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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on common rules for exports (codification) – Outcome of the European Parliament's first reading (Strasbourg, 9 to 12 February 2015)

I. INTRODUCTION

The rapporteur, Mr Andrzej DUDA (ECR - PL), presented a report, on behalf of the Committee on Legal Affairs, which proposed to take over the Commission proposal without amendment.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure, informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

II. VOTE

Pursuant to Rule 103 of the European Parliament's Rules of Procedure, the report was adopted by means of a single vote, without amendment or debate.

The text adopted and the legislative resolution constitute the European Parliament's first reading position¹, it reflects what had been agreed during the informal contacts referred to above.

The Council should therefore be in a position to approve the Parliament's position. The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The text adopted and the European Parliament's legislative resolution are set out in the Annex.

Common rules for exports *I**

European Parliament legislative resolution of 11 February 2015 on the proposal for a regulation of the European Parliament and of the Council on common rules for exports (codified text) (COM(2014)0322 – C8-0013/2014 – 2014/0167(COD))

(Ordinary legislative procedure – codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2014)0322),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0013/2014),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 10 December 2014²,
 - having regard to the Interinstitutional Agreement of 20 December 1994 - Accelerated working method for official codification of legislative texts³,
 - having regard to Rules 103 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0035/2014),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance;
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

² Not yet published in the Official Journal.

³ OJ C 102, 4.4.1996, p. 2.

P8_TC1-COD(2014)0167

Position of the European Parliament adopted at first reading on 11 February 2015 with a view to the adoption of Regulation (EU) 2015/... of the European Parliament and of the Council on common rules for exports (codification)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Acting in accordance with the ordinary legislative procedure⁵,

⁴ Opinion of 10 December 2014 (not yet published in the Official Journal).

⁵ Position of the European Parliament of 11 February 2015.

Whereas:

- (1) Council Regulation (EC) No 1061/2009⁶ has been substantially amended⁷. In the interests of clarity and rationality, that Regulation should be codified.
- (2) The common commercial policy should be based on uniform principles.
- (3) Common rules should be laid down for exports from the Union .
- (4) Exports are almost completely liberalised in all the Member States. It is therefore possible to accept as a Union principle that exports to third countries are not subject to any quantitative restriction, subject to the exceptions provided for in this Regulation and without prejudice to such measures as Member States may take in conformity with the Treaty.

⁶ Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports (OJ L 291, 7.11.2009, p. 1).

⁷ See Annex II.

- (5) The Commission should be informed if, as a result of unusual developments on the market, a Member State considers that protective measures might be necessary.
- (6) It is essential that examination should take place at Union level, in particular on the basis of any such information, of export terms and conditions, of export trends, of the various aspects of the economic and commercial situation, and of the measures, if any, to be taken.
- (7) It may become apparent from this examination that the Union should exercise surveillance over certain exports, or that interim protective measures should be introduced as a safeguard against unforeseen practices.
- (8) Any protective measures necessitated by the interests of the Union should be adopted with due regard for existing international obligations.

- (9) It is necessary to authorise Member States which are bound by international commitments setting up, in cases of actual or potential supply difficulties, a system for the allocation of oil products between contracting parties to comply with the resulting obligations vis-à-vis third countries, without prejudice to Union provisions adopted to the same end. This authorisation should apply until the adoption by the European Parliament and the Council of appropriate measures pursuant to commitments entered into by the Union or all the Member States.
- (10) This Regulation should apply to all products, whether industrial or agricultural. Its operation should be complementary to that of the instruments establishing the common organisation of agricultural markets, and to that of the special instruments adopted under Article 352 of the Treaty for processed agricultural products. Any overlap between the provisions of this Regulation and the provisions of those instruments, particularly the protective clauses thereof, must however be avoided.

- (11) The implementation of this Regulation requires uniform conditions for the adoption of protective measures. Those measures should be adopted by the Commission in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸,

HAVE ADOPTED THIS REGULATION:

CHAPTER I
BASIC PRINCIPLE

Article 1

The exportation of products from the Union to third countries shall be free, that is to say, they shall not be subject to any quantitative restriction, with the exception of those restrictions which are applied in conformity with this Regulation.

⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

CHAPTER II UNION INFORMATION AND CONSULTATION PROCEDURE

Article 2

If, as a result of any unusual developments on the market, a Member State considers that protective measures within the meaning of Chapter III might be necessary, it shall so notify the Commission, which shall advise the other Member States.

Article 3

1. The Commission shall be assisted by the Committee on Safeguards, established by Regulation (EU) 2015/... of the European Parliament and of the Council⁹⁺. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

⁹ Regulation (EU) 2015/... of the European Parliament and of the Council of [...] on common rules for imports (OJ L [...], [...], p. [...]).

⁺ OJ: please insert the number of the Regulation contained in 2014/0166(COD) and complete footnote 1 with number, date and OJ reference of that Regulation.

Article 4

For the purpose of assessing the economic and commercial situation as regards a particular product, the Commission may request Member States to supply statistical data on market trends in that product and, to this end, acting in accordance with their national legislation and with a procedure to be specified by the Commission, to exercise surveillance over exports of such product. Member States shall take whatever steps are necessary in order to give effect to requests from the Commission and shall forward to the Commission the data requested. The Commission shall inform the other Member States.

CHAPTER III PROTECTIVE MEASURES

Article 5

1. In order to prevent a critical situation from arising on account of a shortage of essential products, or to remedy such a situation, and where Union interests call for immediate intervention, the Commission, acting at the request of a Member State or on its own initiative, and taking account of the nature of the products and of the other particular features of the transactions in question, may make the export of a product subject to the production of an export authorisation, the granting of which shall be governed by such provisions and subject to such limits as the Commission shall lay down in accordance with the examination procedure referred to in Article 3(2), or, in cases of urgency, in accordance with Article 3(3).

2. The European Parliament, the Council and the Member States shall be notified of the measures taken. Such measures shall take effect immediately.
3. The measures may be limited to exports to certain countries or to exports from certain regions of the Union. They shall not affect products already on their way to the Union frontier.
4. Where intervention by the Commission has been requested by a Member State, the Commission shall take a decision pursuant to paragraph 1 within a maximum of five working days of the date of receipt of such request.
5. Where the Commission has acted pursuant to paragraph 1 of this Article, it shall, not later than 12 working days following the date of entry into force of the measure which it has taken, decide whether to adopt appropriate measures as provided for in Article 6. If, at the end of six weeks following the date of entry into force of the measure, no measures have been adopted, the measure in question shall be deemed revoked.

Article 6

1. Where the interests of the Union so require, the Commission may, acting in accordance with the examination procedure referred to in Article 3(2), adopt appropriate measures:
 - (a) to prevent a critical situation from arising owing to a shortage of essential products, or to remedy such a situation;
 - (b) to allow international undertakings entered into by the Union or all the Member States to be fulfilled, in particular those relating to trade in primary products.
2. The measures referred to in paragraph 1 may be limited to exports to certain countries or to exports from certain regions of the Union . They shall not affect products already on their way to the Union frontier.
3. When quantitative restrictions on exports are introduced, account shall be taken in particular of:
 - (a) the volume of goods exported under contracts concluded on normal terms and conditions before the entry into force of a protective measure within the meaning of this Chapter and notified by the Member State concerned to the Commission in conformity with its national laws; and

- (b) the need to avoid jeopardising the achievement of the aim pursued in introducing quantitative restrictions.

Article 7

1. While any measure referred to in Articles 5 and 6 is in operation, the Commission may, either at the request of a Member State or on its own initiative:
 - (a) examine the effects of the measure;
 - (b) ascertain whether the application of the measure is still necessary.

Where the Commission considers that the application of the measure is still necessary, it shall inform the Member States accordingly.

2. Where the Commission considers that any measure provided for in Article 5 or 6 should be revoked or amended, it shall act in accordance with the examination procedure referred to in Article 3(2).

CHAPTER IV TRANSITIONAL AND FINAL PROVISIONS

Article 8

In respect of products listed in Annex I, until the European Parliament and the Council adopt appropriate measures pursuant to international commitments entered into by the Union or all the Member States, Member States shall, without prejudice to rules adopted by the Union in this field, be authorised to implement the emergency sharing system introducing an allocation obligation vis-à-vis third countries provided for in international commitments entered into before the entry into force of this Regulation.

Member States shall inform the Commission of measures they intend to adopt. The measures adopted shall be communicated by the Commission to the Council and other Member States.

Article 9

The Commission shall include information on the implementation of this Regulation in its annual report on the application and implementation of trade defence measures presented to the European Parliament and to the Council pursuant to Article 22a of Council Regulation (EC) No 1225/2009¹⁰.

¹⁰ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

Article 10

Without prejudice to other Union provisions, this Regulation shall not preclude the adoption or application by a Member State of quantitative restrictions on exports on grounds of public morality, public policy or public security, or of protection of health and life of humans, animals and plants, of national treasures possessing artistic, historic or archaeological value, or of industrial and commercial property.

Article 11

This Regulation shall be without prejudice to the operation of the instruments establishing the common organisation of agricultural markets, or of the special instruments adopted under Article 352 of the Treaty for processed agricultural products. It shall operate by way of complement to those instruments.

However, in the case of products covered by such instruments, Article 5 shall not apply to those in respect of which the Union rules on trade with third countries make provision for the application of quantitative export restrictions. Article 4 shall not apply to those products in respect of which such rules require the production of a licence or other export document.

Article 12

Regulation (EC) No 1061/2009 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 13

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament

For the Council

The President

The President

ANNEX I

<i>Products referred to in Article 8</i>	
CN code	Description
270900	Petroleum oils and oils obtained from bituminous minerals, crude
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:
27101111 to 27101190	Light oils
27101911 to 27101929	Medium oils
27101931 to 27101999	Heavy oils, except lubricating oils, used in clocks and watches and the like, presented in small receptacles containing not more than 250 g net of oil
2711	Petroleum gases and other gaseous hydrocarbons:
	– Liquefied:
271112	– – Propane:
	– – – Propane of a purity not less than 99 %
	– – – Other
271113	– – Butanes
	– In gaseous state:
ex27112900	– – Other:
	– – – Propane
	– – – Butanes

ANNEX II

Repealed Regulation with the amendment thereto

Council Regulation (EC) No 1061/2009
(OJ L 291, 7.11.2009, p. 1)

Regulation (EU) No 37/2014 of the European Parliament
and of the Council
(OJ L 18, 21.1.2014, p. 1)

Only point 21 of the Annex

ANNEX III

CORRELATION TABLE

Regulation (EC) No 1061/2009	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 4	Article 3
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9	Article 8
Article 9a	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 13	Article 13
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III