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¹ Deliberations on Union legislative acts (Article 16(8) of the TEU), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

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

'A' ITEMS

1. Draft Directive of the European Parliament and of the Council on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU and repealing Council Directive 90/314/EEC (First reading) (LA + S)

= Adoption

(a) of the Council's position at first reading

(b) of the statement of the Council's reasons

11257/1/15 REV 1 CODEC 1090 CONSOM 138 MI 511 TOUR 10
JUSTCIV 185

+ REV 1 ADD 1

9173/15 CONSOM 92 MI 345 TOUR 8 JUSTCIV 124 CODEC 770

+ COR 1 (de)

+ COR 2 (sv)

+ ADD 1

+ ADD 1 COR 1

+ REV 1 (cs)

+ REV 2 (nl)

approved by Coreper, Part 1, on 11.9.2015

The Council approved its position at first reading, with the Austrian, Belgian, Estonian, Irish, Maltese, Netherlands and Slovak delegations voting against, 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 Belgium, Estonia, Ireland, Malta, the Netherlands and Slovakia

- '1. We do acknowledge that the old package travel directive is in need of revision due to enormous changes in the travel market. We support the improvement of consumer protection, where needed, e.g. in the field of dynamic packages. We also support insolvency protection where packages are concerned.

2. However, we do have questions regarding the way this revision has worked out. Regulation needs to be smart and self-explanatory and must be enforceable. We have strong doubts whether this is the case with this proposal.

3. A first point we want to raise regards the level of harmonization. The directive states that the target is maximum harmonization. In reality however there are numerous enabling clauses inserted allowing all kinds of derogations or choices. This is not the way forward to create an internal market for package travels.
4. A second point is that, although we acknowledge that there is a difference between a package, a linked travel arrangement (LTA) and single travel services, the real problem is that providers and/or consumers might not be aware of the fact that they are selling/buying a package, a LTA or none or both. However, in the two former cases all kinds of legal rights and obligations are becoming applicable and in those cases a provider has to take out insolvency protection. To make things more complicated, different protections apply depending on the product sold which in the end might even result in the same protection being taken out twice, which has of course a bearing on the price the traveller has to pay.
5. Another point is that the tourist industry consists mainly of a great number of small and medium sized enterprises (SMEs). These SMEs will bear the brunt of the problems connected with packages, LTAs and travel services sold separately. In special cases they might even be obliged to take out insolvency protection on behalf of a far larger provider than themselves. Regarding this point, a level playing field with third country operators is also important. Yet the mandatory insolvency protection requirement for third country operators is unenforceable and consequently may distort competition. Furthermore, the proposal's potential for negative impact on airline services is also a concern, in particular for Member States whose tourism sector is more dependent on air transport. Given all this we fear that this proposal will not contribute to a more thriving tourist industry.
6. In our view, aspects of this proposal are at odds with the aims of the Digital Single Market Strategy which seeks to overcome barriers to the full utilization of the internet and digital technologies for the benefit of consumers and businesses alike. The proposal risks stifling innovation and hindering the competitiveness of our tourism sector, ultimately creating higher prices and less choice for consumers.
7. All the above indicates that the compromise proposals do not contribute to a workable and enforceable solution. Nor is it contributing to a thriving and flourishing tourist industry, an industry dominated by SMEs. Therefore we cannot support this proposal.'

Statement by Austria

'Clear, simple, practical and necessary legislation should lie at the core of EU policy making. This is especially important for small and medium sized enterprises which usually do not have the means for an advanced legal expertise and therefore often struggle to keep track of legislative changes. In that sense, smart regulation plays a crucial role for our economic framework conditions.

The tourism sector contributes a substantial share to the Austrian GDP and is therefore of utmost economical importance. We still have severe doubts on the final text and we fear that it provides severe ramifications for small and medium sized accommodation providers.

Service providers offering accommodation often deal with customer decisions for certain separate services after the customer has already agreed to pay the accommodation without a certain offer by the service provider. These issues have frequently been raised by Austria on a technical and political level, also in writing. However, the final wording is still not clear enough.

Therefore Austria cannot support the proposed draft directive.'

2. Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (First reading) (LA + S)

PE-CONS 32/15 CLIMA 55 ENV 316 MI 328 IND 82 ENER 178 ECOFIN 368
TRANS 168 COMPET 235 CODEC 742

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the Cyprus, Polish, Romanian, Hungarian, Bulgarian and Croatian delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU).

Statement by Finland

'Finland supports the establishment of Market Stability Reserve which has the potential to strengthen the effectiveness of the Emission Trading System and increase its ability to adapt to external shocks.

Emission Trading System should create predictability for the markets and the threshold for interventions and renewal of the trading terms should remain high. Predictability is of crucial importance to energy investments and therefore it is essential that the agreed MSR rules are clear, lasting and unambiguous.

Finland highlights the need to guarantee the global competitiveness of European energy-intensive industries. In this regard it is important that the upcoming ETS review will look into the impact of the MSR on growth, jobs, the European Union's industrial competitiveness and on the risk of carbon leakage.

It is also important to consider the establishment of an EU-level system to compensate for the indirect costs of EU ETS for energy-intensive industries. In addition Finland emphasizes that the promotion of low-carbon investments in all Member States should be considered in future EU innovation funding.'

Commission statements

'In line with European Council Conclusions of October 2014 the ETS review will inter alia consider whether unallocated allowances should be used for addressing the risk of carbon leakage.'

'The temporary exemption foreseen in Art 1.3, 2nd subparagraph does not constitute a precedent for the ETS review.'

Joint statement by Poland, Bulgaria, Romania, Croatia and Hungary

Poland, Bulgaria, Romania, Croatia and Hungary cannot support the final compromise text in relation to the proposal for a Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC.

Poland, Bulgaria, Romania, Croatia and Hungary support all necessary and appropriate measures aiming at addressing the number of allowances and international credits on the ETS market. However these Member States are of the opinion that such measures should ensure long-term predictability for market participants and should also fully respect all European Council conclusions in relation to the EU climate and energy policy.

Poland, Bulgaria, Romania, Croatia and Hungary are strongly opposed to make the market stability reserve operational prior to 2021. In our view, the early operation of the reserve (from 2019) together with the placing of the back-loaded and unallocated allowances directly into the reserve will not only change the current legal framework of the 2010-2020 Climate and Energy Framework, but it will seriously undermine the predictability of the carbon market for industry as well.

In addition, the transfer of 900 million back-loaded allowances directly into the market stability reserve will result in a significant decrease in the EU ETS cap in the 2013-2020 period and therefore increase the 20 % GHG emissions reduction target agreed by the European Council back in 2007 and reconfirmed in 2008.

It is also worth to recall that according to the European Council Conclusions of 23 and 24 October 2014, the main European instrument to achieve emissions reduction target will be a well-functioning, reformed ETS with an instrument to stabilize the market *in line with the Commission proposal*, which has suggested 2021 as the year of the entry into force of the market stability reserve. In this context the final compromise contradicts these conclusions of the European Council.

In the course of the negotiations, Poland raised the issue of the legal basis used for the MSR Decision. This decision will significantly affect the Member States' choice between different energy sources and the general structure of its energy supply, it is our understanding it should be subject to unanimity in the Council in accordance with the special legislative procedure and after consultation with the European Parliament on the basis of Article 192(2)(c) of the Treaty on the Functioning of the European Union.

Poland, Bulgaria, Romania, Croatia and Hungary are fully convinced that the mechanism managing the surplus of allowances will have a significant impact on the EU ETS Market. Controlling the supply of allowances from the auction volume will have considerable economic, social and financial consequences for the Member States as well as for the industry exposed to a risk of carbon leakage. Despite repeated requests during the negotiations, the Impact Assessment fails to specify the possible scale of the potential impacts such as on the price of allowances, on the price of electricity and other economic and social aspects, including especially those related to the amendments introduced during the negotiations in the Council and the European Parliament. Therefore we cannot support the final agreement which was reached without taking full account of the direct and indirect impacts and lead to lack of transparency and legal uncertainty for ETS market participants.'

3. Directive of the European Parliament and of the Council amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council, and Council Directives 98/59/EC and 2001/23/EC as regards seafarers (First reading) (LA + S)

PE-CONS 33/15 SOC 333 EMPL 208 MAR 67 CODEC 749
+ COR 1 (de)

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the Maltese delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: point (b) of Article 153(2) of the TFEU).

Statement by Malta

'Malta fully supports the amending Directive's objective of improving the living and working conditions of seafarers and increasing the attractiveness of maritime employment. However, it considers that extending the same EU legislative framework applicable to land based workers to seafarers is not the right means to attain such objectives. In maritime transport, internationally-agreed rules and Conventions, in particular by IMO and ILO, and their worldwide ratification, effective implementation and enforcement, are needed to ensure a global level playing-field for safe, secure and environmentally friendly maritime transport, the protection of seafarers and secure the long-term competitiveness of the EU's maritime industry. The only way to ensure the protection of EU seafarers is to adopt global policies rather than regional measures which might lead to flagging out and diluting the possibility to implement and enforce EU maritime related requirements on board ships.

Malta also contests that the adoption of the Directive can be based on Article 153(2) TFEU in conjunction with Article 153(1) paragraphs (b) and (e) TFEU. Malta is of the view that the correct legal basis for amendments to the Collective Redundancies Directive and to the Transfer of Undertakings Directive is Article 153(2) in conjunction with Article 153(1) paragraph (d) TFEU since they both relate to the protection of workers where their employment is terminated. In line with this, the amendments to these Directives were to be adopted by unanimous decision.

Therefore, for the abovementioned reasons, while firmly supporting the objectives of improving the living and working conditions of seafarers, Malta abstains from voting.'

Statement by Germany

'On 19 November 2013, the Commission presented a proposal for a Directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC for the purpose of including seafarers in the scope of and the protection afforded by the above Directives.

The Federal Republic of Germany supports the amending Directive's objectives of improving the living and working conditions of seafarers.

Nonetheless, the Federal Republic of Germany doubts that the adoption of the Directive can be founded on Article 153(2) TFEU in conjunction with Article 153(1) point (b) and point (e) TFEU and issued in accordance with the ordinary legislative procedure. This notably applies to the amendments to Directive 98/59/EC of the Council of 20 July 1998 (Collective Redundancies Directive) provided for in Article 4 and the amendments to Directive 2001/23/EC of the Council of 12 March 2001 (Acquired Rights Directive) provided for in Article 5.

From the point of view of the Federal Republic of Germany, Article 153(2) in conjunction with Article 153(1) point (d) TFEU is the proper legal basis for amendments to the Collective Redundancies Directive and for amendments to the Acquired Rights Directive since it relates to the protection of workers where their employment is terminated. This is clearly the thematic focus of the two instruments to be amended. Pursuant to this legal basis the Council shall adopt the Directive by unanimous decision in accordance with a special legislative procedure. In line with this, the Directives were adopted by unanimous decision.

In the opinion of the Federal Government the focus of the regulatory substance of the two aforementioned Directives is not on "working conditions" (Article 153(1)(b) TFEU) nor on "information and consultation of workers" (Article 153(1)(e) TFEU) to which the ordinary legislative procedure could be applied, i.e. that could be adopted by qualified majority decision.

The Federal Government underlines that it shares and supports the substantive objectives pursued by the amending Directive. The Federal Republic of Germany therefore endorses the present Decision notwithstanding its legal opinion concerning the issue of the appropriate rule governing competence.'

4. Regulation of the European Parliament and of the Council laying down Union procedures in the field of the common commercial policy in order to ensure the exercise of the Union's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (WTO) (codified text) (First reading) (LA)

PE-CONS 15/15 CODIF 43 ECO 36 INST 90 MI 186 CODEC 403

The Council approved the European Parliament's position at first reading and the proposed act was 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. Draft amending budget No 6 to the general budget for 2015: Own Resources, Union Trust Fund for External Action and Office of the Body of European Regulators for Electronic Communications

11691/15 FIN 587 PE-L 48

approved by Coreper, Part 2, on 10.9.2015

The Council adopted its position on draft amending budget No 6 to the general budget for 2015. (Legal basis: Article 314 of the TFEU).