



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 22 October 2013
(OR. en)**

**14239/13
ADD 1**

**PV/CONS 43
COMPET 690
RECH 430
ESPACE 73**

DRAFT MINUTES

Subject: **3258th** meeting of the Council of the European Union
(**COMPETITIVENESS (Internal Market, Industry, Research)**) held in
Brussels on 26 and 27 September 2013

PUBLIC DELIBERATION ITEMS¹

Page

LEGISLATIVE DELIBERATIONS

"A" ITEMS (doc. 13750/13)

1. Regulation of the European Parliament and of the Council amending Directives 1999/4/EC and 2000/36/EC of the European Parliament and of the Council and Council Directives 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission [First reading] (LA) 3
2. Regulation of the European Parliament and of the Council laying down Union Customs Code (recast) [First reading] (LA) 3

"B" ITEMS (doc. 13747/13)

6. Proposals by the Commission to establish public-public partnerships with Member States under Article 185 TFEU for joint implementation of national research programmes [First reading] 5

NON-LEGISLATIVE ACTIVITIES

ADOPTIONS ("A" items: doc. 13751/13)

1. Proposal for a Council Regulation amending Annex I to Regulation (EEC) No 2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff 5

PUBLIC DEBATES ("B" items: doc. 13747/13)

7. Proposals by the Commission for Joint Technology Initiatives established under Article 187 TFEU 8
- 9.f) Communication from the Commission on "Public-private partnerships in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe" 8

*

* *

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).

LEGISLATIVE DELIBERATIONS

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

- 1. Regulation of the European Parliament and of the Council amending Directives 1999/4/EC and 2000/36/EC of the European Parliament and of the Council and Council Directives 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission [First reading] (LA)**
PE-CONS 31/13 DENLEG 51 AGRI 336 SAN 181 CODEC 1217

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 43(2) and 114(1) of the TFEU).

- 2. Regulation of the European Parliament and of the Council laying down Union Customs Code (recast) [First reading] (LA+S)**
PE-CONS 36/13 UD 119 ENFOCUSTOM 100 MI 485 COMER 137
TRANS 294 CODEC 1288
+ REV 1 (da,nl,sk)

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 33, 114 and 207 of the TFEU).

Statement by Germany and Austria related to Article 148 (5)

"Article 148(5) in conjunction with Article 151 of the UCC will allow non-Union goods in temporary storage within the Union to be moved across Member States outside of the transit procedure provided for this purpose without any customs duty or input turnover tax being collected. To ensure that the large number of expected movements of goods can be supervised effectively with a view to protecting the financial interests of the EU and the Member States, it would be necessary to establish a redundant (IT) procedure in addition to NCTS, the electronic system specifically developed for the transit procedure, which is not acceptable given the significant human and financial resources already invested in NCTS by the EU and the Member States. Furthermore, the arrangement will hinder the supervision of commercial measures as well as prohibitions and restrictions, for example embargoes.

Germany and Austria will therefore, pending further notice, not make use of the discretionary provision under Article 148(5) UCC by neither granting such authorisations nor joining authorisations granted by other Member States that relate to their territories."

**Statement by Germany
related to Article 7 (c)**

"The Federal Republic of Germany takes note of the wording of Article 7(c) of the Union Customs Code and the statement made by the Commission on the proposed provision. It emphasises that the information and particulars to be transmitted on the basis of EU law according to the above should not be conclusively settled in such a way that Member States would be prohibited from demanding additional information to thereby preserve the long-standing national system architecture which serves to the benefit of trade and the administration."

Statement by Cyprus

"Cyprus wishes to remind that Article 1.1 of Protocol No. 10 of the Act of Accession of the Republic of Cyprus to the European Union foresees the suspension of the application of the acquis in those areas of the Republic of Cyprus in which the government of the Republic of Cyprus does not exercise effective control.

This suspension has a territorial application; while the application of the acquis is suspended in the non-government controlled areas, it can be applied in issues / cases that concern the non-government controlled areas."

Statement by the Republic of Croatia

"Croatia supports the adoption of the Proposal for a Regulation of the European Parliament and of the Council laying down Union Customs Code (recast) (Regulation).

Recognizing the importance of the adoption and entry into force of the Regulation as envisaged, as well as the quality of the EU legislation, Croatia is of the opinion that the Croatian version of the text does not comply with the standard customs terminology used in Croatian, and Croatia would therefore like to enter a linguistic reservation.

In order to avoid the risk of inadequate application of the basic Union customs legislation in Croatia, Croatia expects from the General Secretariat of the Council to implement, as soon as possible, the procedure to rectify the Croatian version of the Regulation."

6. **Proposals by the Commission to establish public-public partnerships with Member States under Article 185 TFEU for joint implementation of national research programmes [First reading]**
- (a) **Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in the Active and Assisted Living Research and Development Programme jointly undertaken by several Member States**
Interinstitutional file: 2013/0233 (COD)
12367/13 RECH 355 COMPET 574 TELECOM 204 SOC 595 MI 648
- (b) **Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in a second European and Developing Countries Clinical Trials Partnership Programme jointly undertaken by several Member States**
Interinstitutional file: 2013/0243 (COD)
12369/13 RECH 356 SAN 271 SOC 596
- (c) **Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in a European Metrology Programme for Innovation and Research jointly undertaken by several Member States**
Interinstitutional file: 2013/0242 (COD)
12372/13 RECH 358 COMPET 576
- (d) **Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in a Research and Development Programme jointly undertaken by several Member States aimed at supporting research performing small and medium-sized enterprises**
Interinstitutional file: 2013/0232 (COD)
12336/13 RECH 350 COMPET 568 MI 643 IND 210
- Presentation by the Commission
 - State of play

The Commission made a presentation on its proposals and the Presidency briefly informed on the state of play of the discussions in the Council.

NON LEGISLATIVE ACTIVITIES - ADOPTIONS

(in accordance with Article 9(1) of the Council's Rules of Procedure)

1. **Council Regulation amending Annex I to Regulation (EEC) No 2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff**
13418/13 TDC 12 UD 223
+ COR 1 (hu)
+ COR 2 (lt)

The Council adopted the above Regulation (Legal basis: Article 31 of the TFEU).

Statement by Hungary

"As previously declared at the 6 September 2013 COREPER, Hungary could not agree with the new classification rules in the Proposal for a Council Regulation amending Annex I to Regulation (EEC) No 2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff, and the consequent decrease in the rate of import duties on a wide scope of monitors.

- = Recalling the conclusions of the European Council adopted on 1-2 March 2012¹ stating that "The European Union is taking all necessary measures to put Europe back on the path to growth and jobs.to foster growth, competitiveness and employment";
- = Having regard to the conclusions of the European Council adopted on 22 May 2013², which lays down as a basic principle that "*In the current economic context we must mobilise all our policies in support of competitiveness, jobs and growth.*";
- = Considering the conclusions of the European Council adopted on 27/28 June 2013 stating that "*...more determined efforts are required at all levels to boost competitiveness and employment.*"³

Despite repeated requests, no assessment of the impact of the proposal on industry and jobs in the EU has been prepared.

Furthermore, during discussions of the proposal, there has not been an adequate account of how the proposed measures are advantageous for the Union. Therefore, in our view, it is still questionable whether the scope of products to be covered by 0% import duty rate, according to the proposed new classification, would exceed the obligations under the Information Technology Agreement (ITA) and the WTO panel decision or not.

The decrease in the rate of import duties and the resulting decrease in competitiveness compared to imports from third countries would seriously damage one of Hungary's most important industries - manufacturing monitors, where the tariff classification would be amended by the proposal. It is a very serious issue for Hungary, because more than 6000 employees are involved in the production of these monitors or their parts in Hungary, mostly in regions suffering from some of the highest unemployment rates within the EU. In addition to jobs in Hungary, more than 1000 jobs would also be put at risk in neighbouring Member States with companies of Hungarian origin.

In addition to the above mentioned concerns, the proposed new tariff classification is not clear, which will lead to abuse and circumvention of the rules. The period available until the proposed date of application of the proposed regulation will likely not be sufficient for the adoption of the implementing rules that would give the necessary guidance for the proper application, especially regarding the interpretation of the wording "acceptable level of functionality.

Therefore, Hungary considers that adoption of the proposal to be in clear contradiction of the priorities set by the European Council, especially by putting existing industries and jobs unnecessarily at risk."

¹ EUCO 4/2/12 REV 2, page 1, point I/1.

² EUCO 75/1/13, page 1, first introductory paragraph.

³ EUCO 104/2/13 REV 2 page 1, third introductory paragraph.

Statement by Poland

"Poland is against the modification of Combined Nomenclature concerning structure of CN code 8528 59 (*other monitors*). The two key negative outcomes of these changes have not been enough deeply discussed by the Customs Union Working Group (CUG), namely:

- The possibility of import to the EU incomplete TV's, e.g. without TV tuner, as a monitors under the 0% duty rate (the duty rate for TV's is 14%) and mounting them in the EU. The EC presented the draft of the regulation preventing that practices. However Poland is of the opinion that this regulation would be ineffective.
- The possibility of import to the EU video monitors with the TV functionality, avoiding the 14% duty rate for TV's. Poland has formally submitted to the EC and the Presidency 3 alternative proposals. The aim was to limit the scope of duty free import of the monitors with TV functionality, avoiding the inconsistency with the EU international obligations and the ECJ judgment in the Kamino case. Poland has been of the opinion that this proposal should be discussed on the CUG. This is an appropriate EU expert forum, to analyse and consider these kind of proposals submitted by the Member States.

In consequence the proposed modification of Combined Nomenclature will have a very negative impact on both TV and monitors manufacturers based in the EU. The customs rate reduction

from 14% to 0% will cover 80% imported to the EU monitors classified under subheading 8528 59. This would result in significant job losses and risk of production relocation outside the EU. Polish sector of TV and monitors manufacturing produces almost 25 million devices of which 90% of the production is distributed in the EU market. This sector also employs around 60 000 people. The EC still have not presented to the CUG the socio-economic impact assessment of proposed regulation, especially the impact on the labour market.

The electronic manufacturers sector is protected in the EU mainly by the customs rates. In other countries e.g. USA or Japan customs rate level is quite low, at the same time access to the above-mentioned countries market is restricted by the Non-Tariff Barriers (NTB's). Poland had consequently underlined that liberalization of the EU customs tariff level should be linked with the liberalization of the third parties NTB's e.g. USA and Japan. However these partners are not ready to liberalize the NTB's.

Moreover, there is a negative correlation between the modification in question and ongoing ITA revision negotiations. Proposed broad unilateral liberalization of customs duties for imported to the EU monitors affects ITA negotiations due to the fact that this tariff line is at the same time subject of these negotiations. We underlined that fact and proposed to postpone the decision until the conclusion of the ITA negotiations.

For the above mentioned reasons Poland cannot accept proposed changes in structure of the CN code 8528 59. Poland is of the opinion that this issue should be once again analysed by the Working Party on Customs Union. Poland reserves the right to oppose against the final proposal of the ITA revision."

NON-LEGISLATIVE ACTIVITIES - PUBLIC DEBATES

(in accordance with Article 8(2) of the Council's Rules of Procedures [proposed by the Presidency])

- 7. Proposals by the Commission for Joint Technology Initiatives established under Article 187 TFEU**
- (a) Proposal for a Council Regulation on the Bio-Based Industries Joint Undertaking**
12355/13 RECH 354 COMPET 573 IND 212 ENER 363 AGRI 483
 - (b) Proposal for a Council Regulation on the Clean Sky 2 Joint Undertaking**
12347/13 RECH 353 COMPET 572 ENV 708 AVIATION 108
 - (c) Proposal for a Council Regulation on the ECSEL Joint Undertaking**
12375/13 RECH 359 COMPET 577 MI 649
 - (d) Proposal for a Council Regulation on the Fuel Cells and Hydrogen 2 Joint Undertaking**
12378/13 RECH 360 ENER 364 COMPET 578 ENV 709
 - (e) Proposal for a Council Regulation on the Innovative Medicines Initiative 2 Joint Undertaking**
12370/13 RECH 357 COMPET 575 IND 213 SAN 272
- Presentation by the Commission
 - State of play

The Commission made a presentation on its proposals and the Presidency briefly informed on the state of play of the discussions in the Council.

9. Any other business

- (f) Communication from the Commission on "Public-private partnerships in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe"**
 - Presentation by the Commission
12344/13 RECH 352 COMPET 571 IND 211 MI 646

The Commission made a presentation on its communication.