



Council of the
European Union

058904/EU XXVI. GP
Eingelangt am 21/03/19

Brussels, 21 March 2019
(OR. en)

7234/19
PV CONS 10
ENV 263
CLIMA 70

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Environment)
5 March 2019

CONTENTS

	Page
1. Adoption of the agenda.....	3
2. Approval of "A" items	
Non-legislative list.....	3
Legislative list.....	4
 <u>Non-legislative activities</u> 	
3. Clean Planet for all: Strategic long-term vision for a climate neutral economy	5
 <u>Legislative deliberations</u> 	
4. Directive on drinking water (recast).....	5
 <u>Non-legislative activities</u> 	
5. Greening the European Semester	6
6. European Union framework on endocrine disruptors.....	6
 <u>Any other business</u> 	
7. a) Current legislative proposal	6
Regulation amending Regulation (EU) 2015/757 in order to take appropriate account of the global data collection system for ship fuel oil consumption data	
b) Better enforcement of the EU phase-down for hydrofluorocarbons.....	6
c) Tackling greenhouse gas emissions by aviation pricing.....	6
d) Strengthening coherence between EU free trade agreements and the Paris Agreement on climate change.....	7
e) Outcome of the intermediary sessions of the Parties to the Espoo Convention and to the Protocol on Strategic Environmental Assessment (SEA) (Geneva, 5-7 February 2019).....	7
f) Environmental protection policies to combat depopulation in rural areas and to improve quality of life.....	7
g) Preparation for the 21st Meeting of the Contracting Parties to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Naples, 2-5 December 2019).....	7
ANNEX - Statements for the Council minutes.....	8

*

* *

1. Adoption of the agenda

The Council adopted the agenda set out in 6768/19.

Items "6. European Union framework on endocrine disruptors " and "7.c) Tackling greenhouse gas emissions by aviation pricing" were discussed in public session.

2. Approval of "A" items

a) Non-legislative list

6769/19

The Council adopted the "A" items listed in 6769/19 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following item the documents should read as follows:

Foreign Affairs


18. Council Decision on the conclusion of EU-25 GATS agreements
Adoption
approved by Coreper, Part 2, on 27.02.2019

☐ 6565/19
14020/18
+ ADD 1-17
+ ADD 1 COR 1 (pl)
+ ADD 1 COR 2 (ro)
+ ADD 2 COR 1 (pl)
+ ADD 2 COR 2 (ro)
+ ADD 3 COR 1 (pl)
+ ADD 9 REV 1 (pl)
+ ADD 9 COR 2 (ro)
+ ADD 10 COR 1 (ro)
+ ADD 11 COR 1 (ro)
+ ADD 12 COR 1 (ro)
+ ADD 14 COR 1 (ro)
+ ADD 14 COR 2 (mt)
+ ADD 15 COR 1 (ro)
+ ADD 17 COR 1 (ro)
SERVICES

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

6770/19


Internal Market and Industry

1. Goods package: Regulation on mutual recognition
Adoption of the legislative act
approved by Coreper, Part 1, on 27.02.2019
-  6550/1/19 REV 1
+ REV 1 ADD 1
PE-CONS 70/18
COMPET


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 TFEU)

Statements to this item are set out in the Annex.

Fisheries

2. European Fisheries Control Agency (codification)
Adoption of the legislative act
approved by Coreper, Part 2, on 27.02.2019
-  6555/19
PE-CONS 79/18
CODIF
PECHE

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 43(2) TFEU)

3. Regulation on a multi-annual plan for fish stocks in the Western Waters
Adoption of the legislative act
approved by Coreper, Part 1, on 27.02.2019
-  6553/19 + ADD 1
+ ADD 2
PE-CONS 78/18
PECHE

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 43(2) TFEU)

Statements to this item are set out in the Annex.

Foreign Affairs

4. Investment Screening Regulation 🇮🇨 6551/1/19 REV 1
Adoption of the legislative act 6551/19 ADD 1
approved by Coreper, Part 2, on 27.02.2019 + ADD 2
PE-CONS 72/18
COMER

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

Statements to this item are set out in the Annex.

Non-legislative activities

3. **Clean Planet for all: Strategic long-term vision for a climate neutral economy** 🇪🇺 6347/19
Policy debate 15011/18

The Council held a policy debate on the above-mentioned Commission communication on the basis of the two questions prepared by the Presidency, as set out in doc. 6347/19.

Legislative deliberations

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

4. **Directive on drinking water (recast)** 🇮🇨 6876/1/19 REV 1
General approach + **REV 1 ADD 1**
5846/18 + ADD 1

The Council agreed on a general approach on the so called "Drinking Water Directive", as set out in the Annex of document 6876/1/19 REV 1 and took note of the written statements by Estonian and Latvia and by the Commission set out in the Annex. This general approach constitutes the Council's mandate for future negotiations with the European Parliament.

Non-legislative activities

5. Greening the European Semester
Exchange of views 6260/19
14443/18
6. **European Union framework on endocrine disruptors** [2] 6348/19
Policy debate 14204/18

The Council held a policy debate on the abovementioned Commission communication on the basis of the two questions prepared by the Presidency, as set out in doc. 6348/19.

Any other business

7. a) **Current legislative proposal**
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

Regulation amending Regulation (EU) 2015/757 in order to take appropriate account of the global data collection system for ship fuel oil consumption data
Information from the Commission

[1][C] 6117/19 + ADD 1

The Council took note of the information provided by the Commission.

- b) Better enforcement of the EU phase-down for hydrofluorocarbons 6455/19
Information from the Commission
- c) **Tackling greenhouse gas emissions by aviation pricing** [2] 6636/19
Information from the Belgian delegation

The Council took note of the information provided by the Belgian delegation, as well as of interventions by other delegations.

- d) Strengthening coherence between EU free trade agreements and the Paris Agreement on climate change
Information from the French, Spanish and Luxembourg delegations 7016/19
- e) Outcome of the intermediary sessions of the Parties to the Espoo Convention and to the Protocol on Strategic Environmental Assessment (SEA)
(Geneva, 5-7 February 2019)
Information from the Presidency and the Commission 6790/19
- f) Environmental protection policies to combat depopulation in rural areas and to improve quality of life
Information from the Spanish delegation 6871/19
- g) Preparation for the 21st Meeting of the Contracting Parties to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Naples, 2-5 December 2019)
Information from the Italian delegation 6875/19



First reading



Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)



Item based on a Commission proposal

Statements to the legislative "B" items set out in 6768/19

Ad "B" item 4: Directive on drinking water (recast)

General approach

STATEMENT BY ESTONIA AND LATVIA

"We fully endorse the objectives of the Directive and in particular consider the updating of the monitoring parameters and the proposed risk-based approach an important step forward.

However, we wish to reiterate our concern on the proposed compromise text relating to the minimum hygiene requirements for materials that come into contact with water intended for human consumption.

In principle, we align ourselves with the general aim to ensure the safety and quality of the materials used in products intended for water supply systems and improve the functioning of the internal market in this field. However, we are not certain that the Presidency's text will ultimately bring us to achieving these goals without introducing undue administrative burden and legal uncertainty.

We consider that the Presidency compromise text on Article 10a and Annex VII of the proposal essentially aims at harmonising the rules on materials and products that come into contact with water intended for human consumption. We emphasise that such a harmonisation legislation should respect the requirements set out in the Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC. Therefore, we are of the view that the objective to harmonise the minimum requirements for materials that come into contact with water intended for human consumption, is best achieved through a separate product legislation or the existing construction product legislation.

Though, as it is decided that the minimum requirements will be regulated in this directive, we find it necessary to clarify the provisions vis-à-vis the product legislation and to allow more time for setting up and implementing the new system. The current proposal should not lead to banning substances that are not on the positive list and it should make clear that it is possible for economic operators to certify the compliance of materials to the minimum requirements also based on harmonised standards and through the conformity assessment procedures, in line with the general EU conformity assessment framework.

Furthermore, we consider that the establishment of a new quality marking would be unreasonable and confusing to the consumers and contradict the existing Construction Production Regulation, which requires that the CE marking should be the only marking of conformity of the construction product.

We also express our concern about the fact that in the Council major policy changes are introduced without any impact assessment at EU level. Without a proper analysis, it is very difficult to assess the impact of these substantial changes on the availability and free movement of the products and the potential effects this could have on the price of drinking water. We are also worried about the costs and administrative burden that the management and updating of the EU positive lists and the authorisation procedure for materials will bring to the competent authorities and to the economic operators. As a result, this kind of a policy measure should not be adopted in a hurry without any further impact analysis.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the Directive, Estonia and Latvia will abstain regarding the current legislative proposal."

STATEMENT BY THE EUROPEAN COMMISSION

"The Commission reserves its position at this stage, pending the adoption of the European Parliament position.

In relation to draft Article 10(a), the Commission supports the objective of ensuring that the materials in contact with water are of a high quality that protects the health of consumers. It recalls its proposal to tackle hygiene and safety requirements for materials in contact with drinking water under the Construction Products Regulation (EU No 305/2011).

The Commission takes note that a majority of Member States want to introduce a system of establishing minimum requirements for substances and materials in contact with drinking water in the present draft Directive. However, the proposed approach raises several concerns in terms of: legal coherence and certainty; the practicalities of its implementation and its impact on the internal market as well as on the Member States and EU financial resources.

The Commission recalls that under the environmental legal basis Member States may adopt more stringent measures, which will lead to an incomplete harmonisation of materials and substances from which products in contact with water will be manufactured, creating barriers to the internal market. Legally the text raises issues of its soundness and compatibility with Regulation 305/2011. The feasibility of meeting the deadlines set for the adoption of the first lists is questionable, whilst the resource implications are unknown. The absence of clear and long-enough transitional periods for the adoption of the positive lists could have significant negative impacts on the market.

The Commission recalls that in line with the principles of Better Regulation, the effects these changes are likely to bring at the levels of the EU, several Member States and economic operators should be properly assessed.

Whilst recalling the provisions of the Inter-institutional Better Law-making as concerns impact assessments by the Parliament and the Council of substantive amendments they introduce to Commission proposals, the Commission intends to further analyse and assess the concerns set out in this declaration. It will make its results known to the co-legislators so that they can take them fully into account in the next steps of the negotiations."

Statements to the legislative "A" items set out in 6770/19

Ad "A" item 1: **Goods package: Regulation on mutual recognition**
Adoption of the legislative act

STATEMENT BY GERMANY

"The national building authorities have a special responsibility to ensure that regulations under public law for buildings (e.g. concerning stability or fire safety) are complied with in the erection, alteration, removal, use and maintenance of overground and underground structures and transport infrastructure. The Federal Republic of Germany therefore assumes that the Regulation on the Mutual Recognition of Goods will be without prejudice to the fulfilment of this responsibility."

Ad "A" item 3: **Regulation on a multi-annual plan for fish stocks in the Western Waters**
Adoption of the legislative act

JOINT STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

"The European Parliament and the Council intend to repeal the empowerments to adopt technical measures by means of delegated acts under Article 8 of this Regulation when they adopt a new regulation on technical measures which includes an empowerment covering the same measures."

STATEMENT BY THE COMMISSION
on European seabass

"Inclusion of European seabass in the list of species in Article 1(1) of the Plan does not imply that a TAC would need to be established."

STATEMENT BY THE COMMISSION
on variations in scientific advice

"Where, on the basis of the best available scientific advice, the Commission proposes setting TACs that deviate by more than 20% from the previously established TAC level, these cases will be listed in the explanatory memorandum of the Commission Proposal, providing, where appropriate, the underlying reasons for the TAC variations."

Ad "A" item 4: **Investment Screening Regulation**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"Following the request of the European Parliament, the European Commission undertakes to:

- share with the European Parliament the standardised forms which the European Commission will prepare to facilitate compliance of Member States with the annual reporting obligations under Article 5 of the Regulation once they are finalised, and
- share with the European Parliament such standardised forms each year, in parallel to presenting the annual report to the European Parliament and to the Council, in accordance with Article 5(3) of the Regulation."

STATEMENT BY ITALY

"On 13 September 2017 the European Commission presented the draft Regulation (COM (2017) 487 final - 2017/2204 (COD)). The draft has been amended and developed by the Council and Parliament and subsequently discussed in the trilogue which ended on 20 November 2018.

The current Italian Government notes the outcome of the negotiations, based on texts which had in fact already been completed when it took office. While agreeing with the initial objective of the exercise, which aimed to protect the Member States and the European Union against potentially predatory foreign investment, it intends to abstain from today's vote on the co-legislative process and wishes to emphasise the following points.

In the Italian Government's view, the proposal for a Regulation raises concerns regarding the correct division of competence between the EU and the Member States and inefficiently overlaps with existing national screening procedures. Under the legislation in force in Italy, the Government is already constantly engaged in the rigorous exercise of national powers to monitor foreign investment and in cooperating in very good faith to prevent 'predatory investment' which harms or threatens the strategic interests of Italy and of the European Union as a whole.

The system which is to enter into force, defined as a 'control mechanism', in reality consists merely in an exchange of information which does not guarantee that all Member States will acquire the capacity to block predatory acquisitions.

Furthermore, since it provides for the circulation of information on a 'suspect' acquisition without effective and uniform protective measures, it risks attracting new potential buyers who may learn of the existence of a company subject to a hostile offer, despite the confidential nature of the exchange of information.

Once this Regulation is approved, there is a risk that the issue of FDI screening will be considered to have been solved and will be removed for some time from the work agenda in Brussels: this would continue to expose those Member States that lack a national screening mechanism ('golden power') to the real danger of predatory acquisitions. Priority should rather be given to a regulatory instrument that creates uniformity among Member States in terms of monitoring of foreign direct investments aimed at strategic assets, where necessary by creating national screening mechanisms and setting minimum standards.

The Italian Government reserves the right to promote any useful initiative in the future aimed at adequately opposing unfair practices and protecting the European Union from predatory acquisitions by third countries.

In addition, with the involvement of the Italian Parliament, it will carry out constant and timely monitoring of the Regulation's implementation, once it enters into force, and invites the Commission to do the same."
