



053154/EU XXIV.GP
Eingelangt am 06/06/11

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 February 2011

**14216/10
ADD 1**

PV/CONS 46

ADDENDUM to DRAFT MINUTES

Subject: **3032nd** meeting of the Council of the European Union (**GENERAL AFFAIRS**),
held in Brussels on 13 September 2010

PUBLIC DELIBERATION ITEMS¹

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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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LEGISLATIVE DELIBERATIONS

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

1. **Draft amending budget No 3 to the general budget 2010 – Statement of revenue and expenditure by section – Section III - Commission**
 - **Proposal for a Decision of the European Parliament and of the Council on the mobilisation of the Flexibility Instrument**
12643/10 FIN 341

The Council adopted its position on draft amending budget no. 3 to the EU's general budget for 2010.

Draft statement on DAB No. 3/2010

"The Council invites the Commission to present as soon as possible additional redeployments within heading 4 for the financing of the remaining part of EUR 18.3 million for the Banana Accompanying Measures."

2. **Draft amending budget No 5 to the general budget for 2010 - General statement of revenue**
12644/10 FIN 342

The Council adopted its position on draft amending budget no. 5 to the EU's general budget for 2010.

3. **Draft amending budget No 6 to the general budget for 2010 – Statement of revenue and expenditure by section – Section II – European Council and Council – Section III – Commission – Section X – European External Action Service**
12224/10 FIN 319

The Council adopted its position on draft amending budget no. 6 to the EU's general budget for 2010.

Draft declaration on DAB No 6/2010

"The establishment of the EEAS should be guided by the principle of cost-efficiency aiming towards budget neutrality. To this end, transitional arrangements and gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used. In order to ensure appropriate presence of staff coming from Member States in the EEAS, in addition to existing posts coming from the Commission and the GSC, posts could be made available through the transformation of temporary posts in the Commission and the Council Secretariat as well as through filling of posts freed up through retirement and other means. In addition, a limited number of additional posts for Member States temporary agents will be necessary which have to be financed within the framework of the current financial perspectives.

The Council calls upon the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, in coming annual budgetary procedures, to present budgetary proposals which are in alignment with this objective."

4. Draft amending budget No 7 to the general budget for 2010 – General statement of revenue and statement of revenue and expenditure by section – Section III - Commission
12645/10 FIN 343

The Council adopted its position on draft amending budget no. 7 to the EU's general budget for 2010.

5. Proposal for a Regulation of the European Parliament and of the Council on textile names and related labelling of textile products

- Political agreement
12225/10 TEXT 6 MI 252 ENT 85 CHIMIE 20 ECO 62 CONSOM 71
CODEC 697
+ ADD 1
11162/1/10 REV 1 TEXT 4 MI 210 ENT 69 CHIMIE 16 ECO 46
CONSOM 61 CODEC 582

The Council reached political agreement by qualified majority on the draft regulation.

Statement by Italy

"Italy is voting against the proposal for a Regulation on textile names and related labelling of textile products owing to the absence from the Council text of a provision on compulsory indication of the country of origin.

Italy hopes that in the further course of the ordinary legislative procedure, such a provision will be inserted in accordance with the position expressed by a large majority in the European Parliament and endorsed at the policy and technical levels by the European Commission."

6. Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products

- Adoption
 - (a) of the Council's position
 - (b) of the statement of the Council's reasons
 - 10753/10 MI 198 ENT 65 COMPET 192 CODEC 530
 - + COR 1 (pl)
 - + REV 1 (fi)
 - + REV 2 (mt)
 - + **REV 2 COR 1 (mt)**
 - + ADD 1
 - + ADD1 REV 1 (fi)
 - 12978/10 CODEC 749 MI 280 ENT 101 COMPET 231
 - + COR 1
 - + ADD 1

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 Bulgarian and Polish delegations voting against (Legal basis: Article 114 of the TFEU).

Statement by the European Commission on better regulation

"The Commission supports, in a spirit of compromise, the position of the Council in first reading on the proposal for a Regulation of the European Parliament and the Council laying down harmonised conditions for the marketing of construction products.

Nevertheless, the Commission recalls that this proposal is part of its simplification strategy and therefore regrets that the text finally agreed by the Council, in particular Articles 3 to 7, could impose unnecessary administrative and testing burdens on enterprises as assessed in the impact assessment accompanying the original proposal. Therefore it would not be in line with the principles of Better Regulation and the broad objective to reduce administrative burden arising from EU legislation, endorsed by the Spring European Council of March 2007.

The Commission intends to monitor in particular this aspect of the Regulation and will include its conclusions in the report it will present to European Parliament and the Council five years after the entry into force of this Regulation."

Statement by the European Commission on market surveillance

"The Commission considers that in the light of the Recital 37 and in line with the spirit of Art. 6(3) and of Art.8(4), the authorities of a Member State may, if necessary, take appropriate measures for a product which is placed, or made available, in their market, if the declaration of performance does not contain the performance related to the essential characteristics for which there are requirements for that product and its declared intended use or uses, or if the declared performances do not correspond with those requirements, in the same Member State, or parts of its territory.

The measures need to be proportionate to the risks involved and should not lead to the fragmentation of the internal market."

Joint Statement by France, Germany, Austria and Portugal

"France, Germany, Austria and Portugal associate to the position of the Council in first reading after two years of discussions within the Council.

Nevertheless, they underline that the current lists of delegated and implementing acts, and in particular delegated acts referred to in Article 60(a), (b), (f), (g) and (h), merit a re-examination in the second reading together with the European Parliament."

Joint Statement by Sweden and Austria on hazardous substances

"In line with recital 24 it is important to further improve the information to users about possible content of hazardous substances in construction products. This is of particular importance since most construction products are considered as "articles" for the purposes of Regulation 1907/2006 (REACH), and are therefore subject to very limited information requirements under that Regulation.

Therefore, in order to improve the possibilities for sustainable construction, to facilitate the development of green products and to achieve the Unions' target for recycling of construction products, information on the content of hazardous substances should be included in the declaration of performance."

Statement by Poland

"Poland does not support the position of the Council in first reading on the proposal for a Regulation of the European Parliament and of the Council laying down harmonized conditions for the marketing of the construction products.

From the very beginning, Poland has consequently supported its objections concerning the wording of the Art. 4(1) of this Proposal.

The reason for such a position of Poland is the fact that Art. 4(1) *de facto* introduces, in the absence of a definition for 'a product covered by harmonized standard,' a mandatory use of a European harmonized standard. This is inconsistent *inter alia* with the Directive 98/34/EC. Furthermore, voluntary drawing up of a declaration of performance (DoP) by the manufacturer, according to Art. 4a, refers only to a small group of specific construction products.

Poland, during the whole period of consultations carried out within the framework of the Working Party has been in favour of a voluntary drawing up of a declaration of performance, and a recent compromise proposal of Poland on Art. 4(1a) provided for a mandatory drawing up of a declaration only in cases when national provisions of the Member States require to do so. Unfortunately, this proposal has been rejected by the Presidency.

Poland stresses the fact that the Art. 4(1) proposed by the Presidency may have an influence on the segmentation process of construction products market in the European Union and it may cause rising prices for construction products at the European market.

At the same time, Poland wishes to express its appreciation for the Presidency's immense effort made on this Proposal."

Statement by Finland

"During the negotiations on Construction Products Regulation, Finland has been concerned about the consequences for micro-enterprises and the unnecessary financial and administrative burden accrued to them. It is problematic to have a mandatory CE marking in the circumstances where there are no national parameters relating to the basic works requirements where the product is placed on the market and therefore there are no barriers of trade. That situation is likely to create unnecessary administrative costs and especially costs for the micro-enterprises. Because of these reasons, Finland considers the common position not to be completely in line with the principles of better regulation. Guideline "think small first" could have been better followed within the common position."

7. **Proposal for a Directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare**

- Adoption
 - (a) of the Council's position
 - (b) of the statement of the Council's reasons
 - 11038/10 SAN 138 SOC 417 MI 208 CODEC 563
 - + REV 1 (lt)
 - + ADD 1
 - + **ADD 1 REV 1 (fi)**
 - 12979/1/10 REV 1 CODEC 750 SAN 164 SOC 489 MI 281
 - + ADD 1

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 Polish, Portuguese and Slovak delegations voting against and the Romanian delegation abstaining (Legal basis: Articles 114 and 168 of the TFEU).

Statement by the European Commission

"In a spirit of compromise, the Commission will not stand against a qualified majority vote in favour of the Council's position at first reading although it could have benefited from some more clarity. In particular, the Commission considers that the scope of the prior authorisation scheme should be well defined and justified.

The Commission is convinced of the need to ensure that patients seeking healthcare in another Member State can exercise their rights as confirmed by the Court in its settled case-law and without undermining the rights granted under Regulation (EC) No 883/2004. The Commission has proposed the measures necessary to ensure that patients benefit from legal certainty in exercising those rights while respecting Member States' power to organise and deliver healthcare.

The Commission recalls that the conditions for access and exercise of health professions have been harmonised by the professional qualifications directive. As regards eHealth, the Commission considers it necessary to contribute at Union level to creating the conditions for ensuring continuity of care and patient safety by enabling use of medical information across borders, with the highest level of security and protection of personal data.

As the position of the European Parliament on prior authorisation and eHealth is more favourable to the patients, closer to the Commission's proposal and to its reading of the existing case-law, the Commission reserves the right to support the European Parliament's amendments on these issues during the second reading and will continue to collaborate closely with both institutions with the aim of further improving the text."

Joint statement by Poland, Portugal and Slovakia

"Poland, Portugal and Slovakia regret that the Directive on the application of patients' rights in cross-border healthcare does not provide a sufficient guarantee of a high level of quality and safety to patients wishing to receive cross-border healthcare and does not entirely respect the responsibilities and competences of the Member States in relation to the organisation and planning of national health systems."

Statement by the Austrian delegation

"Austria strongly welcomes the fact that the matter of price setting by healthcare providers has been included in Article 4(4) of the Directive.

However, Austria considers that further clarification is necessary, if not in the operative provisions then at least in the recitals of the Directive, in order to improve legal certainty.

With regard to the first sentence of paragraph (3) and to paragraph (4) of Article 4 Austria assumes that in the case of inpatient and outpatient hospital treatment, healthcare providers may charge for the costs of examinations and treatments which the healthcare system of the Member State of treatment pays for domestic patients for comparable treatment, and that healthcare service providers are able to demand advance payment of costs from patients from another Member State.

Austria has put its request for the above clarification on ice for the time being so as not to hinder further proceedings, but nevertheless reserves the right to return to this issue in the course of further discussions."

Statement by the Italian delegation

"Although Italy thinks the compromise text does not ensure proportionate levels of quality and safety in relation to accreditation, it can support the proposed text on two conditions:

- that the Commission immediately starts work on defining the standards and guidelines provided for in Article 8(5)(e);
- that during the co-legislation stage with the European Parliament the position advocated is that of high-quality harmonisation of freedom of movement for patients."

8. Regulation of the European Parliament and of the Council on the European Earth monitoring programme (GMES) and its initial operations (2011–2013) (Text with EEA relevance)

PE-CONS 22/1/10 REV 1 RECH 210 COMPET 183 IND 78 TRANS 142
POLARM 18
ECOFIN 320 TELECOM 61 ENER 175 CODEC 485

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 189 of the TFEU).

Joint Declaration of the European Commission and the Council for the Council minutes for the adoption of the of the Regulation of the European Parliament and of the Council on the European Earth monitoring programme (GMES) and its initial operations (2011–2013)

"The Commission will prepare the exploitation phase of GMES and will propose, in due time, arrangements for the GMES programmatic, financial and governance framework both for GMES as a whole and for its individual components referred to in Article 2 of the Regulation on the European Earth monitoring programme (GMES) and its initial operations (2011 – 2013) (the "Regulation"), in the context of the definition of the next EU Multi-annual Financial Framework.

In that context, the Council and the Commission recognise that the governance of the GMES programme should be considered as a whole and encompass all necessary structures and procedures including: the relationships between and responsibilities of each of the supporting bodies and fora; the mechanisms through which service requirements will be collected, defined and prioritised; the procedures for monitoring and implementing services and infrastructure; the data and information policy; the security policy; the ownership policy and the planning, selection and procurement procedures for Earth observation and in-situ data.

The Commission recalls its relevant proposals outlined in its 2008 and 2009 GMES Communications entitled "Global Monitoring for Environment and Security (GMES): We care for a safer planet"¹ and "Global Monitoring for Environment and Security (GMES): Challenges and Next Steps for the Space Component"².

The Council takes note that the Commission will consider how to complete the overall governance structure, through the presentation of a new legislative proposal on the GMES programme beyond its initial operations, during 2011."

¹ COM(2008)748, 12.11.2008

² COM(2009)589, 28.10.2009

9. **Regulation of the European Parliament and of the Council setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008**

PE-CONS 24/1/10 REV 1 TRANS 154 MAR 47 AVIATION 76 CAB 8
RECH 221 CODEC 532

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 172 of the TFEU).

Statement by the Council, the Representatives of the Governments of the Member States meeting within the Council and the European Commission concerning the setting up of a Panel and a Crypto Distribution Authority by the Security Accreditation Board

"In order for the Security Accreditation Board to carry out its work quickly and effectively and to ensure continuity, the representatives of the Member States as well as the Commission representative on the Security Accreditation Board for European GNSS systems will act so that the necessary measures are adopted, at the first meeting of the Board, according to the following:

- (1) The Panel referred to in Article 11(11) of the Regulation:
 - shall be set up and its rules of procedure adopted;
 - shall be composed of one representative per Member State and one representative from the Commission, as well as a representative of the HR and a representative of ESA, chosen from among acknowledged security accreditation experts. The Panel shall be chaired by a member of the staff of the Agency.
 - since the activities of the Panel fall within the scope of the continuation of the accreditation activities already undertaken, the representatives from the Member States already acting to this end for the Agency at the date of the entry into force of this Regulation shall become members of the Panel, unless otherwise decided by the Member States they represent.

- (2) The Crypto Distribution Authority (CDA) referred to in Article 11(11) of the Regulation:
 - shall be set up and its rules of procedure adopted;
 - shall be tasked with managing and accounting for European GNSS crypto material, ensuring that appropriate procedures are enforced and channels established for accounting, secure handling, storage and distribution of all European GNSS crypto material and ensuring the transfer of the European GNSS crypto material to or from individuals or services using it;

- shall be composed of relevant representatives of Member States and shall be chaired by a member of the staff of the Agency;
- within the CDA and under its authority, a Flight Key Cell (FKC) shall be dedicated to the management of operational flight keys and be activated for each launch campaign. This FKC shall be composed of Agency staff, relevant representatives of Member States directly involved in the management of the flight keys and the launches, and observers from other Member States.

Council statement

"The Council, while accepting nomination by the EP of a representative without voting rights in the Administrative Board of the Agency, underlines that this decision does not constitute a precedent."

Statement by the European Commission concerning the participation of its representatives in the Administrative Board of the European GNSS Agency

"Five of the members of the Administrative Board of the European GNSS Agency will be Commission representatives.

The Commission would state that, for obvious practical reasons, those five members will generally not all be present at the meetings of the Agency's Administrative Board. It therefore intends to establish a permanent proxy system by means of which any of its representatives absent from a meeting of the Administrative Board will be able to authorise those present to adopt a position in their place and on their behalf, in particular during votes."

10. Regulation of the European Parliament and of the Council concerning a European rail network for competitive freight

PE-CONS 28/10 TRANS 174 CODEC 607

+ REV 2 (se)

+ REV 3 (hu)

The Council approved the European Parliament's amendment to the Council's position with the Danish delegation voting against and the Polish delegation 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 91 of the TFEU).

Commission statement

"The Commission underlines that the one-stop-shop is a joint body set up or designated by the management board of each corridor; its function is that of a coordination tool. It may be a technical body within the corridor management structure or one of the infrastructure managers concerned."

Statement by Sweden

"Sweden is of the opinion that it is essential to enhance the efficiency of long-distance freight transport on railways. Consequently, Sweden supports the Council's common position with regard to the Proposal for a regulation of the European Parliament and of the Council concerning a European rail network for competitive freight.

However, efficiency and the objective of retaining rail safety necessitates that there is clarity in the legal interpretation of Article 13. Sweden is of the view that the implication of this Article is that the authority of the coordination function OSS (one-stop shop) to allocate capacity, solely concerns a right to enter into an agreement with a railway undertaking or an authorized applicant on the transfer of a train path, when the OSS has been commissioned to do so by the infrastructure manager which has planned the train path."

Statement by Poland

"Poland appreciates the efforts undertaken by the Spanish Presidency in the Spring 2010 to find a compromise with the European Parliament in terms of getting to a second reading agreement as far as the Regulation of the European Parliament and of the Council concerning a European rail network for competitive freight is concerned.

Poland supports the general purpose of the regulation, it means higher competitiveness and effectiveness of rail freight transport within the European Union. Poland is of the opinion, that – in spite of problems which may occur while applying some provisions of the regulation – its adoption will be beneficial for the development of this branch of transport, Poland keeps in mind the need of the compromise to be achieved, so abstains from voting and does not vote against the project of the legislation file."

Statement by Denmark

"Denmark votes on grounds of principle against the proposal because it means that it is no longer a sovereign national decision to allocate rail capacity on new freight corridors and that firms other than authorized railway companies can reserve railway capacity. With the possibility of "one stop shop" it will be possible for a governance body to reserve capacity, which can have an important influence on the total traffic on the network."

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