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THE EUROPEAN UNION**

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ADD 1**

**PV/CONS 68  
AGRI 859  
PECHE 626**

**DRAFT MINUTES**

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Subject: **3285th** meeting of the Council of the European Union (**AGRICULTURE  
AND FISHERIES**) held in Brussels on 16 and 17 December 2013

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## **LEGISLATIVE DELIBERATIONS**

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

### **"A" ITEMS**

**1. Amended proposal for a Directive of the European Parliament and of the Council on minimum requirements for enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights [First reading]**

– Political agreement

17221/13 SOC 1008 PENS 4 ECOFIN 1105 CODEC 2809

+ ADD 1

+ ADD 2

approved by Coreper, Part 1, on 11.12.2013

The Council confirmed its political agreement on the text set out in doc. 17221/13 ADD 1 with a view to the adoption of its position at first reading (Legal basis: Article 46 of the Treaty on the functioning of the European Union).

#### **Statement by Germany**

"Germany agrees to the Directive. However, the new rule that has been included in Article 5(3) in the framework of the trilogue requiring the employees' agreement without exception to the provision of occupational pension rights is inappropriate. In the case of very small-scale occupational pension rights, this rule leads to a disproportionately high bureaucratic burden that is not justified from either the employer's or the employee's perspective."

**2. Regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal [First reading] (LA + S)**

PE-CONS 81/13 FSTR 89 FC 51 REGIO 177 SOC 643 AGRISTR 91

PECHE 346 CADREFIN 213 CODEC 1916

The Council approved the amendments 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 178 of the TFEU).

#### **Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation**

"The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable."

**3. Regulation of the European Parliament and of the Council on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 [First reading] (LA + S)**

PE-CONS 82/13 FSTR 90 FC 52 REGIO 178 SOC 646 AGRISTR 92  
PECHE 348 CADREFIN 214 CODEC 1918

The Council approved the amendments 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 177 of the TFEU).

**Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation**

"The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable."

**4. Regulation of the European Parliament and of the Council on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 [First reading] (LA + S)**

PE-CONS 83/13 FSTR 91 FC 53 REGIO 179 SOC 647 AGRISTR 93  
PECHE 349 CADREFIN 215 CODEC 1919

+ COR 1

+ COR 2 (mt)

The Council approved the amendments 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: Articles 178 and 349 of the TFEU).

**Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation**

"The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable."

**Statement by the Commission**  
**relating to Article 11(2)**

"The Commission shares the objective expressed by the European Parliament of simplifying state aid procedures as regards operating aid granted to undertakings established in the outermost regions which are linked to the offsetting of the additional costs incurred in such regions as a result of their specific economic and social situation.

According to the proposal for the future General Block Exemption Regulation (GBER) as recently published by the Commission services, operating aid intended to compensate certain additional costs incurred by beneficiaries established in these regions would be considered compatible with the internal market, under the conditions stipulated therein, and would thus be exempted from notification under Article 108(3) TFEU. The Commission considers that this will provide a sound basis for achieving the simplification which is sought, and will take full account of all observations received from Member States in the on-going consultation process in view of the adoption of the Regulation in 2014."

**5. Regulation of the European Parliament and of the Council on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 [First reading] (LA)**

PE-CONS 87/13 FSTR 97 SOC 669 REGIO 186 CADREFIN 224 CODEC 1971

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 164 of the TFEU).

**6. Regulation of the European Parliament and of the Council amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings [First reading] (LA + S)**

PE-CONS 84/13 REGIO 184 CADREFIN 222 CODEC 1960

The Council approved the amendments 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: third paragraph of Article 175 and Articles 209(1) and 212(1) of the TFEU).

## **Joint statements by the European Parliament, the Council and the Commission:**

### **Relating to awareness raising and Article 4 and 4a of the EGTC Regulation**

"The European Parliament, the Council and the Commission agree to undertake better coordinated efforts for awareness raising among and inside the institutions and Member States in order to improve the visibility of the possibilities to use EGTCs as an optional instrument available for territorial cooperation in all EU policy areas.

In this context, the European Parliament, the Council and the Commission invite Member States in particular to undertake appropriate actions of coordination and communication among national authorities and between authorities of different Member States in order to ensure clear, efficient and transparent procedures of authorisation of new EGTCs within the time limits fixed."

### **Relating to Article 1(9) of the EGTC regulation**

"The European Parliament, the Council and the Commission agree that when applying Article 9(2)(i) of Regulation (EU) No 1082/2006 as amended, the Member States will endeavour, when assessing the rules to be applicable to the EGTC staff members as proposed in the draft convention, to consider the different available employment regime options to be chosen by the EGTC, be it under private or public law.

Where employment contracts for EGTC staff members are governed by private law, Member States will also take into account relevant EU law, such as Regulation (EC) No 593/2008 of the EP and the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), as well as the related legal practice of the other Member States represented in the EGTC.

The European Parliament, the Council and the Commission further understand that where employment contracts for EGTC staff members are governed by public law, national public law rules will be those of the Member State where the respective EGTC organ is located. However, national public law rules of the Member State where the EGTC is registered may apply as regards EGTC staff members already subject to these rules prior to becoming an EGTC staff member."

### **Relating to the role of the Committee of the Regions in the framework of the EGTC platform**

"The European Parliament, the Council and the Commission take note of the valuable work carried out by the Committee of the Regions in the framework of the EGTC Platform overseen by it and encourage the Committee of the Regions to further track the activities of existing EGTCs and those in the process of being set up, organise an exchange of best practice and identify common issues."



**7. Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 [First reading] (LA + S)**

PE-CONS 85/13 FSTR 96 FC 56 REGIO 185 SOC 665 AGRISTR 97

PECHE 364 CADREFIN 223 CODEC 1966

+ COR 1 (it)

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 177 of the TFEU).

**Joint Statements by the Council and the Commission:**

**On Article 67**

"The Council and the Commission agree that Article 67 (4) which excludes the application of simplified costs set out in Article 67 (1) (b)-(d) in cases where an operation or a project forming part of an operation is implemented exclusively through public procurement procedures does not preclude the implementation of an operation through public procurement procedures which result in payments by the beneficiary to the contractor based on pre-defined unit costs. The Council and the Commission agree that the costs determined and paid by the beneficiary based on these unit costs established through public procurement procedures shall constitute real costs actually incurred and paid by the beneficiary under Article 67 (1)(a)."

**On Article 145(7)**

"The Council and the Commission confirm that for the purpose of Article 145(7) CPR the reference to the term "applicable law" in relation to the assessment of serious deficiencies in the effective functioning of management and control systems includes interpretations of this law made by the Court of Justice of the European Union, by the General Court of the European Union or by the Commission applicable at the date when the relevant management declarations, annual control reports and audit opinions were submitted to the Commission."

## **Joint Statements by the European Parliament, the Council and the Commission:**

### **On the revision of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council linked with the reconstitution of appropriations**

"The European Parliament, the Council and the Commission agree to include in the revision of the Financial Regulation, aligning Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council to the Multiannual Financial Framework 2014-20, provisions necessary for the application of the arrangements for the allocation of the performance reserve and in relation to the implementation of financial instruments under Article 39 (SME initiative) under the Regulation laying down common provisions for the European Structural and Investment Funds concerning the reconstitution of:

- i) appropriations which had been committed to programmes in relation to the performance reserve and which had to be decommitted as a result of priorities under these programmes not having attained their milestones and;
- ii) appropriations which had been committed in relation to dedicated programmes referred to under Article 39(4)b and which had to be de-committed because the participation of a Member State in the financial instrument had to be discontinued."

### **On Article 1**

"If further justified derogations to the common rules are needed to take into account specificities of the EMFF and of the EAFRD, the European Parliament, the Council and the European Commission commit to allow for these derogations by proceeding with due diligence to the necessary modifications to Regulation laying down common provisions for the European Structural and Investment Funds."

### **Joint Statement by the European Parliament and the Council on the exclusion of any retroactivity with regard to the application of Article 5(3)**

The European Parliament and the Council agree that:

- concerning the application of Articles 14(2), 15(1)(c), and 26 (2) of Regulation laying down common provisions for the European Structural and Investment Funds, the actions taken by the Member States to involve the partners referred to in Article 5(1) in the preparation of the Partnership Agreement and the programmes referred to in Article 5 (2) include all actions taken on a practical level by the Member States irrespective of their timing as well as actions taken by them before the entry into force of that Regulation and before the day of the entry into force of the delegated act for a European code of conduct adopted in accordance with Article 5(3) of the same Regulation, during the preparatory phases of a Member State programming procedure, provided that the objectives of the partnership principle, laid down in that Regulation, are achieved. In this context, Member States, in accordance with their national and regional competences, will decide on the content of both, the proposed Partnership Agreement and proposed draft programmes, in accordance with the relevant provisions of that Regulation and the fund specific rules;

- the delegated act laying down a European code of conduct, adopted in accordance with Article 5(3), will under no circumstances and neither directly nor indirectly have any retroactive effect, especially concerning the approval procedure of the Partnership Agreement and the programmes, since it is not the intention of the EU legislature to confer any powers on the Commission to the effect that it could reject the approval of the Partnership Agreement and programmes solely and exclusively based on any kind of non-compliance with the European code of conduct, adopted in accordance with Article 5(3);
- the European Parliament and the Council invite the Commission to make available for them the draft text of the delegated act to be adopted under article 5(3) as early as possible, but not later than the date when the political agreement on the Regulation laying down common provisions for the European Structural and Investment Funds is adopted by the Council or the date when the draft report on that Regulation is voted at the plenary of the European Parliament, whichever date is the earliest."

### **Statements by the Commission:**

#### **On Article 123 paragraph 5**

"The purpose of this Article is to ensure that there are guarantees of the real independence of audit authorities where the size of the operational programme means that the risk is higher, without putting in question the organisational arrangements of those audit authorities for which the experience of the 2007-2013 programming period demonstrates their effective independence and reliability.

The Commission will actively seek to apply the provisions of Article 73(3) of Council Regulation (EC) N° 1083/2006 and of Article 73(3) of Council Regulation N° 1198/2006 so that in the cases where it is able to conclude that the criteria are fulfilled, it will be able to inform the Member State as soon as possible, and before the end of 2013, that it can rely principally on the opinion of the audit authority."

#### **On Article 22**

1. The Commission considers that the principal purpose of the performance framework is to stimulate effective delivery of programmes to attain the planned results and that the measures in paragraphs 6 and 7 should be applied with due regard for that purpose.
2. Where the Commission has suspended all or part of interim payments for a priority under paragraph 6, the Member State may continue to submit requests for payment in relation to the priority in order to avoid decommitment for the programme under Article 86.
3. The Commission confirms that it will apply the provisions of Article 22 (7) so that there will be no double loss of funds in relation to underachievement of targets linked to under-absorption of funds under a priority. Where part of commitments to a programme have been decommitted as a result of the application of Articles 86 to 88 with a consequent reduction in the amount of support for the priority, or where at the end of the programming period there is underspending of the amount allocated to the priority, the relevant targets set out in the performance framework shall be adjusted pro-rata for the purpose of the application of Article 22 (7)."

**In relation to compromise text on indicators**

"The Commission confirms that it will complete its guidance documents on the common indicators for ERDF, ESF, Cohesion Fund and European Territorial Cooperation in consultation with the respective evaluation networks comprising national evaluation experts within 3 months of the adoption of the Regulations. These guidance documents will include definitions of each common indicator and methodologies for gathering and reporting data on the common indicators."

**On the phasing of operations under Cohesion Policy operational programmes of the 2007-2013 programming period in the 2014-2020 programming period**

"As a general principle, Member States have to ensure that all operations are functioning, meaning completed and in use, by the time of submission of the closure documents in order to declare the related expenditure as eligible. It is recalled that each operation should be selected and implemented in order to contribute to the achievement of the objectives of a particular programme and priority axis.

Member States are responsible for defining each operation, including its scope, objectives and outputs. This provides Member States with the flexibility necessary to select for support operations which will be functioning by the end of a programming period.

Exceptionally and in duly justified circumstances, the Member States may need to adjust a selected operation which cannot be completed by the end of the period by phasing its implementation over two programming periods. The Commission confirms that this flexibility exists subject to the conditions laid down for the purposes of programme closure (guidelines on the closure of operational programmes adopted for assistance from the European Regional Development Fund, the European Social Fund and the Cohesion Fund (2007-2013)). In such a case the two phases constitute separate operations each of which will be implemented under the rules applicable for the respective programming periods, although the overall objective to be achieved after implementation of both phases in order to ensure the functioning of the operation should be set out for each phase.

In addition the Commission may approve the phasing of major projects where the implementation period is expected to be longer than the programming period either in the decision approving a major project or in a subsequent amendment thereto."

**In relation to Article 127 on non-statistical sampling**

"The Commission notes that in relation to the issue of non-statistical sampling, Article 127(1) provides that such a sample must cover at least 5 % of operations for which expenditure has been declared to the Commission during an accounting year and 10 % of expenditure which has been declared to the Commission during an accounting year. It further notes that guidance issued by the Commission on sampling methods for audit authorities for the 2007-2013 programming period indicates that the sample size in the case of non-statistical sampling should generally be not less than 10 % of the population of operations. The Commission considers that the possibility of reduction in the size of the sample of operations to 5 % presents a risk that the sample will be insufficiently representative and will therefore have the effect of weakening the audit assurance."

### **On flat rates**

"The Commission takes note of Member States' strong wish that flat rate revenue percentages for the sectors or subsectors within the fields of ICT, research, development and innovation, and energy efficiency are established as soon as possible pursuant to Article 61 of the common Provisions Regulation. The establishment of flat rates requires reliable and representative historic data in order to ensure a solid basis for the flat rate and to minimise the risks of over-financing. Consequently, the Commission will prepare the tender process for the launch of a study to collect and analyse the necessary data throughout the EU without waiting for the adoption of the legislative package, and will plan and manage the study, and draw the conclusions from its results so as to be able to adopt a delegated act setting out the flat rates for these sectors or subsectors at the earliest possible date and by 30 June 2015 at the latest."

### **On Article 23**

"The Commission confirms that it will, not later than 6 months from the entry into force of the Common Provisions Regulation, issue guidelines in the form of a Communication of the Commission explaining how it envisages that the provisions on measures linking effectiveness of ESI Funds to sound economic governance in Article 23 CPR will be applied. The guidelines will cover in particular the following elements:

- in relation to paragraph 1, the notion of 'review' and the types of 'amendments' to Partnership Agreements and programmes that could be requested by the Commission as well as clarifying what can constitute 'effective action' within the meaning of paragraph 6;
- in relation to paragraph 6, an indication of the circumstances which may give rise to suspension of payments, including criteria which may be relevant in determining the programmes which could be suspended or in determining the level of suspension of payments."

### **On the amendment of Partnership agreements and programmes in the context of Article 23**

"The Commission considers that, notwithstanding the provisions of Article 23(4) and (5), it may when necessary make observations on proposals for the amendment of Partnership Agreements and programmes submitted by Member States pursuant to Article 23(4), in particular where these are not consistent with the prior response submitted by those Member States pursuant to Article 23(3), and in any event on the basis of Articles 16 and 30. It considers that the deadline of three months for the adoption of the decision approving the amendments to the Partnership Agreement and the relevant programmes set out in Article 23 (5) runs from the submission of the proposals for amendments pursuant to paragraph 4 provided that these take adequately account of any observations made by the Commission."

### **On the impact of the agreement reached by the co-legislators on the performance reserve and pre-financing levels on the payment ceilings**

"The Commission considers that the additional payment appropriations, which may be required in 2014 -2020, as a result of the changes introduced for the performance reserve and pre financing, remain limited.

The consequences should be manageable respecting the draft MFF Regulation.

The annual fluctuations in the global level of payments, including those generated by the changes referred to, will be managed through the use of the global margin for payments and the special instruments agreed upon in the draft MFF Regulation.

The Commission will monitor the situation closely and present its evaluation as part of the mid-term review."

#### **Statement by the European Parliament on the application of Article 5**

"The European Parliament takes note of the information transmitted on 19 December 2012 by the Presidency following COREPER debates through which the Member States stated their intention to take into account in the preparatory stage of programming as far as possible the principles of the draft Regulation laying down common provisions for the European Structural and Investment Funds as the draft Regulation stood at the time of that transmission of information concerning the strategic programming bloc including the spirit and the content of the principle of partnership as laid down in Article 5."

#### **Statement by Denmark, Austria, France, Germany, the Netherlands, Sweden, Finland and the United Kingdom**

"Denmark, Austria, France, Germany, the Netherlands, Sweden, Finland and the United Kingdom agree that it is of decisive importance that the increase in payments caused by the amendments to the Council general approach in the final compromise on the cohesion legislative package as regards the performance reserve and advances can be managed within the payments ceilings as stated repeatedly by the Commission during the negotiations."

### **8. Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism [First reading] (LA + S)**

– Adoption of the legislative act

PE-CONS 97/13 PROCIV 112 JAI 871 COHAFA 106 COCON 45  
DEVGEN 252 COTER 126 ENV 908 FIN 613 PESC 1197  
CODEC 2225

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 United Kingdom delegation abstaining and the Austrian and German delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 196 of the TFEU).

#### **Statement by the European Parliament, the Council and the Commission**

"The European Parliament, the Council and the Commission take note of the approach taken in Article 19(4), (5) and (6) and in Annex I, which responds to the specificities of this Decision and is with no precedent value to other financial instruments."

## **Statement by the Commission**

"Without prejudice to the annual budgetary procedure, it is the Commission's intention to present to the European Parliament an annual report on the implementation of the Decision, including the budget breakdown set out in Annex I, starting from January 2015. This approach is based upon the specific nature of civil protection policy and is with no precedent value to other financial instruments."

### **9. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 55/2008 introducing autonomous trade preferences for the Republic of Moldova [First reading] (LA)**

PE-CONS 111/13 WTO 265 COEST 332 NIS 68 CODEC 2383

The Council approved the amendments 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 207(2) of the TFEU).

### **10. Regulation of the European Parliament and of the Council establishing a Justice Programme for the period 2014 to 2020 [First reading] (LA)**

PE-CONS 90/13 JAI 841 CADREFIN 246 DROIPEN 115 COPEN 140 CTS 49  
JUSTCIV 205 EJUSTICE 72 JURINFO 34 CORDROGUE 93  
CODEC 2152

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. In accordance with the relevant Protocols annexed to the Treaties, the Danish and the United Kingdom delegations did not participate in the vote. (Legal basis: Articles 81(1) and (2), 82(1) and 84 of the TFEU).

### **11. Regulation of the European Parliament and of the Council establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020 [First reading] (LA)**

PE-CONS 89/13 JAI 840 CADREFIN 245 FREMP 138 DATAPROTECT 135  
CULT 103 SOC 746 CODEC 2148

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 19(2), Article 21(2) and Articles 114, 168, 169 and 197 of the TFEU).

**12. Regulation of the European Parliament and of the Council amending Regulation (EU) No 99/2013 on the European statistical programme 2013-17 [First reading] (LA)**

PE-CONS 108/13 STATIS 102 ECOFIN 932 CODEC 2379

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

**13. Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006 [First reading] (LA)**

PE-CONS 99/13 SOC 797 ECOFIN 877 FSTR 124 COMPET 715 AGRI 648  
CODEC 2241

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 the United Kingdom delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: third paragraph of Article 175, Article 42 and Article 43 of the TFEU).

**14. Decision of the European Parliament and of the Council amending Directive 2003/87/EC clarifying provisions on the timing of auctions of greenhouse gas allowances (First reading) (LA + S)**

PE-CONS 114/13 ENV 1050 ENER 512 IND 319 COMPET 807 MI 1003  
ECOFIN 1003 TRANS 573 AVIATION 202 CODEC 2523

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 voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: third paragraph of Article 192(1) of the TFEU).

**Statement by Belgium, Denmark, Estonia, Italy, Luxembourg, the Netherlands, Sweden, Slovenia and the United Kingdom**

- "1. We are firmly committed to the EU Emissions Trading System (ETS) as being at the heart of the EU's climate change and low carbon investment policies up to and well beyond 2020.



2. However, we remain deeply concerned that the ETS as currently designed cannot provide the price signals needed to stimulate the low carbon investment needed now because of the significant imbalance between demand and supply in the ETS in recent years leading to a very low carbon price. These issues also threaten the credibility of carbon markets as the most flexible, cost-effective way to achieve emissions reductions.
3. Backloading is a first step to provide a short term fix pending structural reform of the EU ETS. However, there is an urgent need for a renewed focus on more substantive measures to strengthen the system. We now urge the Commission to bring forward, by the end of the year at the latest, proposals to perform a proper structural reform of the EU ETS, in order to give investors a clear signal on Europe's low carbon ambition beyond 2020 and to stimulate low carbon investments and the most cost-effective emission reductions."

### **Statement by Poland**

"In our opinion any interference in the EU ETS is not needed, because the EU ETS is presumably a market mechanism, which has to lead to anything other than reducing emissions in the most cost-effective way.

Political and legal actions aimed at temporary reduction in the number of allowances in the system may temporarily increase their prices, but will certainly have negative impact on the reliability and predictability of the system, reducing the confidence of its participants.

Proposals for political intervention in the EU ETS market may actually be seen as a clear signal of the instability of the market, adversely affecting the investment decisions in the industry. Ad hoc solutions changing the rules during the game are harmful to the credibility of the market and may even cause an increase in global emissions due to carbon leakage.

In addition, the problem arises when the allowances previously withdrawn from the market are re-introduced to the market at a later date. Such actions will not change the situation on the market, except that volatility will increase in the short term.

Current proposal will give Commission rights to intervene in the market in which it should be only the regulator. It is a dangerous precedent that could change the market nature of the ETS and could threaten the achievement of the objectives of the system in a cost effective manner.

Taking the foregoing into account, Poland cannot support the proposal and votes against its adoption."

**15. Proposal for a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures (OMNIBUS I) [First reading] (LA+S)**

– Statements

= agreement to enter the statements into the minutes of the Council

= decision to publish the statements in the Official Journal

17823/13 CODEC 2970 COMER 291 WTO 349 COWEB 186

USA 68 ACP 215 COEST 406 NIS 86 SPG 23 UD 335

+ ADD 1

approved by Coreper, Part 2, on 16.12.2013

The Council (Economic and Financial Affairs) at its 3271st meeting on 15 November 2013 adopted its position at first reading as set out in doc. 13283/13 + ADD 1. Due to a material error, the statements were not recorded at the above mentioned meeting.

The Council agreed to enter into these minutes the statements set out in doc. 17823/13

ADD 1, and decided to publish them in the Official Journal together with the adopted text of the Regulation.

**Joint statement by the European Parliament, the Council and the Commission regarding Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009**

"The European Parliament, the Council and the Commission consider that the inclusion of Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009 is justified exclusively on the basis of the specific characteristics of those Regulations before their amendment by this Regulation. As a consequence, the inclusion of a provision, such as those Articles, is exceptional to those two Regulations and is not a precedent for the drafting of future legislation.

For the sake of clarity, the European Parliament, the Council and the Commission understand that Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009 do not introduce decision-making procedures different from or additional to those provided for in Regulation (EU) No 182/2011."

### **Council statement**

#### **on the application of Articles 3(4) and 6(2) of Regulation (EU) No 182/2011 in connection with anti-dumping and countervailing duty proceedings pursuant to Regulations (EC) No 1225/2009 and (EC) No 597/2009**

"Where a Member State suggests an amendment with respect to either anti-dumping or countervailing duty draft measures provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009 (the "Basic Regulations"), in accordance with Article 3(4) or Article 6(2) of Regulation (EU) No 182/2011 it will:

- (a) ensure that the amendment is proposed in a timely manner, which respects the deadlines in the Basic Regulations and reflects the necessity for the Commission to be given sufficient time to undertake any necessary disclosure procedure, properly scrutinise the proposal, and for the Committee to examine any amended draft measure proposed;
- (b) ensure that the proposed amendment is consistent with the Basic Regulations as interpreted by the Court of Justice of the European Union and with relevant international obligations;
- (c) provide written justification which will, as a minimum, indicate how the suggested amendment relates to the Basic Regulations and to the facts established in the investigation, but may also contain such other supporting arguments as the Member State proposing the amendment considers appropriate."

### **Statements by the Commission:**

#### **In connection with anti-dumping and countervailing duty proceedings pursuant to Regulations (EC) No 1225/2009 and (EC) No 597/2009**

"The Commission recognises the importance of Member States receiving information where provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009 (the "Basic Regulations") such as to enable them to contribute to fully informed decisions, and it will act to achieve that objective.

\* \* \*

For the avoidance of doubt, the Commission understands the reference to consultations in Article 8(5) of Regulation (EU) No 182/2011 as requiring the Commission, except in cases of extreme urgency, to seek the views of the Member States before adopting provisional anti-dumping or countervailing duties.

\* \* \*

The Commission will ensure that it effectively manages all aspects of anti-dumping and countervailing duty procedures provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009, including the possibility of Member States to suggest amendments, in order to ensure that the time periods laid down in, and the obligations towards interested parties created by, the Basic Regulations are respected and that any measures finally imposed are consistent with the facts established by the investigation and the Basic Regulations as interpreted by the Court of Justice of the European Union and in line with the international obligations of the Union."

### **On codification**

"The adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures will entail a substantial number of amendments to the acts in question. In order to improve the legibility of the acts concerned, the Commission will propose a codification of the acts as expeditiously as possible once those two Regulations are adopted, and at the latest by 1 June 2014."

### **On delegated acts**

"In the context of Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures, the Commission recalls the commitment it has made in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts."

## **16. Proposal for a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures (OMNIBUS II)**

**[First reading] (LA+S)**

– Statements

= agreement to enter the statements into the minutes of the Council

= decision to publish the statements in the Official Journal

17825/13 CODEC 2971 COMER 292 WTO 350 COWEB 187

USA 69 ACP 216 COEST 407 NIS 87 SPG 24

UD 336 STIS 6 DEVGEN 346 SAN 526

+ADD 1

approved by Coreper, Part 2, on 16.12.2013

The Council (Economic and Financial Affairs) at its 3271st meeting on 15 November 2013 adopted its position at first reading as set out in doc. 13284/13 + ADD 1. Due to a material error, the statements were not recorded at the above mentioned meeting.

The Council agreed to enter into these minutes the statements set out in doc. 17825/13

ADD 1, and decided to publish them in the Official Journal together with the adopted text of the Regulation.

**Joint statement by the European Parliament, the Council and the Commission on Regulation (EEC) No 3030/93 and Regulation (EC) No 517/94**

"It is noted that that the procedures provided for in Article 2(6), Article 6(2), Articles 8 and 10, Article 13(3), Article 15(3), (4) and (5) and Article 19 of Regulation (EEC) No 3030/93, Article 4(3) of Annex IV to Regulation (EEC) No 3030/93, and Article 2, Article 3(1) and (3) of Annex VII to Regulation (EEC) No 3030/93, and Article 3(3), Article 5(2), Article 12(3) and Articles 13 and 28 of Regulation (EC) No 517/94, are converted into procedures for the adoption of delegated acts. It is noted that some of those Articles refer to decision-making procedures for the adoption of safeguard measures in the field of trade defence.

The European Parliament, the Council and the Commission consider that safeguard measures are to be treated as implementing measures. Exceptionally, in the specific existing Regulations referred to above, the measures take the form of delegated acts as the introduction of a safeguard measure takes the form of an amendment to the relevant annexes to the Basic Regulations. This derives from the particular structure which is specific to the existing Regulations referred to above and, as a consequence, will not be used as a precedent for the drafting of future trade defence instruments and other safeguard measures."

**Statements by the Commission:**

**On codification**

"The adoption of Regulation (EU) No. .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures will entail a substantial number of amendments to the acts in question. In order to improve the legibility of the acts concerned, the Commission will propose a codification of the acts as expeditiously as possible once those two Regulations are adopted, and at the latest by 1 June 2014."

**On delegated acts**

"In the context of Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No .../2013 of the European Parliament and of the Council of ... amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures, the Commission recalls the commitment it has made in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts."

**17. 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 and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 [First reading] (LA+S)**

PE-CONS 95/13 AGRI 637 AGRIFIN 154 CODEC 2209

+ COR 1 (da)

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: third paragraph of Article 42 and Article 43(2) of the TFEU).

**Statements by the Commission:**

**On Article 9(2) of Direct Payments**

"Article 9(2) of the draft Direct Payments Regulation does not preclude a farmer from leasing a building, or buildings, or parts thereof, to third parties or from owning stables, provided those activities do not constitute the farmer's main occupation."

**On coupled support**

"For agricultural products, notably for those not eligible to coupled support according to Article 38(1) of the Direct Payments Regulation, the Commission shall closely follow their market evolution and, in case of severe market crisis, may resort to any appropriate measures at its disposal to improve the market situation."

**On the non-opinion clause**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5(4), subparagraph 2, point b), in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

**Statement by the Council**

**on Article 5(4), subparagraph 2, point b) of Regulation (EU) No 182/2011 on Committee Procedure**

"The Council, having regard to the Commission statement on the so called *non-opinion* clause, reiterates that Article 5(4), subparagraph 2, point b) of Regulation 182/2011 on Committee Procedure is not, and was not meant to be, an exception to a general rule.

It is up to the legislature to determine, in the basic act and in the light of the specific features of each case, whether or not to avail itself of the option made available by point (b) of the second subparagraph of Article 5(4), thus preventing the Commission from adopting a draft implementing act in the absence of an opinion from the committee. No legal considerations limit the use of this option. Unlike other provisions of the Regulation on Committee Procedure, Article 5(4) requires no specific justification for this choice."

**Statement by Poland**  
**on the scope of coupled support**

"In the framework of discussion in the Council for Agriculture and Fisheries Poland has consistently pointed out to the need for extending the scope of provisions of the Article 38 of the draft regulation on direct support. Poland considers that to the list of sectors should be added those supported currently under article 68 of the Council Regulation 73/2009. This list should include in particular sectors of special importance in regions economically and environmentally vulnerable, including labour-intensive type of production, such as tobacco, important for rural labour market and for implementation of one of the Europe 2020 goals."

**Common Declaration and request of Romania and Latvia**

"One of the main objectives of the present CAP Reform was a system where direct payments are more equitably distributed, that should allow all Member states with direct payments per hectare below 90% of the European average to close one third of the gap between their current direct payments level and 90% of the EU average in the course of the next period and that all Member States should attain at least the level of EUR 196 per hectare by 2020, as agreed by the European Council on 8<sup>th</sup> February 2013.

Based on this general accepted principle of more equitable distribution of direct payments, Romania and Latvia support the reform and accept the compromise reached. Such a compromise should guarantee Romania and Latvia the amounts of the national envelopes for 2019 and 2020 to be consistent enough to allow a direct payment of at least EUR 196 per ha. However, the current draft regulation does not fully ensure the principle agreed by the European Council on 8<sup>th</sup> February 2013. As a result, ceilings of the direct payment envelopes for Romania and Latvia in calendar year 2019 and subsequent year are set below and foresee reductions for direct payments of over 4 mil EUR for Romania and almost 700 thousand EUR for Latvia.

Romania and Latvia have drawn the Commission attention and received a positive response regarding our request to revise the allocations upwards for the financial years 2019-2020 in order to ensure full transposition of the conclusions of the European Council on the of 8th February 2013. Annex II and III of the new Direct Payment Regulation should be amended respectively. This would require a rapid decision at the level of the next Council of Ministers.

We truly hope that this technical adjustment shall be taken into account in order to fully transpose and implement the decisions of the European Council concerning the ceilings of the direct payment envelopes for Romania and Latvia. Otherwise farmers in Romania and Latvia would be discriminated twice, once as their level of direct payments is still the lowest in the European Union, and secondly by not respecting the Council Conclusion on the Multiannual Financial Framework."

**18. Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 [First reading] (LA+S)**

PE-CONS 96/13 AGRI 638 AGRIFIN 155 AGRIORG 128 CODEC 2211

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 United Kingdom delegation abstaining and the German delegation voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: third paragraph of Article 42 and Article 43(2) of the TFEU).

**Joint statement from the European Parliament, the Council and the Commission on Article 43(3) of the Treaty on the Functioning of the European Union (TFEU)**

"The outcome of negotiations as concerns recourse to Article 43(3) of the Treaty on the Functioning of the European Union forms part of the overall compromise on the current CAP reform and is without prejudice to each institution's position on the scope of this provision and to any future developments on this question, in particular any new case law from the Court of Justice of the European Union."

**Statement by the Council on Article 43(3) of the Treaty on the Functioning of the European Union (TFEU)**

"With respect to the outcome of CAP negotiations in the June 2013 trilogue, the Council confirms that its decision to have matters falling under Article 43(3) TFEU covered by the Single CMO Regulation was only meant, in the exceptional circumstances of that trilogue, to allow a compromise to take place. That will accordingly not affect the position that the Council will continue to take in the future in defence of the prerogatives which were conferred upon it by the Lisbon Treaty."

**Statements by the Commission:**

**On marketing standards (linked to Article 75(1))**

"The Commission is keenly aware of the sensitivity of extending marketing standards to sectors or products which currently are not subject to these rules under the sCMO Regulation.

Marketing standards should only apply to sectors where there are clear expectations of the consumers and when there is a need to improve the economic conditions for the production and marketing of specific products as well as to their quality, or to take into account technical progress or need for product innovation. They should also avoid administrative burden, be simply understandable for the consumers and help producers to easily communicate the characteristics and attributes of their products.



The Commission will take into account any duly justified request from Institutions or representative organisation, as well as the recommendations of International Bodies, but before using its power to include new products or sectors in paragraph 2 of Article 75 will be required to carefully assess the specificity of that sector and present a report to the European Parliament and the Council evaluating, in particular, the need of the consumer, the costs and administrative burdens for operators including the impact on the internal market and on international trade, as well as the benefits offered to producers and to the end consumer."

#### **On sugar**

"In order to aim for a balanced market and a fluid supply of sugar to the Union market during the remaining period of sugar quotas, the Commission will have regard to the interests of both Union sugar beet growers and raw cane refiners in applying the temporary market management mechanism laid down in Article 131 of the sCMO Regulation."

#### **On the European Price Monitoring Tool**

"The Commission recognises the importance of collecting and disseminating available data on price developments in the different steps of the food chain. To this end, the Commission has developed a Food Prices Monitoring Tool for Food Products, which draws from the combined food related price index data collected by National Statistical Offices. This tool aims at bringing together and making available price development along the food chain, and allows comparison of price developments for relevant agricultural products, for food industries and the relevant consumer products. This tool is under constant improvement and will aim to expand the range of food chain products it covers and in general to meet farmers' and consumers' need for more transparency and food price building. The Commission shall report regularly to the European Parliament and to the Council on the activities of the European Price Monitoring Tool and the results of the latter's studies."

#### **On the non-opinion clause**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5(4), subparagraph 2, point b), in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

#### **Statement by the Council**

#### **on Article 5(4), subparagraph 2, point b) of Regulation (EU) No 182/2011 on Committee Procedure**

"The Council, having regard to the Commission statement on the so called *non-opinion* clause, reiterates that Article 5(4), subparagraph 2, point b) of Regulation 182/2011 on Committee Procedure is not, and was not meant to be, an exception to a general rule."

It is up to the legislature to determine, in the basic act and in the light of the specific features of each case, whether or not to avail itself of the option made available by point (b) of the second subparagraph of Article 5(4), thus preventing the Commission from adopting a draft implementing act in the absence of an opinion from the committee. No legal considerations limit the use of this option. Unlike other provisions of the Regulation on Committee Procedure, Article 5(4) requires no specific justification for this choice."

### **Statements by Italy**

"Italy deems that the text stated in Article 113(e) par. 2 of Regulation on CMO allows that the consultation for the agreement between the parties could be concluded with representatives of pig producers also."

"Italy deems that the provisions set out in Article 45(1)(a) of the Single CMO Regulation do not exclude wine producers from the provisions set out in Regulation (EC) No 3/2008."

### **Statement by Greece** **on planting rights**

"Following the discussions in the Council on the EU vineyards plantation scheme, Greece considers that Member States may include into the annual planting authorisations according to Articles 62, 63 and 64, at regional level, vineyards already planted with double or triple purpose vine varieties which are not included, so far, in the production potential of vitivinicultural sector."

### **Statement by Poland** **on equal possibilities for hops sector support under common organization of markets in agricultural products**

"In the framework of discussion in the Council for Agriculture and Fisheries, Poland has pointed out to a necessity for equal conditions for supporting hops sector under measures provided for in the draft regulation on common organization of markets in agricultural products. Poland does not accept those provisions which can be applied only in one Member State, creating this way unequal conditions of competition. Poland considers that provided solution should enable to support under this provision Polish hops producers as well."

### **Statement by Germany**

"Germany welcomes in many respects the results obtained on the direction of the Common Agricultural Policy after 2013. The European Union is thus responding to the challenges to be faced by the European agricultural sector in the years to come."

Germany cannot, for the following reasons, support some of the proposed regulations on the future Common Market Organisation:

- = Under the Treaty on the Functioning of the European Union (Art. 43 (3) TFEU), the Council, on a proposal from the European Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations. It is therefore exclusively the responsibility of the Council to lay down such rules.
- = Germany considers a deviation from this clear contractual attribution of responsibilities between the EU institutions as not acceptable.
- = For general reasons concerning Community law, too, we cannot endorse such a violation of primary law because that would set a precedent for deviations from divisions of power in other policy areas.

Germany therefore rejects the submitted Regulation on the future Common Market Organisation."

**19. Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 [First reading] (LA+S)**

PE-CONS 93/13 AGRI 624 AGRISTR 113 CODEC 2187

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 Czech delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: third paragraph of Article 42 and Article 43(2) of the TFEU).

**Statement by Italy**

"Italy notes with regret that the agreement established last June within the Council, during the process of negotiations with European Parliament on CAP reform, on increasing from 65% to 75% maximum support rate for insurance expenditure according Article 37, paragraph 5 of Rural Development Regulation, has not been taken on board.

The proposal was aimed at harmonizing various percentages of aid intensities, currently not uniform, depending on the financial instruments that could be activated.

It is therefore hoped that such issue could soon be addressed during next legal initiatives relating to the reform of the Common Agricultural Policy."

**Statement by Austria with regard to Article 32(4)**

"Austria states that the specific constraints which will be applied for the delimitation of areas according to Article 32(4) of the EAFRD regulation will be defined by the Member States."

**20. Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 [First reading] (LA+S)**

PE-CONS 94/13 AGRI 625 AGRISTR 114 AGRIORG 126 CODEC 2188

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: third paragraph of Article 43(2) of the TFEU).

**Joint statement by the European Parliament and the Council on cross-compliance**

"The Council and the European Parliament invite the Commission to monitor the transposition and the implementation by the Member States of Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy and Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides and, where appropriate, to come forward, once these Directives have been implemented in all Member States and the obligations directly applicable to farmers have been identified, with a legislative proposal amending this regulation with a view to including the relevant parts of these Directives in the system of cross-compliance."

**Statement by the Council on Article 5(4), subparagraph 2, point b) of Regulation (EU) No 182/2011 on Committee Procedure**

"The Council, having regard to the Commission statement on the so called *non-opinion* clause, reiterates that Article 5(4), subparagraph 2, point b) of Regulation 182/2011 on Committee Procedure is not, and was not meant to be, an exception to a general rule.

It is up to the legislature to determine, in the basic act and in the light of the specific features of each case, whether or not to avail itself of the option made available by point (b) of the second subparagraph of Article 5(4), thus preventing the Commission from adopting a draft implementing act in the absence of an opinion from the committee. No legal considerations limit the use of this option. Unlike other provisions of the Regulation on Committee Procedure, Article 5(4) requires no specific justification for this choice."

**Statements by the Commission:**

**On the non-opinion clause**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5(4), subparagraph 2, point b), in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when

no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

**In relation to late payments made by the paying agencies to beneficiaries (Article 40)**

"The European Commission declares that when it adopts rules on the reduction of reimbursement to the paying agencies in case of payment made to the beneficiaries after the latest possible date laid down by Union legislation, the scope of the current provisions related to late payments for EAGF will be maintained."

**On the level of implementation (Article 118)**

"The European Commission confirms that in accordance with Article 4(2) TEU, the Union respects Member States' constitutional structures and, therefore, Member States are responsible for deciding at which territorial level they wish to implement the common agricultural policy, subject to respecting Union law and ensuring its effectiveness. This principle is applicable to all four Regulations of the CAP reform."

21. **Regulation of the European Parliament and of the Council laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No .../2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations EU) No .../2013, (EU) No .../2013 and (EU) No .../2013 of the European Parliament and of the Council as regards their application in the year 2014 [First reading] (LA+S)**

PE-CONS 103/13 AGRI 675 AGRIFIN 170 AGRISTR 129 AGRIORG 143  
CODEC 2325

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: third paragraph of Article 43(2) of the TFEU).

**Statement by the Commission  
on rural development**

"The Commission declares that it will cooperate constructively with the Member States in the preparation and approval of the new rural development programmes with a view to ensuring a smooth transition to the new programming period also for measures not covered by Article 1 of the Transitional Regulation.

The Commission encourages Member States which will use the possibility under Article 1 of the Transitional Regulation to undertake new legal commitments for irrigation operations to do so in compliance with the conditions set out for such operations in Article 46(3) of the new Rural Development Regulation for the programming period 2014-2020."

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## "B" ITEM

### **4. Proposal for a Regulation of the European Parliament and of the Council on information provision and promotion measures for agricultural products on the internal market and in third countries [First reading]**

Interinstitutional file: 2013/0398 (COD)

– Presentation by the Commission

16591/13 AGRI 769 AGRIFIN 195 AGRIORG 170 CODEC 2667

+ ADD 1

The Council took note of the presentation by the Commission representative of the proposal for a Regulation on information provision and promotion measures for agricultural products on the internal market and in third countries, as set out in doc. 16591/13, of delegations' comments, and of the Commission representative's reply to them. The Council mandated its preparatory bodies to proceed with the examination of the proposal.

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## **NON LEGISLATIVE ACTIVITIES - ADOPTIONS**

*(In accordance with Article 9(1) of the Council's Rules of Procedure)*

### "A" ITEMS

### **1. Council Regulation determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products**

15173/13 AGRI 679 AGRIORG 145

+ COR 1

+ REV 1 (es)

The Council adopted the above Regulation (Legal basis: Article 43(3) of the Treaty on the Functioning of the European Union).

### **Statements by the Commission**

"The Commission considers that since the re-allocation of sugar quotas falls under (Article 138 of the sCMO Regulation, the adjustment of these quotas should do so as well."

"The Commission confirms that, in the context of the revision of the school fruit and school milk schemes, it intends to review the aid for the distribution of milk as well as the co-financing of the school fruit scheme costs, including in the smaller Aegean islands."

**32. Council Regulation on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework programme for Research and Innovation (2014-2020)**

16463/13 RECH 550 COMPET 843 ATO 147

+ COR 1

The Council adopted the above Regulation (Legal basis: Article 7 of the Treaty establishing the European Atomic Energy Community).

**Statement by Luxembourg**

"Luxembourg recognises the importance of the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation, as well as the need to put greater emphasis on nuclear safety, contributing to a shift in nuclear research. Thus Luxembourg welcomes the compromise text while, however, maintaining its critical attitude in respect of nuclear research in general.

Luxembourg stresses, however, that in future, European funds for research and training should be geared more towards renewable energy.

Since the Research and Training Programme of the European Atomic Energy Community (2014-2018) does not start such a shift towards renewable energy, Luxembourg cannot subscribe to it in its entirety and is, therefore, abstaining in the vote."

**Statement by Germany**

"Germany agrees to the proposal in order to avoid blocking a decision on the Presidency proposal. The Presidency proposal does give consideration to additional needs in the budget, but Germany believes a different weighting of the priorities is appropriate in view of the measures adopted in 2011 following Fukushima. The current draft of the Regulation does not attach adequate priority to the research into nuclear safety and radiation protection which remains necessary in order to continuously improve safety and radiation protection".

**Statement by the Commission**

"The Commission regrets that the budget distribution between the three components of the Euratom programme, as indicated in the Commission proposal of 30 November 2011, has not been retained by the Council.

In particular, the Commission regrets that the distribution in the text of the Council entails a lower share for the direct actions than the Commission proposal which was supported by the legislative resolution adopted by the EP on 19/11/2013.

Nuclear safety and security are important priorities of the European Union energy policy. Direct research contributes to the definition of commonly agreed safety and security solutions. The cost of maintaining the Euratom infrastructures that are enabling this research is increasing due to more stringent technical requirements defined by the national supervising authorities. Therefore, it is important to maintain an adequate financial framework for direct research."