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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(General Affairs)
21 May 2019

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1. **Adoption of the agenda**

The Council adopted the agenda set out in 9211/19.

2. **Approval of "A" items**

a) **Non-legislative list**

9212/19

The Council adopted the "A" items listed in 9212/19 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following items the documents should read as follows:

General Affairs

3. Council Decision determining the composition of the Committee of the Regions
Adoption
approved by Coreper, Part 2, on 15.05.2019

C 8398/19
8589/19
+ REV 1 (et)
CDR
INST

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

9213/19

Employment and Social Policy

1. **Revision of Directive on carcinogens or mutagens at work (third batch)**
Adoption of the legislative act
approved by Coreper, Part 1, on 15.05.2019

OC 8746/19
PE-CONS 42/19
SOC

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 153(2)(b) and Article 153(1)(a) TFEU).

Environment

2. **Directive on single-use plastics** 🗳️ 8741/19 + ADD 1
Adoption of the legislative act PE-CONS 11/19
approved by Coreper, Part 1, on 15.05.2019 ENV

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Hungary abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU). Statements to this item are set out in the Annex.

3. **Regulation on the alignment of the environmental reporting obligations** 🗳️ 8752/19 + ADD 1
Adoption of the legislative act PE-CONS 8/19
approved by Coreper, Part 1, on 15.05.2019 ENV

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, Article 192(1) and Article 207 TFEU). Statements to this item are set out in the Annex.

Fisheries

4. **Regulation amending certain provisions for fishing in the General Fisheries Commission for the Mediterranean (GFCM) Agreement area** 🗳️ 8743/19 + ADD 1
Adoption of the legislative act PE-CONS 21/19
approved by Coreper, Part 1, on 15.05.2019 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.

5. Regulation on fertilisers

Adoption of the legislative act

approved by Coreper, Part 1, on 15.05.2019



8742/2/19 REV 2

8742/19 ADD 1

REV 2

PE-CONS 76/18

ENT

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Denmark voting against and Belgium abstaining, 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.

Legislative deliberations

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

3. Multiannual Financial Framework 2021-2027

Policy debate



9089/19 + COR 1

The Council held a policy debate on the Multiannual Financial Framework 2021-2027.

Non-legislative activities

4. Preparation of the European Council on 20-21 June 2019:
Annotated Draft Agenda
Exchange of views

8939/19

5. Any other business

a) European Semester Conference (Bucharest, 4 April 2019)
Information from the Presidency

8885/19

b) Commission communication on further strengthening the
Rule of Law within the Union
Information from the Commission

8312/19

c) Ministerial meeting on European cultural heritage
(Paris, 3 May 2019)
Information from the Presidency



Special legislative procedure



Item based on a Commission proposal

Statements to the legislative "A" items set out in 9213/19

Ad "A" item 2: **Directive on single-use plastics**
Adoption of the legislative act

STATEMENT BY THE COMMISSION
on the 'no opinion' clause

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 to invoke Article 5 § 4, second subparagraph, 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 second subparagraph, 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."

STATEMENT BY THE COMMISSION
on the delays for the adoption of certain implementing acts and guidelines

"The Commission regrets the short deadlines for the adoption of implementing acts and guidelines referred to in Articles 4(2), 7(2), 9(2), 13(4) and 11a and expresses concern about the feasibility to comply with these deadlines in time."

STATEMENT BY THE COMMISSION
on the definition of biodegradable plastic

"With regard to the notion of biodegradability, the Commission will carry out the task referred to in Article 15(3)(d) of the Directive based on the specific mandate included in that article."

Ad "A" item 3: Regulation on the alignment of the environmental reporting obligations
Adoption of the legislative act

STATEMENT BY THE SLOVAK REPUBLIC

"The Slovak Republic welcomes and fully supports initiatives and efforts with respect to modernize and streamline the reporting processes including initiatives to synchronize reporting periods and to avoid double reporting.

The result should be better quality information that is provided more easily and is more widely used. This will benefit everybody involved or interested in environmental reporting.

Administrations will benefit through reduced administrative burden. The burden for business will be reduced if Member State administrations pass on the efficiency gains where businesses are involved in reporting and regulatory monitoring. Policy makers will have better quality information for policy development. Last but not least, the European public, businesses and administrations will have better access to better environmental information.

However, shortening the reporting period from 15 to 11 months in art. 7 on EPRTR will likely have a negative impact on the quality and complexity of the reported data and therefore above-mentioned goals would not be reached. Competent authorities of the Member States have quantity of task to do at first to assess the quality of the data; whether the information provided by the individual facilities is satisfactory with respect to its completeness, consistency and credibility.

In the case of any discrepancies, uncertainties or doubts in respect of the information provided by facilities, the competent authority of the Member State will have to ask for clarification from the facility concerned. The facility could also be asked to amend the information supplied if appropriate. This includes examination by the competent authorities of the records held by operators, including the data from which the reported information was derived and the description of the methodology used for data gathering. Therefore, any shortening of the deadline would be at the expense of the quality and complexity of the data.

Furthermore, we wish to express our concern in relation to recital 11 on EPRTR which states that: "Member States make data publicly available as fast as technically feasible with the aim of having the information available within three months of the year end.". The Slovak Republic does not have the possibility to technically provide the flow of data from the operator to the state and the subsequent processing of data within 3 months and that period is for us unrealistic. We are of the view that this period is only aspirational and voluntary in each country.

A longer period of time will allow the Slovak Republic to have a better and more comprehensive collection of data for publication purposes for citizens."

Ad "A" item 4: Regulation amending certain provisions for fishing in the General Fisheries Commission for the Mediterranean (GFCM) Agreement area
Adoption of the legislative act

**STATEMENT BY THE COMMISSION
on recreational fisheries**

"The Commission recalls that one of the objectives set up in the MedFish4Ever Ministerial Declaration adopted in March 2017 is to establish, as soon as possible and at the latest by 2020, a set of baseline rules to ensure an effective management of recreational fisheries across the Mediterranean.

In line with this objective, the General Fisheries Commission for the Mediterranean (GFCM) mid-term Strategy 2017-2020 includes amongst the actions to be implemented in the GFCM area, the assessment of the impacts of recreational fisheries and the consideration of best management measures to regulate these activities. In this context, a working group for recreational fisheries has been established within the GFCM with a view to developing a harmonized regional methodology towards assessing recreational fisheries.

The Commission will continue its efforts within the GFCM in order to attain the objective set up in the MedFish4Ever Declaration."

**STATEMENT BY THE COMMISSION
on red coral**

"The Commission recalls that the conservation measures adopted within the framework of the regional adaptive management plan for the exploitation of red coral in the Mediterranean Sea [Recommendation GFCM/41/2017/5] are temporary. These measures, which include the possibility to introduce catch limitations, will be assessed by the Scientific Advisory Committee (SAC) of the GFCM in 2019 with a view to their revision by the GFCM at its 43rd annual session (November 2019)."

Ad "A" item 5: Regulation on fertilisers
Adoption of the legislative act

JOINT STATEMENT BY THE CZECH REPUBLIC, HUNGARY AND THE SLOVAK REPUBLIC

"The Czech Republic, Hungary and the Slovak Republic support the aims of the Regulation, especially harmonising the rules for fertilising products.

Nevertheless, the Czech Republic, Hungary and the Slovak Republic regret the low ambition of the final compromise regarding the level of cadmium in phosphate fertilisers, which does not sufficiently recognize the hazards and risks cadmium carries. The limit of 60 mg cadmium/kg P₂O₅ for phosphate fertilisers containing more than 5% P₂O₅ cannot be deemed satisfying – especially when taking into account the need to strengthen the protection of human health and environment as it is the aim of the Regulation.

The Regulation should better address the risks for health and environment posed by the use of fertilisers containing high cadmium levels, which are apparent from the Commission's impact assessment and recent research in the field.

Member States with current low national limits for cadmium content in fertilisers should be allowed to keep that limit also for the harmonised area until the EU limit reaches the same level. In this context the Czech Republic, Hungary and the Slovak Republic strongly believe that any Member States wishing to secure a higher level of protection of their soil will receive the opportunity provided by the Treaty.

The cadmium content of fertilizers is to be reduced over the time and we request the Commission to do its utmost not to miss the opportunity during the revision of this Regulation.

As the Regulation fails to set a limit value for total chromium, being a highly toxic heavy metal, the Czech Republic, Hungary and the Slovak Republic still hold the view that the Commission should reconsider the labelling requirements for the total chromium content of fertilizing products. In this line, the information on the maximum quantity and on the exact source of chromium shall appear on the label of all the products concerned.

The final compromise text does not set clear guidelines for plant biostimulants considering requirements for evaluation of biological effectiveness, qualitative expectations and details of active substances that would be essential for such a heterogeneous group of products.

We maintain the opinion that adapting the Annexes to technical progress is equivalent to amending the legal content of the proposed legislation. Amendments to Annexes I and II for the purpose of adapting them to technical progress should be done by means of Implementing Acts."

STATEMENT BY GERMANY

"Germany wishes to comment as follows on the limit values in CMC 3 ('Compost') and CMC 5 ('Other digestate than energy crop digestate'):

The limit value of no more than 3 g/kg dry matter of macroscopic impurities in the form of glass, metal and plastics above 2 mm in *CMC 3: Compost* and *CMC 5: Other digestate than energy crop digestate* is not sufficient to ensure adequate protection of the environment from impurities.

Tougher limits are necessary, particularly in order to reduce the discharge of plastic into soil and water. Germany therefore asks the Commission to address the issue of plastic impurities in EU fertilising products before the expiry of the deadlines for the relevant test.

Since, however, the discussions led to improvements being achieved overall, the remaining concerns from Germany's point of view do not prevent us from giving our consent to the final compromise text."
