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European Union

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PV/CONS 9  
TRANS 80  
TELECOM 63  
ENER 93

## DRAFT MINUTES

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Subject: **3372nd** meeting of the Council of the European Union (**TRANSPORT, TELECOMMUNICATIONS AND ENERGY**) held in Brussels on 5 March 2015

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## PUBLIC DELIBERATION ITEMS<sup>1</sup>

Page

### LEGISLATIVE DELIBERATIONS

#### "A" ITEMS (doc. 6530/15 PTS A 14)

1. Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 [First reading] (LA+S) ..... 3
2. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European Statistics [First reading] (LA+S)..... 6

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<sup>1</sup> 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. Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 [First reading] (LA+S)**

– Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

6572/15 CODEC 249 CLIMA 18 ENV 89 MAR 18 MI 114 ONU 24

+ ADD 1 REV 1

17086/14 CLIMA 119 ENV 1010 MAR 191 MI 1013 ONU 167 CODEC 2552

+ COR 1 (hr)

+ ADD 1

approved by Coreper, Part 1, on 04.03.2015

The Council approved its position at first reading, with the Polish delegation abstaining and the Greek, Cyprus and Maltese delegations voting against, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192(1) of the TFEU)

#### **Statement by the Commission**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5, paragraph 4, second subparagraph, point (b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

#### **Statement by Cyprus**

"Cyprus had clearly expressed preference for a broadly agreed international monitoring, reporting and verification (MRV) system under the aegis of the International Maritime Organization (IMO). Within this context we also conveyed our view that an appropriately structured EU-level MRV regime could be acceptable. Our support was conditional on the mechanism being efficient and not distorting competition. Unfortunately, we have serious concern that certain provisions included in the text of the proposed Regulation, to be adopted, are problematic and the specificities of the maritime sector are not adequately taken into account.

In particular Cyprus believes that the provisions included in Article 21 of the Regulation that are related to the publication of information relevant to the energy efficiency of ships will result in distortionary competitive effects. Also, the information to be published regarding the energy efficiency of ships are not uniformly comparable and thus will lead to inappropriate conclusions and affect the market and the decision making for new rules.

Another important issue that will be generated by the publication of information relevant to the energy efficiency of ships is the disclosure of commercially sensitive operational information such as the ships' fuel consumption, volume of cargo handled, and distance travelled.

Cyprus, therefore, is not in a position to consent to the adoption of the Regulation."

### **Statement by Greece and Malta**

- "1. The Hellenic Republic and Malta consider that the text of the final agreement on the Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013 fails to take fully under consideration concrete practices of the global shipping industry and, to that extent, it is rather questionable as to its suitability to achieve the desired purpose, namely the facilitation of the development of international rules within the IMO for the monitoring, reporting and verification of CO<sub>2</sub> emissions from international transport.
1. We consider that not all data required for each ship to be monitored and reported are relevant for the purpose of monitoring, reporting and verifying CO<sub>2</sub> emissions from ships, thus increasing the administrative burden and costs for both the flag States and the shipowners with no evident benefit to the marine environment. For these reasons, Greece and Malta have, from the beginning of the deliberations for the proposed Regulation, supported that the focus should be on the collection of data from ships' fuel consumption in combination with distance travelled, i.e. data already available on ships.
2. In addition, the Hellenic Republic and Malta are not convinced about the proportionality and added value of publishing commercially sensitive data, especially those related to "transport work" and "cargo carried", taking especially into account that ships operate in an environment subject to many variables which are not under the control of any party and influence their performance.
3. Furthermore, we still consider that the technical parts of the proposed Regulation have not been given the necessary consideration and sufficient time for elaboration, in order to enable the development of an MRV system which shall be workable both for the industry and for the authorities.
4. At the same time, the Hellenic Republic and Malta question the added value of the proposed EU MRV system, as included in the text of the final agreement, to serve as a model and promote the adoption of a global system, given that the ongoing discussions within the IMO follow a less complex and easy to implement approach towards the development of a global data collection system for fuel consumption of ships. It is of significant importance to ensure that, as soon as an international system is established through the IMO, the Regulation is reviewed, in order to be fully aligned to the global system.

Bearing in mind the above, the Hellenic Republic and Malta are not in a position to consent to the final agreement on the proposed Regulation."

### **Statement by Finland, the Netherlands and Sweden**

"Finland, the Netherlands and Sweden are in favour of monitoring maritime CO<sub>2</sub> emissions and support the outcome reached in the negotiations between the Council and the European Parliament.

All sectors need to contribute to reducing greenhouse gas emissions to keep efforts in line with the global objective of limiting increases in global temperatures to 2°C. In view of the international nature of shipping, the most effective method of reducing greenhouse gas emissions in international maritime transport will be by a global agreement in the International Maritime Organization (IMO). It is therefore crucial that the EU MRV Regulation contribute to the development of international rules in IMO.

The EU MRV Regulation lays down a system for monitoring CO<sub>2</sub> emissions and other relevant data, while preserving the confidentiality of commercial and industrial information. The Regulation can among other things contribute to the removal of market barriers and help setting goals by providing reliable data.

In order to ensure a level-playing field for ships operating in less favourable climate conditions, it is also important that specific information relating to the ship's ice class and the navigation through ice can be added to the data monitored according to the Regulation.

We would like to stress that there is a need for further work on some of the elements of the regulation. In particular it will be important to further elaborate the calculation of transport work and the energy efficiency of ships so as to allow for a fair and robust comparison between different ship types. This will be challenging for all ship types, especially for ship types like general cargo, Ro-Pax and Ro-Ro ships. Specifying the parameters to be used in the calculation of cargo carried for all ship types is essential, both including those in the category of implementing acts and those in the category of delegated acts.

We would also like to underline the importance that the EU Member States continue to play a constructive role in the discussions at the IMO on the development of international rules."

### **Statement by Poland**

"Poland supports efforts to reduce carbon dioxide emissions from maritime transport but is of the opinion that such efforts should be made within the forum of the International Maritime Organization (IMO) because of the international nature of shipping and the global effects of climate change. Therefore, any legislative solutions should be of a global rather than a regional nature.

Poland takes the view that the International Maritime Organization is the most appropriate forum for the establishment of legal standards for the reduction of carbon dioxide emissions from international maritime transport. The IMO's decisions do not pose a risk of reactive measures being introduced by non-EU States in response to provisions introduced on the basis of EU requirements. Poland actively supports and promotes measures undertaken within the IMO forum which aim to establish appropriate global instruments.

In Poland's opinion, the adoption of the proposed regulation in its current form will not facilitate negotiations and efforts by the IMO to establish global solutions since the draft regulation contains elements on which a consensus in the IMO is unlikely to be achieved in the short term (for example on the issue of reporting quantitative information about cargo).

Poland cannot support the draft regulation. However, since in the course of work on the draft some aspects have been taken into account in such a way as to make the regulation more acceptable and bring it closer to solutions proposed within the forum of the IMO, Poland is abstaining from voting."

## 2. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European Statistics [First reading] (LA+S)**

– Adoption

- a) of the Council's position at first reading
- b) of the statement of the Council's reasons  
6582/15 CODEC 252 STATIS 15 ECOFIN 137  
+ ADD 1 REV 1  
5161/15 STATIS 3 ECOFIN 22 CODEC 30  
+ COR 1 (el)  
+ COR 2 (fr, fi, pt, sv)  
+ COR 3 (ro)  
+ COR 4 (es, sl)  
+ COR 5 (hr)  
+ COR 6 (pt)  
+ REV 1 (lt)  
+ ADD 1

approved by Coreper, Part 2, on 04.03.2015

The Council approved its position at first reading, with the Netherlands and Portuguese delegations abstaining and the Austrian and the United Kingdom delegations voting against, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 338(1) of the TFEU)

### **Statement by the United Kingdom, Finland and Lithuania**

"With reference to the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) no. 223/2009 on European Statistics, the United Kingdom, Finland and Lithuania consider that, while Article 338(1) TFEU is the legal basis for Regulation 223/2009, it does not constitute an appropriate legal basis for Article 12(5) of the proposed regulation. The latter Article provides for a competence of the European Commission to initiate and conduct an investigation where sectoral legislation provides for fines in cases where Member States misrepresent statistical data. The United Kingdom, Finland and Lithuania underline that Article 338 TFEU does not provide for the imposition of fines or other sanctions in the field of statistics in sectoral legislation, therefore article 12(5) is not considered as a legally permissible basis for future sectoral legislation."