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European Union

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PV/CONS 18  
AGRI 198  
PECHE 134

## DRAFT MINUTES

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Subject: **3381st** meeting of the Council of the European Union (**AGRICULTURE AND FISHERIES**) held in Luxembourg on 20 April 2015

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## **LEGISLATIVE DELIBERATIONS**

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

### **"A" ITEMS**

- 1. Directive of the European Parliament and of the Council amending Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic [Second reading] (LA+S)**

PE-CONS 2/15 TRANS 16 CODEC 47

+ REV 1 (hr)

The Council approved the European Parliament's amendment to the Council's position.

The Regulation is deemed to have been adopted in the form of the Council's position at first reading thus amended, pursuant to Article 294(8)(a) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91 of the TFEU).

### **Statements by the Commission**

1. "The European Commission has already provided guidance on the application of Article 4 of the Directive; transport operations do not have significant impact on international competition if the cross-border use remains limited to two Member States where the existing infrastructure and the road safety requirements allow it. This balances the Member States' right under the principle of subsidiarity to decide on transport solutions suited to their specific circumstances with the need to prevent such policies from distorting the internal market."
2. "The derogation on the maximum length for aerodynamic cabs and rear aerodynamic devices for heavy goods vehicles, as foreseen by the new Directive on maximum weights and dimensions of heavy goods vehicles (amendment of Directive 96/53/EC), requires amendments to the type approval legal framework (namely Regulation 661/2009 and Regulation 1230/2012).

The Commission is currently reviewing Regulation 661/2009 of the European Parliament and of the Council, to improve the general safety of vehicles. As requested by Article 17 of this Regulation 661/2009, the Commission will report in 2015 to the European Parliament and to the Council, including, where appropriate, proposals for amendment to this Regulation or other relevant Union legislation regarding the inclusion of further new safety features in particular for trucks. The Commission intends to propose the necessary amendments, following a stakeholders consultation and, where appropriate impact assessment, at the latest by 2016."

3. "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), 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.

While the Commission notes the agreement reached by the European Parliament and the Council on the recourse to this provision it regrets that such justification is not reflected in a recital."

#### **Joint statement by Sweden and Finland**

"In accordance with Directive 96/53/EC Member States may authorise on their territories vehicles or vehicle combinations with deviating weights and/or dimensions than the ones listed in Annex I of the Directive. Such vehicles or vehicle combinations should also be allowed to circulate in cross-border operations between Member States. It follows from the economic and internal market objectives that such a transport operation across the border should not be prohibited between two Member States if both authorise it.

The current situation concerning cross-border operations should be safeguarded also in the future. Without legal certainty in this matter, the result may be non-proportional internal market barriers for vehicles circulating between Member States."

## **2. Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions [First reading] (LA+S)**

– Adoption of the legislative act

7418/1/15 REV 1 CODEC 392 EF 56 ECOFIN 219 CONSOM 54

+ REV 1 ADD 1 REV 1

PE-CONS 3/15 EF 14 ECOFIN 38 CONSOM 14 CODEC 76

+ COR 1 (nl)

approved by Coreper, Part 2, on 01.04.2015

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114(1) of the TFEU).

#### **Statement by France**

"France, concerned by the comprehensibility of the Regulation on multilateral interchange fees, specifies that the concept of payment card 'schémas' ('schemes'), used in the French version of the Regulation, must be understood as relating to payment card 'systèmes' ('systems'), in accordance with the French version of the initial Commission proposal for a Regulation, the French version of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, and with usage in the French language."

**3. Regulation of the European Parliament and of the Council on European Long-term Investment Funds [First reading] (LA)**

PE-CONS 97/14 EF 352 ECOFIN 1190 CODEC 2479

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU).

**4. Regulation of the European Parliament and of the Council on common rules for imports from certain third countries (recast) [First reading] (LA)**

PE-CONS 7/15 COMER 16 CODIF 10 CODEC 129  
+ REV 1 (sl)

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

**5. Regulation of the European Parliament and of the Council suspending certain concessions relating to the import into the Union of agricultural products originating in Turkey (codification) [First reading] (LA)**

PE-CONS 9/15 CODIF 17 AGRI 55 NT 5 CODEC 173  
+ COR 1 (bg)

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

**6. Regulation of the European Parliament and of the Council on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (codification) [First reading] (LA)**

PE-CONS 4/15 CODIF 5 ECO 4 INST 14 MI 36 CODEC 98

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

**7. Regulation of the European Parliament and of the Council on the import into the Union of agricultural products originating in Turkey (codification) [First reading] (LA)**

PE-CONS 5/15 CODIF 7 AGRI 35 NT 2 COMER 13 CODEC 100

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

**8. Regulation of the European Parliament and of the Council opening and providing for the administration of certain Union tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues (codification) [First reading] (LA)**

PE-CONS 6/15 CODIF 8 AGRI 36 AGRIORG 5 CODEC 101

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

**9. Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds [First reading] LA+S)**

– Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

7767/15 CODEC 462 EF 64 ECOFIN 234 DROIPEN 29 CRIMORG 31

+ ADD 1

+ ADD 1 COR 1 (hr)

5932/15 EF 25 ECOFIN 69 DROIPEN 13 CRIMORG 15 CODEC 141

+ COR 1 (nl)

+ ADD 1

+ ADD 1 COR 1

+ REV 1 (hu)

approved by Coreper, Part 2, on 16.04.2015

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU)

## **Statement by the Czech Republic**

"While the Czech Republic welcomes compromise on the proposal for an AML Directive and Regulation, it nevertheless regrets that these acts set additional rules which do not duly correspond to the spirit of the relevant FATF recommendation (No 11). This recommendation stipulates only a minimum limit for keeping all necessary records for prosecution of criminal activity. Article 39 of the AMLD proposal (and similarly Article 16 of the AMLR proposal) however counteracts the meaning and purpose of the measures against money laundering and terrorist financing by setting the maximum time period for record keeping (10 years). This limitation on record keeping contradicts the needs of the criminal proceeding.

The records on transactions may be important for criminal investigation of serious crimes for which the prescription period is stipulated up to 20 years in the Czech Republic or the prescription is fully excluded in case of terrorist criminal offences including terrorist financing. Investigation of these crimes would be thus in many cases hampered by disposing of evidence.

The Czech Republic assumes that only the minimum limit for record keeping should be stipulated to fulfil the meaning and purpose of these acts. The determination of the maximum time period for record keeping should be left on consideration and decision of Member States to ensure compliance with their national prescription period for criminal offences and the needs of the criminal proceeding."

### **10. Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing [First reading] (LA+S)**

– Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

7768/15 CODEC 463 EF 65 ECOFIN 235 DROIPEN 30 CRIMORG 32

+ ADD 1 REV 1

5933/15 EF 26 ECOFIN 70 DROIPEN 14 CRIMORG 16 CODEC 142

+ COR 1

+ COR 2 (nl)

+ ADD 1

+ ADD 1 COR 1

+ REV 1 (cs)

+ REV 1 COR 1 (cs)

+ REV 2 (hu)

approved by Coreper, Part 2, on 16.04.2015

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU)



## **Statement by France**

- "1. The attacks suffered in January 2015 demonstrate the need to take decisive actions against terrorist financing. The adoption of the 4th Directive on the fight against money laundering and terrorism financing and the Regulation on the information accompanying transfers of funds which are strategic texts for the European Union is one of those actions.
2. To enhance the efficiency of the new rules brought by this package, we need to mobilise further energy towards:
  - i) Speeding up the process of national implementation of those rules;
  - ii) Giving appropriate powers and resources to the financial intelligence units of Member States for a full, whole and effective cooperation for the fight against terrorism;
  - iii) Endorsing and giving concrete effect to the Commission recommendations on terrorist financing identified in EU's supranational risk assessment, which should notably assess the risks posed by virtual currencies;
  - iv) Adopting a strict stance on anonymous electronic money.
3. As regards terrorist financing, actions need to be taken at European level, including through amendments on existing legal texts, where necessary, such as:
  - i) Further strengthening financial intelligence units' powers, and the cooperation between them, which must be effective, harmonised and sufficiently secure to allow exchange of sensitive information on terrorist financing;
  - ii) Further coordination between Member States of enhanced due diligences on international flows to high risk areas for the fight against terrorism;
  - iii) Work on the setting up of an EU Terrorist Finance Tracking System (TFTS), in order to use the data on international fund transfers (the SWIFT system) in combating terrorism, in accordance with the agreement reached with the European Parliament to ensure long-term cooperation with the United States;
  - iv) Improve the effectiveness of the European system for the detection and freezing of terrorist assets, allowing the effective administrative freezing of such assets across the European Union;
  - v) Bank account registries, that would facilitate the work of financial intelligence units and their cooperation;
  - vi) Further strengthening control of anonymous payment instruments, both through reinforcement of reporting requirements on movement of gold, freight transfers and other types of physical capital transfers, and through stronger regulation of electronic money and virtual currencies.

## **Statement by France**

"France, concerned about the intelligibility of the Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, states that the concept of beneficial interest held, used in Article 30 of the French version of that Directive, must be interpreted as referring to interest held, in accordance with the preparatory work, the scope of that provision and with usage in the French language."

### **Statement by the Czech Republic**

"While the Czech Republic welcomes compromise on the proposal for an AML Directive and Regulation, it nevertheless regrets that these acts set additional rules which do not duly correspond to the spirit of the relevant FATF recommendation (No 11). This recommendation stipulates only a minimum limit for keeping all necessary records for prosecution of criminal activity. Article 40 of the AMLD proposal (and similarly Article 16 of the AMLR proposal) however counteracts the meaning and purpose of the measures against money laundering and terrorist financing by setting the maximum time period for record keeping (10 years). This limitation on record keeping contradicts the needs of the criminal proceeding.

The records on transactions may be important for criminal investigation of serious crimes for which the prescription period is stipulated up to 20 years in the Czech Republic or the prescription is fully excluded in case of terrorist criminal offences including terrorist financing. Investigation of these crimes would be thus in many cases hampered by disposing of evidence.

The Czech Republic assumes that only the minimum limit for record keeping should be stipulated to fulfil the meaning and purpose of these acts. The determination of the maximum time period for record keeping should be left on consideration and decision of Member States to ensure compliance with their national prescription period for criminal offences and the needs of the criminal proceeding."

### **Statement by Austria**

"Austria is strongly concerned that the current text does not enhance transparency on beneficial ownership information necessary to avoid the abuse of trusts for the purpose of money laundering and terrorist financing. There is a clear need to establish central and public beneficial owner registries in the very country by whose laws a legal person or a trust is governed. As far as legal persons are concerned, the current text (Article 30) states that the location of the beneficial owner registry shall be the country by whose laws the legal person is governed. Unfortunately, the same does not hold true for trusts (Article 31).

The current wording does not clearly state the location of trust registries. In our view, meaningful trust registries need to be located in the countries by whose laws the trust is governed. Any other location would not serve the purpose of creating greater transparency, particularly because trusts are not recognised in the majority of Member States.

Above all, the current wording leaves room for extensive interpretation when it comes to national implementation of Article 31. There is a clear danger that Member States will interpret the provision of Article 31 differently, which eventually will result in some Member States establishing beneficial owner registries for trusts while others will not. That being said, the current wording of Article 31 opens the floodgates to abuse, in particular with respect to the usage of trusts in cross-border circumstances.

Furthermore, Article 31 paragraph 4 determines the registration of beneficial owners of trusts only when a trust “generates tax consequences”. In our view, this wording is too broad and highly prone to circumvention and evasion. For example, a tax exemption for certain types of trusts introduced by a Member State would consequently result in the abolition of the obligation to register the beneficial owner of such trusts. Such intended or unintended consequences may undermine the purpose of the provision. Austria remains highly critical of the current wording of Article 31 and does not support it. However, in order not to jeopardise an otherwise reasonable compromise text, Austria can accept the political compromise. Nevertheless, given the current wording of Article 31, Austria sees no need for implementing a beneficial owner registry for trusts in Austria.”

## "B" ITEMS

### **4. Proposal for a Regulation of the European Parliament and the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 [First reading]**

*Interinstitutional file: 2014/0285 (COD)*

– General approach

14028/14 PECHE 455 CODEC 1967

+ ADD 1

+ ADD 2

7259/3/15 PECHE 96 CODEC 361 REV 3

+ REV 3 COR 1

+ REV 3 ADD 1 REV 1

7957/15 PECHE 129 CODEC 497

The Council reached a general approach on the proposal establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 as set out in doc. 8176/15. France and Spain indicated that they would abstain on the agreed general approach, adding that however they would not oppose further progress on this file.