843
+ REV 1 (bg, el, fr, hu, lt, mt, nl, pl, pt, ro, sl, sk)
+ REV 1 COR 1 (nl, lt)

The Council approved the amendment set out in the European Parliament's opinion 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 212 of the TFEU).

Statement by the Council and the Commission

"The Council and the Commission confirm that the Genval criteria, as reviewed by the Council (Ecofin) on 08.10.02, remain the principles on which any future macrofinancial assistance should continue to be based upon."

Statement by the Council

"In giving its consent, the Council emphasises the fact that in view of the general review of the Comitology Decision 1999/468/EC of 28 June 1999, the envisaged creation of an advisory committee to monitor implementation of macro-financial assistance for Moldavia does not set forth a precedent for subsequent legislative proposals on macro-financial assistance.

The Council supports further discussions with the European Parliament to agree on a joint approach to the macro-financial assistance in the light of the Genval criteria in the version of 8 October 2002."

4. Regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC

PE-CONS 30/10 ENER 211 CODEC 654

+ COR 1(en)

+ REV 1 (bg, cs, el, es, et, fr, ga, it, lt, pt, sv, lv, mt, sl, ro)

+ REV 2 (el)

+ REV 3 (it)

+ REV 4 (lt)

The Council approved the amendment set out in the European Parliament's opinion 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 194(2) of the TFEU).

Statement by the Netherlands

"The Netherlands has taken note of the approval of the Regulation concerning measures to safeguard security of gas supply and is concerned about a number of issues following from the Regulation. Firstly, for a net exporter of gas as the Netherlands, formulating security of supply policies and measures with regard to gas should remain a national prerogative.

The second issue concerns investments by governments in gas infrastructures, including LNG installations and gas storages, which are justified by security of supply arguments but are not needed by the market and may seriously distort the proper functioning of the internal market in natural gas as they will lead to unfair competition and are detrimental to private sector initiatives. The Netherlands calls on the Commission to closely monitor these type of investments.

Thirdly, the Netherlands attaches great importance to clear and well-defined requirements for natural gas undertakings to take the necessary measures to ensure gas supply to protected customers. Unfortunately, the Regulation does not provide this clarity as the supply standard has an open ended character and it is not clear from the outset which natural gas undertaking or group of natural gas undertakings have to take measures. This may lead to long and cumbersome discussions at the national level. In order to avoid this the Netherlands should be allowed to make its own choices on these issues, without interference from the Commission.

Finally, the Netherlands is of the opinion that Low Calorific Gas interconnections should be exempted from the reverse flow obligations as reverse flow for this specific kind of gas will not contribute to the European security of gas supply."

Commission declaration on competition with respect to recital 45

"The Commission considers that the reference in recital 45 to distortions of competition covers all forms of restriction of competition, including in particular restrictive clauses of contracts, for example destination clauses.

The Commission also confirms that the application of Article 101 of the TFEU to the conditions referred to in recital 45 will be carried out where appropriate by the Commission or by one or more of the competent competition authorities of the Member States, in line with the provisions of Council Regulation (EC) No 1/2003."

Commission Declaration on long term security of supply measures including diversification of gas supply sources and routes, regional cooperation and international cooperation in energy efficiency

"The Commission underlines that the diversification of gas supply sources and routes for the Union is essential to improve the security of gas supply of the individual Member States and the Union as a whole.

Recognizing the need to develop a long term security of supply strategy, the Commission will adopt by end of 2010 a comprehensive Energy Infrastructure Package assessing the priorities for the development of gas infrastructures in the coming decades and the progress achieved on the priorities identified in the Second Strategic Energy Review. The Energy Infrastructure Package will identify the instruments and measures to provide incentives for investments in gas infrastructures, in particular including the diversification of supply routes, integration of 'gas islands', facilities for liquefied natural gas (LNG), as well as storage capacities.

The Commission also supports the close cooperation of all stakeholders at all levels – the Member States, the independent Regulators, the gas industry and the consumers – within the regional initiatives. In 2010 the Commission will issue a Communication on the regional initiatives to provide guidance how to best achieve the progress and further develop existing regional cooperation initiatives. Close regional cooperation is crucial to achieve fully functioning internal energy market. The Communication on regional initiatives will make proposals as to common goals and best practices.

Finally, the Commission recognises that energy efficiency plays an important role in ensuring long term energy security. The Commission ***will continue to develop*** a close cooperation with third countries to promote energy efficiency through the exchange of information on the energy savings strategies, research on energy efficient technologies and sharing the best practices, through the International Partnership for Energy Efficiency Cooperation and through bilateral arrangements."

5. Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC

PE-CONS 34/10 MAR 63 CODEC 700

The Council approved the amendment set out in the European Parliament's opinion 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 100(2) of the TFEU).

6. Regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market

PE-CONS 33/10 AGRI 269 ENV 489 FORETS 93 DEVGEN 239 RELEX 654

JUR 304 UD 213 CODEC 699

+ COR 1 (fi)

+ REV 1 (fr)

+ REV 2 (sl)

The Council approved the European Parliament's amendment to the Council's position with the Swedish delegation voting against and the Czech and Portuguese delegations abstaining. The Regulation 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 192(1) of the TFEU).

Statement by the Swedish delegation

"Sweden fully endorses the purpose of the Regulation, namely to globally limit illegal logging. For the reasons given below, Sweden is not unfortunately able to endorse the Council Decision on Regulation 2008/0198(COD).

Sweden doubts whether the extra administrative burden which the Regulation will involve for a large number of EU undertakings is proportionate to the extent to which the Regulation will be able to globally limit illegal logging. There is a danger that the Regulation will have a disproportionately great impact on third countries and may therefore cause distortion of trade."

Statement by the Czech Republic, Finland, Italy, Lithuania, Luxembourg, Slovenia, Sweden and Romania

"When implementing this Regulation, the above-mentioned Member States shall endeavour to minimize the administrative burden caused by the Regulation and facilitate the ability of honest operators to comply with the requirements, taking specifically into account the situation of small and medium sized enterprises/operators."

Statement by Portugal

"The imposition of rules which may involve additional costs for economic operators in the context of the global crisis affecting Europe and the rest of the world may contribute to weakening the business sector and making European products less competitive. This fact leads us to view with great concern the approval of the Regulation laying down the obligations of operators who place timber and timber products on the market.

We are not questioning the underlying objectives, which we support – in particular that of combating illegal forest clearance – but rather the disproportionate obligations that the Regulation will entail. This is particularly worrying in the case of a sector based on large numbers of SMUs, for which, in accordance with the recommendation made by Portugal in March for the Council minutes when the common position was adopted, we should be seeking a simplified system."

7. Regulation of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004

PE-CONS 32/10 MAR 62 TRANS 194 CODEC 698

+ COR 1 (fi)

+ REV 1 (cs)

+ REV 2 (sv)

+ REV 3 (pl)

+ REV 4 (it)

The Council approved the European Parliament's amendment to the Council's position.

The Regulation 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: Articles 91(1) and 100(2) of the TFEU).

Statement by the Italian Delegation

"Italy notes that the text of the Regulation concerning the rights of passengers when travelling by sea and inland waterway adopted at second reading by Parliament departs substantially from the Council's common position of October 2009 on several points.

In particular, one cannot but note that as a result of the amendments, assistance obligations fall mainly in the maritime sector, while the inland waterway sector seems to have been largely excluded, rendering the purported aims of passenger protection in all sectors of Community transport quite meaningless.

Certain aspects of the Regulation cannot fail to have a negative impact on the national maritime sector, which is characterised by the requirements of territorial continuity with the larger and smaller islands in Italian territory, by the high number of small and medium-sized enterprises, by a complex arrangement of ports and islands and by flows that vary over the course of the year.

Although the Regulation represents an opportunity to raise the quality of Community maritime transport services in practice and to strengthen the rights of passengers travelling by sea or inland waterway, Italy underlines its dissatisfaction with certain aspects of the Regulation that do not take into account the specific structure of the Italian sector or that of other Community countries with a high number of small and medium-sized enterprises that are for the most part engaged in mixed transport of goods and passengers with cars, often of a seasonal nature, and that have already been ravaged by the recent crisis and are going through a difficult phase of restructuring (privatisation).

Causes for concern are the refusal to exclude expressly units exclusively or predominantly engaged in freight transport, with the result that the scope has been extended too far (to include vessels certified to carry over 12 passengers), the rigidity of certain measures on provision of assistance (which come into play in cases of delays of over 90 minutes after the scheduled departure time) and the failure to include exceptional circumstances to activate certain derogations for the provision of assistance: these measures will place considerable additional burdens on a sector already showing signs of decline.

The aspects referred to above are problematic, and the Regulation, in its most recent version, has lost clarity and applicability and has become an instrument that will place a considerable burden on the carriers concerned: the fact that it will be businesses that bear the direct and indirect costs arising from the application of the Regulation cannot be ignored or underestimated, as there is a real risk that many operators in the sector may be driven from the market, thereby reducing transport supply."

Statement by the Greek Delegation

"The Hellenic Republic fully and unequivocally supports the aims of the proposal for a Regulation concerning the rights of passengers when travelling by sea and inland waterways, which has special importance for shipping countries, such as Greece, particularly insofar as it strengthens and makes more effective the protection of the rights of the large numbers of passengers travelling each year.

However, the Hellenic Republic wishes to state that, in its opinion, the proposal for a Regulation should show greater balance between the fundamental rights of passengers, which it protects well, and the legitimate interests of sea carriers (especially small and medium-sized enterprises) which, in certain cases (force majeure, exceptional circumstances), incur excessive costs through no fault of their own.

In particular, the Hellenic Republic considers that the exemptions set out in Article 20, and especially in paragraph 3 thereof, should in addition include the obligation to provide accommodation (Article 17(2)) also in the event of extraordinary circumstances such as search and rescue operations, transport of sick persons, incidents involving the safety of the ship and passengers and coverage of emergency transport needs, which are crucial for the effective functioning of the very extensive Greek coastal network.

Considering the above, the Hellenic Republic calls on the European Commission to produce, as soon as possible, a study of the potential impact in the Member States and on carriers of transposition and implementation of the proposal for a Regulation."

- 8. Regulation of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC**
PE-CONS 36/10 AVIATION 105 CODEC 702
+ COR 1 (fi)
+ REV 1 (bg)

The Council approved the amendment set out in the European Parliament's opinion 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 100(2) of the TFEU).

AGENDA ITEMS

3. Proposal for a Council Regulation on the translation arrangements for the European Union patent

- Political orientation
11805/10 PI 77
14377/10 PI 114

"The Council had a broad exchange of views on the draft political orientation, as proposed by the Presidency in 14377/10. In the light of these discussions, the President drew the following conclusions:

1. The Council has reiterated the importance of an enhanced patent system in Europe for boosting the competitiveness of our innovative industry and in particular of our SMEs.
2. A very large majority of Member States supports the package compromise proposed by the Presidency on the translation arrangements for the EU patent as described in 14377/10.
3. Several delegations stressed the importance of the accompanying measures being made available by the time the EU patent system becomes operational:
 - A system of high quality machine translations of patent documentation into and from any EU language should be established. The system should be fully operational as quickly as possible and consequently the planned transitional period as short as possible;
 - The full compensation of the costs related to the translation of a patent application drafted in an EU language other than one of the EPO languages has been stressed to be a key element for the access of our European SMEs to the patent system.
4. Taking into account the large support expressed by the Member States for the package compromise of the Presidency, this proposal should serve as a basis for further discussions.
5. However, it is important to underline the red lines expressed by a large majority of delegations for the finding of a compromise:
 - Significant additional costs resulting from additional translations can not be accepted;
 - Legal insecurity resulting from giving legal effect to translations can not be accepted.

If those red lines are not taken into account, the industry will not use the EU patent and the political objectives - the improvement of the competitiveness of Europe, the strengthening of the innovation in Europe and the completion of the internal market - will not be achieved.

6. The Presidency has received sufficient encouragement to intensify and accelerate its work on this file in order to reach a successful outcome as soon as possible and certainly for the end of the year.
7. It has been noted that different Member States would consider the option of enhanced cooperation if a solution cannot be reached quickly. The Presidency shares the concern of a solution in short term, but it remains committed to finding an acceptable final compromise for all 27 Member States.
8. In order to reach a successful outcome as soon as possible, the Presidency will consider organizing another meeting of the Competitiveness Council on this subject."

5. (a) **Functioning of the internal market**

– Exchange of views on relaunching the internal market

(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)

13926/1/10 COMPET 249 MI 319 SOC 567 ENT 118 CONSOM 77

POLGEN 135 FIN 406 REV 2

The Council exchanged views on the relaunch of the Internal Market after an introduction of key elements of the forthcoming Single Market Act by Commissioner Barnier and on the basis of a number of questions from the Presidency.

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