



Council of the
European Union

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ADD 1

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DRAFT MINUTES

Subject: **3586th** meeting of the Council of the European Union
(Agriculture and Fisheries),
held in Brussels on 11 and 12 December 2017

PUBLIC DELIBERATION ITEMS¹

Page

"A" ITEMS

2.	Approval of the list of "A" items	
a)	Non-legislative list	3
	Fisheries	3
	2. Black Sea TACs and Quotas Regulation for 2018	
b)	Legislative list	5
	Economic and Financial Affairs	5
	1. Omnibus proposal (agricultural provisions)	
	2. EFSI 2.0 Regulation	
	Environment	10
	3. ETS Aviation	
	Research	10
	4. Research Fund for Coal and Steel - Decision on the financial provisions	

"B" ITEMS

Non-legislative activities

FISHERIES

3.	Regulation on Atlantic and North Sea TACs and Quotas for 2018	11
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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).

"A" ITEMS

2. Approval of the list of "A" items

a) Non-legislative list

15394/17

The Council adopted the "A" items listed in 15394/17.

Statements related to these items are set out in the Annex of 15686/17 INIT.

Fisheries

2. Black Sea TACs and Quotas Regulation for 2018

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15058/17 + ADD 1
14897/17 + **COR 1**

Adoption

approved by Coreper, Part 1, on 06.12.2017

The Council adopted the text of the Proposal as set out in 14897/17 (as finalised by the legal-linguistic experts), and took note of the statements below.

Statement by Council and Commission on control issues

"The Council and the Commission consider that it is a high priority to address the endemic existence of IUU fishery of turbot in the Black Sea through the effective implementation of the Regional Plan of Action to combat illegal, unreported and unregulated fishing in the GFCM area of application.

Control and monitoring measures should be at least maintained or further increased, as stipulated in the declaration by Bulgaria and Romania. The relevant Member States should dedicate the necessary efforts and resources to enhance their control system and to ensure effectiveness of the measures that have been decided.

A High Level Conference on Black Sea fisheries will be organised by the Commission, the forthcoming Bulgarian Presidency of the Council and GFCM, in 2018, in Bulgaria, to set the roadmap for the next ten years of concrete actions towards the sustainability of fisheries in Black Sea, in line with Blacksea4fish project.

Furthermore, the EU will seek to ensure that GFCM pay particular attention to the full compliance of its members and Cooperating non-Members of GFCM to implement the Regional Plan of Action to combat illegal, unreported and unregulated fishing in the Black Sea, to implement the mid-term strategy 2017-2020 adopted by GFCM in 2016 and the Blacksea4fish project in line with the Bucharest Declaration."

Statement by Bulgaria and Romania

"Bulgaria and Romania, in the context of the adoption of the Regulation fixing for 2018 the fishing opportunities for certain fish stocks in the Black Sea and having recognized the importance of continuing implementing a robust monitoring, control and surveillance system in achieving sustainable use of fisheries marine resources in the Black Sea, commit to the following:

To follow up and further implement

a) Turbot fisheries

- to keep the fishing authorisations for turbot at 116 for Bulgaria and 48 for Romania and the minimum allocation per boat,
- to establish their respective number of designated ports for landings, 8 for Bulgaria and 10 for Romania, in order to streamline the control of landings,
- to continue the strict policy for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels,
- to keep, at least to the level of 2017, the number of market inspections and inspections at sea, including during the closed season, based on a risk assessment methodology and time schedule agreed with the European Commission and the European Fisheries Control Agency (EFCA),
- to keep or increase in 2018 the joint inspection actions under the coordination of EFCA, including controls at sea, at landings, on the markets as well as the monitoring of the transport of fish by road,
- to monitor the discards in the Rapa whelk fishery, in order to evaluate the impact on juveniles of turbot and dogfish, complementary to the provisions of the GFCM multiannual management plan for turbot fisheries in Black Sea,
- to provide all available fisheries and biological data for turbot catches from 2010 onwards,
- to increase by 10% the control at sea of the implementation of the marking and identification of the static gears in accordance with European Union rules,
- to statistically monitor the imports/exports of turbot to and from the European Union,
- to work with the Commission and the European Fisheries Control Agency (EFCA) in implementing Recommendation GFCM/41/2017/4 (turbot MAP), as well as any other measures that are deemed necessary to address the misreporting, the IUU fishery of turbot in the Black Sea and the marketing of the catches illegally caught in the region.

b) Picked dogfish fisheries

- to keep their respective catches of picked dogfish in 2018 to their 2015 level of catches and to inform the Commission on a quarterly basis of the actions taken to meet this objective,
- to continue implementing the strict policy adopted in 2016 for the recording of all catches, including below 50 kg, in corresponding logbooks, landing declarations and sales notes of all authorised vessels as well as vessels having by-catches of dogfish.
- to conduct during 2018 a pilot project on the discarded dogfish (<90 cm MCRS).

c) **Fisheries Data**

- in view of further reinforcement of the fisheries management measures and of improvement of the scientific advice in the Black Sea, Bulgaria and Romania commit to provide fisheries and biological data for all species covered by the data collection framework, in order to support the scientific knowledge in the area.

Consequently, the Bulgarian and Romanian Control Action Plans for 2018 have to meet the above-mentioned requirements."

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

15395/17

Economic and Financial Affairs

1. **Omnibus proposal (agricultural provisions)**

Adoption of the legislative act

approved by Coreper, Part 2, on 06.12.2017



15577/17

+ ADD 1-ADD 3

PE-CONS 56/17

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Dutch and Belgian delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 42, Article 43(2) and point (b) of Article 168(4) TFEU).

Statements by the Commission

"Ad Article 1 - Rural development

• **Extension of the duration of rural development programmes**

Expenditure relating to the 2014-2020 rural development programmes approved in accordance with Article 10(2) of Regulation (EU) No 1305/2013 will continue to be eligible for EAFRD contribution if paid to the beneficiaries by latest 31 December 2023. The Commission will address the continuation of support for rural development after 2020 in the context of its proposal for the next MFF.

• **Risk management**

The Commission confirms its intention to review the functioning and efficiency of the risk management tools which are currently included in Regulation (EU) No 1305/2013 in the context of its proposal on the modernisation and simplification of the Common Agricultural Policy.

- **Penalties for Leader**

The Commission confirms its intention to review the effectiveness and proportionality of the penalties for LEADER included in Commission Implementing Regulation (EU) 809/2014.

Ad Article 2 - Horizontal Regulation

- **Crisis reserve**

The Commission confirms that the operation of the reserve for crises in the agricultural sector and the reimbursement of appropriations related to financial discipline as provided for in Articles 25 and 26(5) of Regulation (EU) No 1306/2013 will be reviewed in the context of the preparations for the next MFF with a view to allowing an efficient and timely intervention in times of market crisis.

- **Single audit**

The Commission supports the single audit approach, as confirmed by its proposal for Article 123 of the new Financial Regulation. The Commission also confirms that the current legal framework for the management and control of agricultural expenditure, established by Regulation (EU) No 1306/2013, already allows for such an approach and that this has been taken up in its audit strategy for the 2014-2020 period. In particular, where the opinion of the Certification Body delivered in accordance with Article 9(1) of Regulation (EU) No 1306/2013 is considered reliable, the Commission takes this opinion into account when assessing the need for audits of the paying agency concerned.

Ad Article 3 - Direct payments

- **Protein Plan**

The Commission confirms its intention to review the supply and demand situation for plant proteins in the EU and to consider the possibility of developing a "European plant protein strategy" with a view to further encouraging the production of plant proteins in the EU in an economically and environmentally sound way.

Ad Article 4 - CMO

- **Voluntary production reduction**

The Commission confirms that Regulation (EU) 1308/2013 establishing a common organisation of the markets in agricultural products already contains, in Articles 219 and 221, the necessary legal base allowing it, subject to the availability of budgetary resources, to address market disturbances and other specific problems, including at regional level, with the possibility of granting direct financial assistance to farmers. Moreover, the Commission's proposal to add a sector-specific income stabilisation tool to Regulation (EU) No 1305/2013 on support for rural development will allow Member States to include in their rural development programmes the possibility of compensating farmers in a specific sector in the event of a significant drop in their income.

The Commission further confirms that Article 219 allows it to introduce, in case of market disturbance or threats thereof, schemes under which Union aid is granted to producers who undertake to reduce their production on a voluntary basis, including the necessary details for the operation of such a scheme (Example: Commission Delegated Regulation (EU) No 2016/1612, OJ L 242 of 9/9/2016, p. 4).

- **Recognition of transnational IBOs**

The Commission recalls that rules on producer cooperation of recognising transnational producer organisations, transnational associations of producer organisations or transnational interbranch, including the necessary administrative cooperation between the Member States concerned, are currently laid down in Commission Delegated Regulation (EU) 2016/232. The operation and adequacy of these rules will be reviewed in the context of the ongoing process on the modernisation and simplification of the CAP.

- **Unfair trading practices**

The Commission confirms that it has launched an initiative on the food supply chain which is now proceeding through the various stages required by the Better Regulation guidelines. It will decide on a possible legislative proposal once this procedure has been completed, if possible in the first half of 2018.

- **Producer co-operation**

The Commission takes note of the agreement between Parliament and Council on the amendments to Articles 152, 209, 222 and 232. The Commission notes that the amendments agreed by Parliament and Council are substantial in nature and included without an impact assessment as required by point 15 of the Inter-Institutional Agreement on Better Law-Making. This leads to an unwelcome degree of legal and procedural uncertainty of which the impact and implications are not known.

As the changes to the Commission's original proposal taken together result in a significant change to the legal framework, the Commission notes with concern that some of the new provisions in favour of producers' organisations might have the effect of endangering the viability and wellbeing of small farmers and the interest of the consumers. The Commission confirms its commitment to maintain effective competition in the agricultural sector, and give full effect to the objectives of the CAP laid down in Article 39 of the Treaty on the Functioning of the European Union. In this context, the Commission notes that the amendments agreed by the co-legislators foresee only a very limited role for both the Commission and the national competition authorities to act to preserve effective competition.

The Commission's overall agreement on the "Omnibus" proposal, including the amendments agreed by Parliament and Council, is without prejudice to any future proposals the Commission may make in these areas in the context of the reform of the common agricultural policy for the post-2020 period and other initiatives which are specifically meant to address some of the issues touched upon by the text now agreed by the European Parliament and the Council.

The Commission regrets that the issue of the very limited role for both the Commission and the National Competition authorities to act to preserve effective competition has not been addressed in a satisfactory manner by the co-legislators, and expresses concern with the possible implications of this limitation for farmers and consumers. The Commission notes that the legal text must be interpreted in a manner consistent with the Treaty, notably as regards the possibility for the Commission and national competition authorities to intervene if a producer organisation, which covers a large share of the market, seeks to restrict the freedom of action of its members. The Commission regrets that this possibility is not clearly safeguarded in the legal text."

Statement by the Netherlands

"The Netherlands appreciates the efforts of the Presidency to reach a compromise agreement on the agricultural provisions of the Omnibus proposal. In particular, the Netherlands welcomes the outcomes on the horizontal regulation, the direct payments regulation and the common market organisation regulation.

Nevertheless, the Netherlands has concerns about the reduction of the damage threshold applicable to crop, animal and plant insurance from 30% to 20%. The Netherlands currently has a well-functioning all-weather insurance scheme with a threshold of 30% in place. By reducing the damage threshold, payments will increase and become more frequent. This situation will result in an increase in the premium, which in turn will put pressure on farmers' participation in the all-weather insurance scheme. Moreover, under World Trade Organization (WTO) rules, the subsidy applied to the premium will shift from the green box to the trade-distorting amber box. For the aforementioned reasons, the Netherlands wishes to abstain from a vote on this proposal."

2. EFSI 2.0 Regulation

Adoption of the legislative act

approved by Coreper, Part 2, on 06.12.2017



15553/17

+ ADD 1-ADD 2

PE-CONS 58/17

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. The Commission confirmed that in its budgetary proposals for the years 2019 and 2020 it will continue to respect the medium-term review (MTR) of the MFF.

(Legal basis: Articles 172 and 173, the third paragraph of Article 175 and Article 182(1) TFEU).

Statement by the Commission on the EUR 225 million increase of the Connecting Europe Facility programme

"As a result of the political agreement between the European Parliament and the Council on the financing of EFSI 2.0 an amount of EUR 275 million will be redeployed from CEF financial instruments, which represents a reduction of EUR 225 million in comparison with the Commission proposal.

The Commission confirms that the financial programming will be revised to reflect the corresponding EUR 225 million increase of the CEF programme.

In the framework of the annual budgetary procedures for the years 2019-2020 the Commission will make the appropriate proposals to ensure an optimal allocation of this amount within the CEF programme."

Statement by the Council on governance

"The Council does not regard the presence at meetings of boards such as the Steering Board of an expert appointed by the European Parliament as a standard feature for funding mechanisms. It recalls that, at any rate, such an expert should not participate in the decision-making of the body concerned.

In this context, the Council brings the attention to the fact that, in the present instance, the Steering Board's core requirement for decision-making is unanimity of its voting members."

Statement on the re-use of repayments and revenues of financial instruments set up under the previous MFF by Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Ireland, Netherlands, Slovenia, Sweden and United Kingdom

"Regulation (EU, Euroatom) No 966/2012 of the European parliament and of the Council on the financial rules applicable to the general budget of the Union contains clear rules for the possible use of reflows from financial instruments. According to art. 140(6), annual repayments to financial instruments can only be used for the same financial instrument or budgetary guarantee, while revenues shall be entered in the budget as general revenue.

In the context of the ongoing discussions on the revision of the financial regulation, the Council general approach does not propose any changes to this general rule. While, according to a new provision proposed in art. 202(2), it may be possible to re-assign an outstanding amount of assigned revenue under a basic act which is to be repealed or terminated to another financial instrument pursuing similar objectives, this provision constitutes a clear exception and derogates from the general rule. It should also be noted that this provision is not yet applicable.

As such, the above Member States would like to emphasize that the financing of EFSI 2.0 by an amount of 25 mn euro from the repayments and revenues from financial instruments in heading 1a set up under the previous multiannual financial framework (MFF) constitutes an absolute exception and should not in any way be seen as a precedent for the future treatment of revenues and repayments from financial instruments set up under the previous MFF. Possible future proposals on the use of reflows from financial instruments should be fully aligned with the general rule on repayments and revenues in the financial regulation."

Environment

3. **ETS Aviation**

Adoption of the legislative act

approved by Coreper, Part 2, on 06.12.2017



15548/17 + ADD 1
PE-CONS 55/17

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the UK delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) TFEU).

Statement by the European Parliament, the Council and the Commission

"The outcome of the work of ICAO on the implementation of the global market-based measure is key for its effectiveness and for the future contribution of the aviation sector to the achievement of the objectives under the Paris Agreement. It is important that ICAO member states, aircraft operators and civil society continue to be engaged in this work of ICAO. It will be necessary in this context for ICAO to act in full transparency and to reach out to all stakeholders to inform them about progress and decisions in a timely manner."

Research

4. **Research Fund for Coal and Steel - Decision on the financial provisions**

Request for the consent of the European Parliament

approved by Coreper, Part 1, on 06.12.2017



14538/17 + COR 1
14532/17

The Council agreed in principle on the draft Council Decision as finalised by the legal-linguists and set out in 14532/17, and decided to forward the draft Council Decision as set out in 14532/17 to the European Parliament for its consent.

"B" ITEMS

Non-legislative activities

FISHERIES

3. **Regulation on Atlantic and North Sea TACs and Quotas for 2018** ☐ 14842/1/17 REV 1
13780/17
+ ADD 1-2
(Legal basis proposed by the Commission: Article 43(3) TFEU)
Political agreement

The Council reached unanimous political agreement on the Regulation fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. Latvia abstained and announced a statement on snowcrab. Denmark and Sweden considered the closure for eel fisheries unbalanced and announced a statement on this matter. Italy reiterated its disagreement with the quota distribution of swordfish. Spain made the declaration below.

Given the need for a timely adoption, the Council agreed to the use of the written procedure for the adoption of this Council Regulation.

Statement by the Kingdom of Spain on the Proposal for inter-area flexibility for anglerfish and megrim in ICES area 7

"Spain cannot consent to the flexibility which would allow 25 % of the TAC for anglerfish and megrim in ICES area 7 to be caught in ICES areas 8a, 8b, 8d and 8e by Member States with a quota for those species in both areas, because this would fail to meet the expectations of the various Spanish sectors concerned."

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- ☐ First reading
☐ Item based on a Commission proposal
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