



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 November 2012

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ADD 1**

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ADDENDUM to DRAFT MINUTES

Subject: **3189th** meeting of the Council of the European Union (**ECONOMIC and FINANCIAL AFFAIRS**) held in Luxembourg on 9 October 2012

PUBLIC DELIBERATION ITEMS¹

Page

AGENDA ITEMS list (doc. 14449/12 OJ/CONS 49 ECOFIN 815)

Item 2.	Financial Transaction Tax (FTT).....	3
Item 3.	Revised capital requirements rules (CRD IV)	3
Item 4.	Any Other Business	
	a) Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law	3
	b) Current legislative proposals	4

"A" ITEMS list (doc. 14498/12 PTS A 77)

Item 5.	Proposal for a Council Regulation on the allocation of fishing opportunities under the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other	5
Item 8.	Proposal for a Council Regulation on the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius.....	5

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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).

LEGISLATIVE DELIBERATIONS

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

2. Financial Transaction Tax (FTT)

- State of play

The Council discussed the state of play on this file and the time frame for future work. It was confirmed that seven Member States (DE, FR, AT, BE, PT, SL, GR) have sent letters to the Commission for initiation of the enhanced cooperation procedure, while four more Member States stated that they were considering doing so in the near future (IT, ET, SK and ES). The Commission informed Ministers that as soon as it would receive letters from nine Member States it would take steps to put forward a proposal for a Council decision authorising the enhanced cooperation. The Council will come back to this issue at the November meeting.

3. Revised capital requirements rules (CRD IV)

- a) **Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms**
- b) **Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate**
 - Information from the Presidency

The President informed the Council about the state of play on the files, and the plans of the Presidency to finalise the proposals before the end of the year.

4. Any Other Business

- a) **Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law**
 - Information from the Commission

The Commission presented the proposal. Some Member States expressed concerns about the chosen legal basis. Following statements by the Member States and the Commissioner regarding the legal basis of the proposal, the Legal Adviser to the Council explained that the legal basis proposed by the Commission was inappropriate.

Only Article 83(2) of the TFEU allows the Union to lay down minimum rules with regard to the definition of criminal offences and sanctions, including where such definition is necessary to ensure the implementation of a Union policy in an area which has been subject to harmonisation measures, such as the fight against fraud affecting the financial interests of the Union.

One Member State raised the impact the proposal could leave on national VAT administrations and underlined that investigations should stay under national authority. One Member State voiced concerns about the definition of offences covered by the proposal.

b) Current legislative proposals

- Information from the Presidency

The President informed the Council about the state of play on the proposals for

- a Regulation on the **strengthening of economic and budgetary surveillance** of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area; and
- a Regulation on **common provisions for monitoring and assessing draft budgetary plans** and ensuring the correction of excessive deficit of the Member States in the euro area. (The "two-pack").

As well as proposals for

- a directive on **Deposit Guarantee Schemes (DGS)**; and
- a Directive establishing a framework for **the recovery and resolution of credit institutions** and investment firms.

NON LEGISLATIVE ACTIVITIES - ADOPTIONS

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

"A" ITEMS

- 5. Proposal for a Council Regulation on the allocation of fishing opportunities under the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other**

13332/12 PECHE 319 OC 460

The Council adopted the above Regulation, with the Swedish delegation abstaining (Legal basis: Article 43(3) of the TFEU).

Statement by Sweden

"Explanation of vote – Kiribati

Sweden has been involved for some time in ensuring that ex-ante and ex-post evaluations are completed in good time ahead of decisions on new Protocols. In May 2012, an ex-post evaluation of the existing Protocol to the Fisheries Partnership Agreement between the EU and the Republic of Kiribati was presented, along with an ex-ante evaluation which included an analysis of the future Protocol's effect on sustainability.

The evaluation describes the scientific assessment carried out by the regional fisheries organisation (WCPFC). According to the WCPFC assessment, stocks of yellowfin tuna are approaching their maximum level of exploitation and fishing for juvenile fish is under pressure. As for bigeye tuna, the WCPFC assessment shows that the species is being overfished and that current levels of fishing are not sustainable.

According to the Council conclusions of March 2012, fishing under the Fisheries Partnership Agreement should be directed exclusively at surplus resources, and overfishing of stocks should be prevented. Since it cannot be guaranteed that the EU's fishing activities will be directed at a documented surplus, Sweden cannot support the proposal for a new Protocol for the Republic of Kiribati. Sweden has no fishing interests of its own in the Pacific and therefore abstains from the vote."

- 8. Proposal for a Council Regulation on the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius**

13502/12 PECHE 326 OC 474

The Council adopted the above Regulation, with the Swedish delegation voting against (Legal basis: Article 43(3) of the TFEU).

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