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European Union

Brussels, 11 May 2016
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ADD 1

PV/CONS 18
AGRI 185
PECHE 135

DRAFT MINUTES

Subject: **3459th** meeting of the Council of the European Union
(**AGRICULTURE AND FISHERIES**) held in Luxembourg on 11 April 2016

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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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1. Council Regulation amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products..... 9

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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 amending Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments [First reading]

PE-CONS 75/15 AGRI 682 AGRIFIN 118 AGRIORG 100 CODEC 1759

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Hungarian and the Netherlands delegations voting against and the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 42 and 43(2) of the TFEU).

Statement by the Commission

"With regard to the first subparagraph of Article 23(3) of the compromise text modifying the CMO, insofar as it relates to the school scheme, the Commission confirms that Member States, when prioritising the distribution of products, are not obliged to respect a minimum share or percentage for the products referred to in that same subparagraph."

Statement by Hungary

"In Hungary both the School Fruit and Vegetable Scheme and the School Milk Scheme are very popular and thanks to the legislation actually in force both programmes have substantially developed over the past years.

Throughout the negotiations on the merging of the two schemes Hungary has supported the use of a historical criterion when setting the indicative allocations for both schemes, for the sake of ensuring the fulfilment of the European objectives of the schemes and the effective use of financial resources.

The amendment of Council Regulation (EU) No 1370/2013 divides financial resources between Member States fundamentally based on the number of 6 to 10 year children and taking into account differences in regional development. Only in the milk scheme appears the historical use component as a third criterion.

Therefore Hungary hereby reiterates the importance of the application of the historical use of resources as a criterion when setting the indicative allocations and in particular when setting the final allocations for Member States in both schemes."

Statement by Lithuania

"Lithuania holds its consistent position and considers that budgetary provisions, and in this particular case – approval of the budget of aid scheme, transfers between product groups and criteria of the distribution of aid between Member States – should be adopted by the Council in accordance with the Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

In addition, Lithuania is of the opinion that merging of those two schemes does not bring any added value from the perspectives of their effectiveness, simplification and reduction of administrative burden, as these schemes are different in their nature, initial aims, products and channels of distribution. Also we note that both schemes could successfully be continued under the existing regulations.

However, Lithuania has agreed with the overall compromise that has been reached on 16th of December 2015 in order to ensure the continuity of current schemes and smooth implementation of principal objectives of these schemes.

Nevertheless, Lithuania stresses that it should not become a precedent and common practice to use Article 43(2) TFEU when adopting measures on fixing prices, levies, aid and quantitative limitations in the future."

Statement by Germany, Austria, Bulgaria, Czech Republic, Estonia, Poland and Slovenia¹

"The abovementioned delegations' agreement with the overall compromise that has been reached does not prejudice the ongoing proceedings in Case C-113/14.

Pursuant to the Treaty on the Functioning of the European Union, the Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities (Article 43 (3) TFEU). It is therefore exclusively the responsibility of the Council to lay down such rules.

According to the European Court of Justice's most recent findings (C-124/13, C-125/13), Article 43 (3) TFEU may include measures that are not limited to the fixing and allocation of fishing opportunities provided that they do not entail a policy choice that is reserved to the EU legislature.

The abovementioned delegations therefore welcome the fact that the overall compromise now - as called for by the abovementioned delegations - bases the indicative distribution of aid among the Member States on Article 43(3) TFEU.

¹ The Dutch delegation supports the elements of this statement that relate to the issue of the legal basis.

However, the abovementioned delegations consider Article 43 (3) TFEU to be in principle the more appropriate legal basis for rules on the transfer of funds from one sector to the other as well. The abovementioned delegations do, however, note that there are different opinions on the matter.

The abovementioned delegations hereby state that a differentiation is to be made between the legal bases (Articles 43(2) and 43(3) TFEU) for draft legislation relating to the Common Agricultural Policy - and consequently for the individual measures of the above proposals.

The abovementioned delegations therefore call upon the Council and the European Parliament to ensure that the selection of Article 43(2) or Article 43(3) as legal basis is subjected to a thorough and differentiated examination for all future draft legislation."

2. Regulation of the European Parliament and of the Council on the introduction of emergency autonomous trade measures for the Republic of Tunisia [First reading]

PE-CONS 4/16 WTO 21 AGRI 40 MAMA 23 TU 2 CODEC 115

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 207(2) of the TFEU).

Statement by Greece and Italy

"Regarding the introduction of emergency autonomous trade measures for the Republic of Tunisia, Greece and Italy take into due consideration the wider political and socio-economic aspects of the EU support to Tunisia.

However, Greece and Italy express their serious concerns about the lack of the necessary consultations that should have taken place earlier, the duration of the measures, the repeal of the smooth monthly allocation of the above imports and the absence of an ex ante impact assessment on the European olive oil sector.

Furthermore, it should be stressed that the agricultural sector is a cornerstone of the economy of Greece and Italy. Therefore, the concessions by the EU to its trade partners should be governed by the principle of a balanced and proportional approach among the various sectors of the EU economy.

This concession should not constitute a precedent for the future."

3. Directive of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels (codification) [First reading]

PE-CONS 24/15 CODIF 49 ECO 45 INST 113 MI 234 CODEC 523

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

4. Regulation of the European Parliament and of the Council to avoid trade diversion into the European Union of certain key medicines (codification) [First reading]

= Adoption of the legislative act

7157/16 CODEC 316 CODIF 12 ECO 27 INST 103 MI 165

PE-CONS 5/16 CODIF 5 ECO 9 INST 29 MI 57 CODEC 120

approved by Coreper, Part 2, on 06.04.2016

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 207(2) of the TFEU).

"B" ITEMS

4. Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (recast) [First reading]

Interinstitutional file: 2015/0133 (COD)

– State of play

10143/15 PECHE 224 CODEC 909

+ ADD 1

7662/16 PECHE 126 CODEC 395

+ COR 1

The Presidency updated delegations on the progress made at technical level, which enabled a unanimous support for a Presidency compromise text in COREPER on 23 March 2016. Some delegations recalled several matters of principle and requested a reduction of the administrative burden, to empower regionalisation, to avoid duplication of data collection efforts and to ensure data confidentiality.

They reiterated their support for the compromise text with a view to starting negotiations with the EP as soon as possible. The Commission also expressed support for the Presidency compromise, while indicating that it had some remaining concerns on the regulation of aquaculture data collection and a more reduced scope for delegations to the Commission.

The Presidency took note of these comments and indicated that the compromise text will now form the basis for establishing a full mandate for the upcoming negotiations with the EP.

5. Proposal for a Regulation of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 1224/2009 and Regulations (EU) No 1343/2011 and (EU) No 1380/2013 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 [First reading]

Interinstitutional file: 2016/0074 (COD)

– Presentation by the Commission

6993/16 PECHE 79 CODEC 281 IA 9

+ ADD 1

7289/16 PECHE 100 CODEC 337 IA 10

+ COR 1

The Commission presented the above-mentioned proposal, insisting on the fact that this simpler framework seeks to maintain the same level of conservation standards as the current rules, while creating scope for regional adaptation and empowerment of concerned stakeholders. Delegations welcomed the proposal, in particular its scope and its structure. The Presidency concluded that the Council had taken note of the Commission's presentation and of the comments made by delegations.

NON-LEGISLATIVE ACTIVITIES

1. Council Regulation amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

7051/16 AGRI 125 AGRIORG 15

15436/15 AGRI 684 AGRIORG 101

The Council adopted the Regulation above. (Legal basis: Article 43(3) of the TFEU)

Statement by Germany, supported by Austria, Bulgaria, the Czech Republic, Estonia, Poland and Slovenia¹

regarding the overall negotiations on the

- **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments (first reading)**
- **Proposal for a Regulation of the Council amending Regulation (EU) No. 1370/2013 determining measures on fixing certain aids and refunds to the common organisation of the market in agricultural products**

"The abovementioned delegations' agreement with the overall compromise that has been reached does not prejudice the ongoing proceedings in Case C-113/14.

Pursuant to the Treaty on the Functioning of the European Union, the Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities (Article 43 (3) TFEU). It is therefore exclusively the responsibility of the Council to lay down such rules.

According to the European Court of Justice's most recent findings (C-124/13, C-125/13), Article 43 (3) TFEU may include measures that are not limited to the fixing and allocation of fishing opportunities provided that they do not entail a policy choice that is reserved to the EU legislature.

However, the abovementioned delegations consider Article 43(3) TFEU to be in principle the more appropriate legal basis for rules on the transfer of funds from one sector to the other as well. The abovementioned delegations do, however, note that there are different opinions on the matter.

The abovementioned delegations hereby state that a differentiation is to be made between the legal bases (Articles 43(2) and 43(3) TFEU) for draft legislation relating to the Common Agricultural Policy - and consequently for the individual measures of the above proposals.

The abovementioned delegations therefore call upon the Council and the European Parliament to ensure that the selection of Article 43(2) or Article 43(3) as legal basis is subjected to a thorough and differentiated examination for all future draft legislation."

¹ The Dutch delegation supports the elements of this statement that relate to the issue of the legal basis.

Statement by Hungary

on the proposals merging the School Fruit and Vegetable Scheme and the School Milk Scheme

"In Hungary both the School Fruit and Vegetable Scheme and the School Milk Scheme are very popular and thanks to the legislation actually in force both programmes have substantially developed over the past years.

Throughout the negotiations on the merging of the two schemes Hungary has supported the use of a historical criterion when setting the indicative allocations for both schemes, for the sake of ensuring the fulfilment of the European objectives of the schemes and the effective use of financial resources.

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Therefore Hungary hereby reiterates the importance of the application of the historical use of resources as a criterion when setting the indicative allocations and in particular when setting the final allocations for Member States in both schemes."

Statement by Lithuania

regarding:

- **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments.**
- **Proposal for a Regulation of the Council amending Regulation (EU) No. 1370/2013 determining measures on fixing certain aids and refunds to the common organisation of the market in agricultural products.**

"Lithuania holds its consistent position and considers that budgetary provisions, and in this particular case – approval of the budget of aid scheme, transfers between product groups and criteria of the distribution of aid between Member States – should be adopted by the Council in accordance with the Article 43(3) of the Treaty on the Functioning of the European Union (TFEU). In addition, Lithuania is of the opinion that merging of those two schemes does not bring any added value from the perspectives of their effectiveness, simplification and reduction of administrative burden, as these schemes are different in their nature, initial aims, products and channels of distribution. Also we note that both schemes could successfully be continued under the existing regulations.

However, Lithuania has agreed with the overall compromise that has been reached on 16th of December 2015 in order to ensure the continuity of current schemes and smooth implementation of principal objectives of these schemes.

Nevertheless, Lithuania stresses that it should not become a precedent and common practice to use Article 43(2) TFEU when adopting measures on fixing prices, levies, aid and quantitative limitations in the future."