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NOTE

From:	Presidency
To:	Council
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments Proposal for a COUNCIL REGULATION amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products - Presidency Progress Report

I. INTRODUCTION

1. The Presidency hereby submits its report on the progress achieved during the second half of 2014 on the school scheme proposals. This report has been drawn up under the responsibility of the Presidency and on the basis of the positions expressed within the Council and its preparatory bodies.

2. On 30 January 2014 the Commission submitted the above proposals. The first aims at amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments (the "CMO proposal", doc. 5958/14). The second amends Regulation (EU) No 1370/2013 (the "Fixing Regulation", doc. 6054/14).
3. Under the Greek Presidency¹, the Working Party on Horizontal Agricultural Questions carried out three technical examinations of the proposals and took note of a set of Presidency's drafting suggestions². It became clear that delegations had major difficulties with three key issues of the proposals - the legal basis, the list of eligible products and the allocation criteria³.

II. PROCEEDINGS UNDER THE ITALIAN PRESIDENCY

A. Proceedings in the Council

4. Building on the work carried out under the Greek Presidency, on 8 September 2014 the Working Party on Horizontal Agricultural Questions focused on the three outstanding issues identified as critical under the Greek Presidency - i.e. the legal basis, the list of eligible products and the allocation criteria - and debated them extensively.
5. On 12 September 2014 the Special Committee on Agriculture further deepened the discussion on those issues with an orientation debate.

¹ See Presidency Progress Report (doc. 10456/14).

² Doc. 9604/14.

³ It is recalled that a few delegations preferred to keep the two schemes separate.

On the legal basis

6. Concerning the issue of the legal basis, delegations reiterated their unanimous support to the Council Legal Service's view according to which the provisions of the "CMO proposal" fixing the level of aid should be based on Article 43(3) TFEU. In the same vein, delegations had reservations about the deletion of the fixing of aid provisions from the Council Regulation (EU) No 1370/2013 (Articles 5 and 6) proposed by the Commission.
7. On this basis, on 20 October 2014 the Special Committee on Agriculture approved the text of a letter to be addressed to the Commission, asking it to amend its proposals so as to fully respect the Council's prerogatives under the TFEU. The letter, approved by the Council on 7 November 2014 and signed by the President of the Council, was sent to the Commission on the same date. Pending the Commission's reply, the technical examination of the proposals has been suspended.

On the scope (Article 23)

8. While a few delegations could support a narrow list of eligible products for regular distribution as suggested by the Commission, the great majority considered the proposed scope unsatisfactory and asked for an extension of such scope, thus confirming the position already expressed under the Greek Presidency. They considered that not only many healthy products were unduly excluded but also that the attractiveness of the school scheme could be jeopardised by a too narrow scope of application. These delegations considered that an enlargement of the eligible products' list remained compatible with the objective of the scheme, provided that clear health parameters were specified. In particular, many delegations asked to keep the current scope in place. Almost all delegations wishing an extension of the proposed scope called for dairy products other than drinking milk - notably cheese, yoghurt and flavoured milk - to be included⁴ and several delegations also called for processed fruit and vegetables to be considered. Finally a few delegations asked for honey, table olives and olive oil to be eligible for regular distribution.

⁴ Few delegations also insisted on the importance of including lactose-free milk.

9. The criteria for the allocation of Union aid were discussed both at technical and political level. Many delegations were critical "the historical use of funds under previous schemes for the supply of milk and milk products to children" as one of the two criteria to allocate the EU aid for milk. They considered that Member States that so far had not fully benefited from the school milk scheme or had no historical record (having joined the EU only recently) would be disadvantaged, and this in turn would create a vicious circle for the future. Some delegations contesting this criterion and calling for a simplification of the joint scheme, suggested using the same criteria than the one used for fruit and vegetables, i.e. the number of children and the degree of development of the regions within a Member State. However a number of other delegations defended the use of the criterion of the historical use of funds in order not to penalise those Member States were the scheme was run successfully.
10. At the Working Party meeting of 8 September 2014 the Commission presented a non-paper suggesting one of the possible methodologies to calculate the milk indicative allocation by Member State under the new school scheme, based on the average use of the school milk scheme in the period 2009-2011. While a few delegations regretted that the Commission had not come up with indicative figures on a proposed breakdown of the milk envelope and other few were unhappy with the methodology presented as such, in general delegations were available to further analyse the impact of the methodology proposed in the non-paper, with some even considering it as an interesting basis to be further developed.
11. A few delegations insisted on the need to take into account the specificities of small Member States and fix minimum envelopes of aid. The Commission showed openness to accommodate their request.
12. Many delegations called for more flexibility compared to the Commission's proposal which foresees a transfer up to 15% of the indicative allocations from one component of the scheme to the other.

B. Proceedings in the other institutions and bodies

13. After the recess due to European elections, the **European Parliament** started its work on the CMO proposal in July 2014. Mr Marc Tarabella (S&D, BE) was appointed rapporteur. The shadow-rapporteurs are: Sophia Ribeiro (EPP, PT), James Nicholson (ECR, UK), Ulrike Müller (ALDE, DE), Matt Carthy (GUE/NGL, IE), Bronis Ropé (Greens/ALE, LT) and Marco Zullo (EFDD, IT). The European Parliament is currently working on the report, which is due to be voted at committee level in February/March 2015.
14. The **Economic and Social Committee** adopted its opinion on the CMO proposal at its 500th plenary session, on 9 July 2014, by unanimous vote with two abstentions. The **Committee of the Regions**, consulted by the Council on the CMO proposal on an optional basis⁵, adopted its opinion at its 108th plenary session, on 7 October 2014, by unanimous vote with one abstention.
15. So far five **national parliaments** have delivered opinions on the application of the principles of subsidiarity and proportionality⁶.

III. CONCLUSIONS

16. The Presidency invites the Council to take note of the state of play on this file.

⁵ See decision of Coreper on 7 March 2014 (doc. 6784/14).

⁶ See doc. 9676/14 (Spanish Parliament), doc. 9002/14 (Croatian Parliament), doc. 9001/14 (Lithuanian Parliament), doc. 8386/14 (Italian Parliament), doc. 8350/14 and doc. 10625/14 (Portuguese Parliament).