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**COUNCIL OF
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ADD 1**

**PV/CONS 40
RELEX 693**

DRAFT MINUTES

Subject: **3254th** meeting of the Council of the European Union (**FOREIGN AFFAIRS**)
held in Brussels on 22 July 2013

PUBLIC DELIBERATION ITEMS¹

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

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

1. Multiannual Financial Framework (2014-2020)

- a) Draft Council Regulation laying down the multiannual financial framework for the years 2014-2020**
- b) Draft Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management**
- c) Draft Council Regulation laying down the multiannual financial framework for the years 2014-2020 and draft Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management - Draft declarations**
 - Letters to the European Parliament and the Commission, including a request by the Council for the consent of the European Parliament
11961/13 POLGEN 135 CADREFIN 180
+ ADD 1
11791/13 POLGEN 129 CADREFIN 170
+ REV 1 (et)
+ REV 2 (sl)
+ REV 3 (pt)
+ REV 4 (fr)
+ REV 5 (bg)
+ REV 6 (de)
11298/13 POLGEN 117 CADREFIN 154
approved by Coreper, Part 2, on 18.07.2013

The Council requested:

- the European Parliament's consent to the draft MFF regulation as finalised by the legal-linguistic experts;
- the European Parliament's and the Commission's approval of the draft interinstitutional agreement (IIA) on budgetary discipline, cooperation in budgetary matters and sound financial management, subject to legal-linguistic finalisation;
- the European Parliament's and the Commission's approval of the draft statements forming part of the political agreement reached on the MFF at the end of June.

2. **VAT fraud: Quick Reaction Mechanism - Reverse Charge Mechanism**
- a) **Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a Quick Reaction Mechanism against VAT fraud**
 - b) **Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud**
11373/13 FISC 132
+ REV 1 (hu)
+ REV 2 (sl)
11374/13 FISC 133
+ REV 1 (hu)
+ REV 2 (sl)
approved by Coreper, Part 2, on 18.07.2013

Following a political agreement reached at its meeting on 21 June, the Council adopted the two directives above. (Legal basis: Article 113 of the TFUE)

Statement by the Council and the Commission

"In the context of the agreement by Member States on a comprehensive package fighting VAT fraud, the Council and the Commission state that:

1. The Quick Reaction Mechanism (QRM) and the extension of the Reverse Charge Mechanism (RCM) are temporary and exceptional measures to address serious VAT fraud risks. The Commission and the Council agree the need to prioritise the delivery of a "Robust, Resilient and Fraud Proof VAT system" as outlined in the Commission's Communication on the Future of VAT with a view to facilitating the prevention of VAT fraud rather than having to rely on derogation arrangements. The Council notes the willingness of the Commission to bring forward proposals to meet this objective.
2. The Commission and the Council agree that the sole purpose of the RCM is to facilitate Member States in addressing VAT fraud which will lead to losses to their Exchequers, and does not represent in any way a move towards a general reverse charge system. Before applying a reverse charge, a Member State should be satisfied that the application of conventional administrative measures would have been insufficient to counteract fraud in such circumstances. Furthermore, applying a reverse charge should not adversely affect the existing conventional information exchange under Regulation (EU) Nr. 904/2010; Member States having implemented a reverse charge in a particular sector are still bound to reply to information requests relating to that sector within the time limits provided for in article 7 of this regulation. The Council notes the commitment by the Commission to be vigilant against any abuse of the RCM.

3. The Council notes the readiness of the Commission to speed-up as much as possible the existing procedures under Article 395 of the VAT Directive with a view to reducing the timescale involved in granting derogations to address the risk of VAT fraud.
4. The Council and the Commission recognise that co-operation in the sharing of best administrative practice among Member States in enhancing the effectiveness of measures against the risk of VAT fraud should be stepped up."

3. Proposal for a decision of the European Parliament and of the Council providing macro-financial assistance to the Kyrgyz Republic [Second reading]

- Political agreement
11996/13 ECOFIN 678 RELEX 617 COEST 179 NIS 34 CODEC 1681
approved by Coreper, Part 2, on 18.07.2013

The Council reached political agreement on the above decision proposal.

4. Directive of the European Parliament and of the Council on Attacks against Information Systems, replacing Council Framework Decision 2005/222/JHA [First reading] (LA + S)
PE-CONS 38/12 DROIPEN 89 TELECOM 130 CODEC 1757

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, the German delegation abstaining, 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 delegation did not participate in the vote. (Legal basis: Article 83 (1) of the TFEU)

Statement by Germany and Austria

"Article 11 may not be understood as meaning that Member States are required to provide for criminal sanctions against legal persons. Member States are rather free to provide for criminal fines or non-criminal fines against legal persons when implementing Article 11."

5. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council ("Tachograph") [First reading] (LA + S)

- Adoption of the revised political agreement
12241/13 TRANS 388 CODEC 1740
+ ADD 1
13195/11 TRANS 222 CODEC 1274
approved by Coreper, Part 1, on 17.07.2013

The Council reached revised political agreement on the above regulation proposal.

Statement by Germany

"This Commission proposal on the digital tachograph is intended to establish the efficiency and effectiveness of tachographs and to ensure that professional drivers observe the rules on driving and rest times even more closely.

In the view of the German Federal Government, the proposal should not result in small and medium-sized enterprises - in particular craft industry enterprises - being exposed to further red tape without good reason, however.

The compromise text negotiated between the Parliament and the Council makes provision for such enterprises to be exempted if they use a vehicle within a 100 km radius from the base of the undertaking. While this is an improvement on the existing exemption, which covers only a 50 km radius, for large countries in terms of area, such as Germany, the new provision is nevertheless insufficient and therefore not acceptable. Moreover, small and medium-sized enterprises in particular are today dependent on reaching customers within a larger radius.

From the start of the negotiations, the German Federal Government has been advocating that the exemption be extended to a 150 km radius. As a minimum fallback position, it would still be acceptable to Germany if at least those Member States believing this to be necessary were given the possibility of extending the exemption to a 150 km radius.

On the basis of the arguments mentioned in this statement for the minutes, the German Federal Government is unable to agree to the Commission proposal on digital tachographs in the form resulting from the informal trilogue."

6. Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy [First reading] (LA + S)

PE-CONS 21/13 ENV 315 SAN 132 CHIMIE 50 AGRILEG 51 CODEC 862

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, the Bulgarian delegation voting against and the Latvian, Hungarian, Polish, Romanian and Slovakian delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU)

Statement by Slovenia

"Slovenia has serious concerns about the date in Article 3(1a)(ii) of the compromise proposal for Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy, regarding establishment of the supplementary monitoring programme and a preliminary program of measures covering substances.

Slovenia recalls that time frame for monitoring does not coincide with the regular monitoring and programme measures under Water Framework Directive. It would therefore be too expensive and would impose too heavy administrative burden for Slovenia. Additionally, too short period of sampling would not provide representative data for adequate and cost effective measures.

To this end Slovenia highly regrets that the extension of date in Article 3(1a)(ii) has not been set to 22 December 2021."

Joint statement by Hungary, Latvia, Romania and Slovakia

"While understanding the need to address water pollution by setting environmental quality standards (EQS), Hungary, Latvia, Romania and Slovakia express their concerns about the major impact that this Directive could have in terms of administrative burdens, costs and tight deadlines for the implementation. We consider that the deadlines for the implementation of the new EQSs for the listed substances and their appropriate inclusion in the river basin management plans and programmes of measures are too short and difficult to follow, having in view the costs implications of the necessary measures, both in public and private sectors. Moreover, the obligation to establish and implement a supplementary monitoring programme and a preliminary programme of measures for the new substances represent an additional burden for Member States as compared to the provisions of the Water Framework Directive 2000/60/EC.

The monitoring costs of the priority substances and the substances in the watch list, including pharmaceuticals, are significant. Moreover, the lack of appropriate analytical methods for the majority of priority substances poses greater difficulties for Member States to fulfil their duties. In this respect, we welcome the inclusion of the provision to develop technical guidelines on monitoring strategies and analytical methods, under the Common Implementation Strategy of the Water Framework Directive 2000/60/EC. While recognizing the non-binding character of these guidelines, attention should be paid to art. 8 (3) of the Water Framework Directive 2000/60/EC on the obligation to develop technical specifications and standardised methods for analysis.

Therefore, Hungary, Latvia, Romania and Slovakia express their disappointment that the final compromise doesn't respond to their major concerns and do not support the final text of the directive."

Statement by the Commission

"The Commission can accept the proposed compromise especially in view of the fact that preliminary Programmes of Measures for the "new" priority substances will be established in 2018 and their implementation begin thereafter, and that, while placing the three pharmaceutical substances on the watch list, the need to address the risks from those substances is acknowledged. The preliminary Programmes of Measures should be informed by some prior monitoring, conducted at the latest during the course of 2018 before establishing the preliminary Programme of Measures.

The Commission underlines that the timely development of guidelines for adequate analytical methods by the end of 2014 is a task for both the Commission and Member States experts under the Common Implementation Strategy for the Water Framework Directive. However, the Commission stresses that it does not consider that it is legally appropriate to make legal deadlines dependent upon the provision of non-binding guidelines. It also stresses that the adoption of guidelines is not related to and may not interfere with "implementing" powers conferred on the Commission on the basis of Article 291 TFEU, and that under Article 292 TFEU it has the power to issue guidelines at any time, without reference to any obligation in a basic act.

The Commission reiterates, in relation to the 'no-opinion clause', that it is contrary to the letter and to the spirit of Regulation (EC) No 182/2011 to invoke Article 5(4), subpara-graph 2, point b) in a systematic manner. 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 Germany

"We agree with the Presidency proposal on Article 3 (1a)(ii) in Document 8186/13. However, we would like to clarify our interpretation of this point once again.

Directive 2000/60/EC does not envisage notifying the Commission of the programmes of measures. The new requirement to submit the preliminary programmes of measures would constitute a special regulation for this substance group, which we reject in principle. In order to reach agreement in the first reading, we accept the submission of the preliminary programme, whereby our understanding is that this programme will be kept general (in particular not be detailed to the water body level), and that there is no obligation to submit the final programme of measures.

Furthermore, the basic principle taken up in Article 3 of requiring the prevention of deterioration is already anchored in Directive 2000/60/EC and therefore superfluous here.

Our agreement to Article 3 is made on the basis of the interpretation set out above."

Statement by Austria

"Austria has agreed to the Directive because we acknowledge the joint efforts of all actors involved to reach a compromise in a difficult matter. We ask the European Commission when carrying out the next reviews of the list of priority substances according to Article 16 of Directive 2000/60/EC to additionally assess the experience made with the presentation of the chemical status including the provision of additional maps for ubiquitous substances and – if appropriate – present a new proposal for the presentations."

Statement by Poland

"In the course of negotiations between the European Parliament and the Council, Poland has consistently indicated that the proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy as submitted by the European Commission is premature, one of the reasons being the lack of monitoring methodologies available to analyse the new substances.

We regret to say that the text as negotiated, in our opinion, does not provide for a sufficient and feasible time-frame to attain the goals of this Directive. Furthermore, Poland has serious doubts on account of the fact that the Directive will contribute to the excessive administrative and financial burden on both the administration and the private sector."

7. Directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control [First reading] (LA + S)

PE-CONS 24/13 MAR 50 TRANS 189 SOC 282 CODEC 928

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 100(2) of the TFEU)

Statement by Austria

"Austria is aware of the significance of the Maritime Labour Convention, which is an important step towards improving the living and working conditions of seafarers on ships. Accordingly, Austria welcomes efforts made to implement the Maritime Labour Convention in the largest possible number of States.

On the other hand, maritime transport is less important to a landlocked state such as Austria, not least because the shipping register has been closed for commercial vessels. In this regard Austria is therefore no longer a flag State.

Austria would not wish to obstruct the other Member States in any way, should they ratify the Maritime Labour Convention within the meaning of the proposed Directives. As the implementation of this Convention requires a significant administrative and financial commitment, which is entirely disproportionate to the Convention's relevance for Austria, Austria does not intend to ratify the Maritime Labour Convention."
