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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council [Official controls Regulation] and repealing Council Regulation (EC) No 834/2007 - <i>Progress report</i>

BACKGROUND

1. For over two and a half years, the European Parliament (EP), the Council and the Commission put considerable effort in finding agreement on a legislative text, which would achieve the common objective of more and better organic farming in the EU by consolidating consumer confidence in organic products and removing obstacles to the development of organic agriculture. The voluminous proposal contains a high level of technical detail behind which important political points of principle are hidden. This explains why such a large number of trilogues and meetings at technical expert level were needed to carefully examine the proposal at a technical level as well to make important choices at a political level.

2. Building on the comprehensive work carried out under the previous five EU Council Presidencies, work on the proposed Organics Regulation has seen an important acceleration over the past few weeks. The Presidency, the EP and the Commission came to the view that the technical examination of the proposal had almost reached the point of exhaustion and that, instead, the objective for the institutions was to take political responsibility and indicate whether or not the compromise package prepared was acceptable, what the 'red lines' were, and what further compromise solutions could be found in view of concluding the process of examination and negotiation.

THE COMPROMISE PACKAGE

3. The most recent trilogues were indeed very political in nature and focussed on a number of outstanding political issues, such as greenhouses, derogations and the collection of data in view of phasing out such derogations, seeds and plant protection products (pesticides). All of these issues are of major political importance for both the EP and the Council as well as for the Commission. The establishment of agreement on a compromise package of solutions to these issues not only requires a spirit of compromise *between* the institutions but also *within* each of the institutions.
4. At the trilogue of 30 November, an agreement in principle was reached on a compromise package, including on the four above mentioned issues, and the EP and the Presidency agreed to test the acceptability of the package with their respective constituencies. The main elements of this compromise package can be summarised as follows.

- Greenhouses: greenhouses will be subject to a set of rules in the Organics Regulation, which are based on the soil-bound principle but which provide for certain exceptions, e.g. due to climatic conditions. Such exceptions are subject to stringent conditions but they would allow for a continuation of current greenhouse practices, such as cultivation in pots and in mountainous areas and in areas with an average winter temperature below zero degrees Celcius. Further clarification on the use of demarcated beds will be given in a delegated act. The Presidency believes that the result on greenhouses is fully in line with the principles of organic farming, is fair to both Nordic and southern Member States alike and should as such be acceptable to the Council.

- Derogations and the collection of data in view of phasing out such derogations: the new provisions in the Organics Regulation are expected to boost the availability of organic seeds and livestock to such an extent that derogations for non-organic inputs in these sectors are no longer needed by 2030. Furthermore, decisions on (the phasing out of) derogations generally will be taken on the basis of collected data showing the availability of organic inputs. Derogations and data collection are key negotiating issues for the EP and the Commission supports the solutions found. The Presidency, being fully aware about the sensitivities of the Member States on these matters, has been insisting on concessions in regard of derogations for juveniles, which should be extended under certain conditions until end-2019, and on the modalities for data collection, which should be done at minimum cost, build upon existing practice and, as far as livestock is concerned, could be limited to the main categories and exclude cervine and rabbit. With these concessions, the Presidency believes that the overall result on these issues within the overall compromise package should be acceptable as well to the Council, particularly taken into account that the EP has shown considerable flexibility as compared to its initial negotiating position on these issues.

- Seeds: during the negotiations, it was envisaged that the Organics Regulation could spell out specific provisions applicable only to heterogeneous material with the aim to facilitate the EU-wide marketing of such material. This result did not go as far as the mechanism fiercely advocated by the EP until the very end of the negotiations, as open pollinated and organic varieties had not been included in the compromise reached. However, in order to meet EP's concerns to some extent and in the context of horizontal seeds legislation, another path was explored, which had the preference of the Presidency, i.e. that the Commission could use its existing implementing powers under the horizontal seeds legislation to promote the marketing of plant reproductive material fit for organic production. Also on the sensitive issue of seeds, the Presidency believes that the negotiating objective for the EP and the Council should be to acknowledge the need to make general progress with plant reproductive material without this issue becoming a deal breaker in the negotiations on the Organics Regulation. The Commission's readiness to use its powers to generally improve market access for seeds for organic production could be a possible compromise and the Commission could possibly issue a declaration in this respect.

- Plant protection products: the issue of precautionary measures and the harmonisation of action to be taken when non-authorised products or substances are detected are key issues to be accommodated in the Organics Regulation. Political decisions are also needed on the issues of the so-called thresholds and on the question of how to deal with the currently existing diverging rules on the marketing of organic products containing plant protection products. The outcome of the negotiations on these issues need to be fully in line with the principle objectives of the organic sector as this will have a big impact on consumer confidence and trade in organic products and on the development of organic agriculture. The Presidency is fully aware of the sharp differences of views among Member States on the issue of plant protection products but equally notes the Commission's determination to achieve an acceptable result on this issue if the Commission were to support the adoption of the overall compromise package.

VIEWS OF THE SPECIAL COMMITTEE ON AGRICULTURE (SCA)

5. On 5 December, the Presidency presented the compromise package to the SCA with the request to delegations to indicate to which extent they were able to accept it and to mandate the Presidency to seek a final agreement with the EP at the next trilogue. While most delegations expressed the wish to finally conclude the negotiations on this file, many delegations had diverging views on specific elements of the compromise package and could therefore not accept the compromise package as a whole. As a consequence, it was not possible for the SCA to give the Presidency a mandate for the next trilogue.

6. With regard to the four main political issues, the views expressed were as follows. With regard to greenhouses, a number of delegations commented that the proposed compromise solution would prevent or unnecessarily complicate the current practice and that the text on this issue in the Council's General Approach would be preferable. On derogations and the collection of data in view of phasing out such derogations, some delegations had substantial difficulties with the areas to be subject to data collection and the potential costs involved as well as with the proposed dates and procedure for phasing out derogations. With regard to issue of seeds, the majority of delegations believed that this matter should be dealt with under the horizontal seeds legislation and could at the most agree to a Commission declaration, which would address the EP's concerns. Finally, with regard to plant protection products and the procedure for decertification, the majority of delegations had significant reservations to the proposed compromise solutions, particularly with regard to the proposed thresholds and the automatic decertification for organic products contaminated with cocktails of plant protection products.

STATE OF PLAY

7. The negotiations at the trilogue of 30 November made clear that the conclusion of this file depends on finding compromise solutions on the four main political issues of greenhouses, derogations/collection of data, seeds and non-authorised substances. The challenge in the negotiations on this file is to find solutions, which improve the status quo of the organic sector in the EU, without jeopardising, however, the interests of consumers or of organic businesses. This challenge is apparent for each of the four main outstanding political issues.
8. In order to reach a final agreement on this file, both the Council as well as the EP have to show flexibility and be prepared to move away from the initial negotiating position. The compromise solutions discussed in the recent trilogue indeed departed from the Council's General Approach but equally so from the EP's initial negotiating mandate of November 2015.
9. The Slovak Presidency regrets that no final agreement has been reached on the proposed Organics Regulation during its term in office but it underlines that considerable progress has been made, both at the level of the technical examination of the proposal as well as at a political level, where the main outstanding political issues were identified and constructively discussed and where the contours of a possible final agreement were explored. For instance, the EP and the Council to a large extent approximated positions on the structure of the proposed Regulation, on the substance of the text in the numerous and very detailed operational Annexes and on the question of further legislative action (i.e. delegated acts, implementing acts and co-decision). During its term in office, the Presidency, the EP and the Commission participated in over 16 full days of constructive technical and political talks on the file and the SCA discussed the progress made and the orientations to be taken at each of its meetings organised under the Slovak Presidency.

10. At the AGRIFISH Council meeting of 12 December, Ministers are invited to take note of the state of play on the proposed Organics Regulation bearing in mind that this package is the result of intense negotiations over an exceptionally long period of time. The package was shaped by a common and determined effort of the EU institutions and each of the institutions made considerable concessions as compared to the initial negotiating positions. Throughout the negotiations, it became clear that a final compromise would require give-and-take and that the overall balance of the compromise package would not favour one institution or the other. Indeed, the final result of the negotiations is not about institutional winners or losers, it is about the positive impact the Organics Regulation will have on the organic sector, on the producers of organic products and on the final consumers.
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