

10344/98

LIMITE

PUBLIC 7

LEGISLATIVE TRANSPARENCY

STATEMENTS WHICH MAY BE RELEASED TO THE PUBLIC JUNE 1998

This document contains a summary of definitive legislative acts adopted by the Council in May 1998, together with statements in the minutes which the Council has decided may be released to the public.

It should be noted that only the minutes concerning the definitive adoption of legislative acts are authentic. Extracts from the minutes in question may be released to the public in the same way as the statements in the minutes under the conditions laid down in the Code of Conduct of 2 October 1995.

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– JUNE 1998 –

DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2102nd Council meeting (Education and Social Affairs) on 4 June 1998 Council Regulation amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (Miscellaneous amendments 1997) Council Regulation (EC) amending Regulation (EEC) No 3760/92 establishing a Community system for fisheries and aquaculture 2103rd Council meeting Economic and Financial Questions on 5 June 1998 Council Regulation (EC, ECSC, EURATOM) amending Regulation (amending Regulation (EEC, Euratom, ECSC) No 260/68 laying down the conditions and procedure for applying the tax for the benefit of the European Communities Council Regulation (EC, ECSC, EURATOM) amending Regulation (Euratom, ECSC, EEC) No 549/69 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second subparagraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply	6921/98 + COR 1 (fin) + COR 2 + REV 1 (p) 7340/98 8788/98 + COR 1 8789/98 + COR 1		

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2105th Council meeting (Fisheries) on 8 June 1998 Council Regulation amending Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources (drift-nets)	7918/98 + COR 1 (s) + COR 2	122/98	Abstention I Against F, IRL
2106th Council meeting (Environment) on 16 June 1998 Council Regulation amending Regulation (EC) No 65/98 of 19 December 1997 fixing, for certain stocks of highly migratory fish, the total allowable catches for 1998, their distribution in quotas to Member States and certain conditions under which they may be fished	8153/98	123/98	Abstention E
Council Regulation amending Regulation (EC) No 1868/94 establishing a quota system for the production of potato starch	8024/98 + REV 1 (s)	124/98	
Directive of the European Parliament and of the Council on the legal protection of biotechnological inventions	PE-CONS 3617/98	125/98, 126/98, 127/98 128/98	Abstention B, I Against NL

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2108th Council meeting (Transport) on 18 June 1998 Council decision of concerning the Agreement between the European Community, the European Space Agency and the European Organisation for the Safety of Air Navigation on a European contribution to the development of a global navigation satellite system (GNSS) Council Directive on the on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community 2109th Council meeting (Research) on 22 June 1998 Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products 2110th Council meeting (Agriculture) – 22 May 1998 Council Regulation amending Regulation (EC) No 1554/95 laying down the general rules for the system of aid for cotton	5969/1/98 REV 1 8722/98 PE-CONS 3612/98 9599/98	129/98 130/98, 131/98, 132/98 133/98 134/98, 135/98, 136/98	Abstention DK, E Against A, D Against EL

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – JUNE 1998 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2110th Council meeting (Agriculture) – 24 June 1998 Council Directive amending Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products Directive amending annexes A, D (Chapter I) and F to Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine	8376/98 9234/1/98 REV + REV 2 (s)	137/98, 138/98, 139/98 140/98, 141/98, 142/98, 143/98, 144/98	
2110th Council meeting (Agriculture) – 26 June 1998 Council Regulation amending Regulation (EEC) No 619/71 laying down general rules for granting aid for flax and hemp Agricultural prices 1998/1999:	9598/98 + COR 1 (d)	145/98	Against I
– Council Regulation fixing, for the 1998/1999 marketing year, certain sugar prices and the standard quality of beet	9587/98		Against NL
– Council Regulation fixing, for the 1998/1999 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, and the amount of compensation for storage costs	9588/98	112/98, 113/98, 114/98, 115/98, 116/98	

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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
(cont'd) Agricultural prices: – Council Regulation adopting fixing the amount of aid in respect of silkworms for the 1998/1999 rearing year – Council Regulation fixing the target price for milk and the intervention prices for butter and skimmed-milk powder for the 1998/1999 milk marketing year – Council Regulation fixing, for the 1998/1999 marketing year, the intervention price for adult bovine animals – Council Regulation fixing the basic price and the standard quality for pig carcasses for the period 1 July 1998 to 30 June 1999 2111th Council meeting (General Affairs) on 29 June 1998 Council Decision on the consultation of the European Central Bank by national authorities regarding draft legislative provisions Council Directive amending Directive 77/187/EEC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses	9589/98 9590/98 9591/98 9593/98 8786/98 + COR 1 (fin,d,i,en,dk,gr,es,fin) 9303/98 + COR 1 (d) + COR 2 (s)	146/98 147/98, 148/98, 149/98, 150/98, 151/98, 152/98, 153/98	(¹)

(¹) The United Kingdom voting rights were suspended.

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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Regulation amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 with a view to extending them to cover special schemes for civil servants	8825/1/98 REV 1 + COR 1 (dk)	154/98, 155/98, 156/98 157/98, 158/98, 159/98	
Council Directive on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community	9118/98	160/98, 161/98, 162/98, 163/98	
Council Regulation establishing new rules on aid to shipbuilding			
Directive of the European Parliament and of the Council amending the Directive laying down a procedure for the provision of information in the field of technical standards and regulations	9506/98 + COR 1 (dk) PE-CONS 3616/98 + COR 1 (nl)	164/98, 165/98, 166/98, 167/98 168/98, 169/98, 170/98	Abstention EL, Against D, P Abstention D, NL Against B
Council Regulation amending the Annex to Council Regulation (EC) No 1255/96 temporarily suspending the autonomous Common Customs Tariff duties on certain industrial and agricultural products	9449/98		
Council Regulation amending Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products	8715/98 + COR 1 (fin)		
Council Regulation specifying conditions under which herring may be landed for industrial purposes other than direct human consumption	7914/98		Against NL

STATEMENT 122/98

DRAFT COUNCIL AND COMMISSION JOINT DECLARATION

"The Council and the Commission acknowledge that the decision taken today to abolish certain fishing techniques will have unfavourable economic and social repercussions in the short term for a number of fishing fleets.

Anxious to promote a switch to techniques which are more reliable, selective and financially appealing for capturing the same stocks, the Council and the Commission agree on the need to introduce in the Community an appropriate range of actions and special supporting measures for fishermen serving on board and the owners of fishing vessels. The measures concerned will have to be exceptional in character, however, and in any event be met from the budget for the affected Member States' existing structural programmes.

To that end the Commission will present to the Council at the earliest opportunity a proposal for an *ad hoc* decision, based on Article 43 of the Treaty, introducing a series of supporting measures. These measures will temporarily provide a derogation of the criteria for eligibility under the financial instrument for fisheries guidance (FIFG) and, if necessary, adjust the upper limit on the relevant eligible expenditure.

The measures may include alterations to fishing vessels making it possible for them to convert to techniques that are more reliable and more selective, in particular for taking the same species and avoiding those that are being overexploited; compensation enabling fishermen serving on board and the owners of vessels to face the economic consequences of having to give up drift-net fishing activities; schemes to retrain fishermen for jobs in areas other than fishing or to provide them with new skills; and decommissioning of vessels involved in the drift-net fishery.

The accompanying measures will apply only to fishermen and/or the owners of vessels who can show that they used drift-nets in 1995, 1996 or 1997.

The Member States concerned undertake to draw up detailed plans and send them to the Commission. **The plans prepared by the Member States will be devised to ensure early and progressive reduction of drift-net effort in the fishery.**

In order to respect the conditions imposed under the procedure laid down in Article 43 of the Treaty, the Council undertakes to adopt the *ad hoc* decision before the end of 1998.

In addition, the Commission recalls that priority will be given to co-financing, **in conformity with the "Calls for proposals for technical and biological study projects in support of the common fisheries policy"**, of soundly based projects aimed at making it easier to apply **alternative legal fishing techniques for taking the same stocks."**

STATEMENT 123/98

Statement by the Spanish delegation

The Spanish delegation considers that the proposal for a Regulation submitted by the Commission is contrary to the recommendation adopted by ICCAT in 1994 and extended in 1997, which limited catches of South Atlantic swordfish to 250t for countries whose catches were less than 250t prior to 1994. That recommendation was extended for a further year at the annual ICCAT meeting in 1996.

In the current circumstances, the purpose of fixing a TAC for South Atlantic swordfish and dividing it into quotas is to limit and reduce catches in order to avoid a depletion of stocks. The proposal adopted, however, allows one Community Member State to increase its catches to more than 250t, contrary to the abovementioned ICCAT recommendations, while Spain has to bear the burden of catch reductions as a contribution to the recovery of stocks.

Spain therefore feels that where the ICCAT quota assigned to other contracting parties is exceeded by another Community Member State, this should have negative repercussions only for those Member States that have no specific quotas allocated by ICCAT.

Notwithstanding the above, Spain does not wish to vote against the proposal submitted, since adjustment of the proposal to ICCAT rules would not alter the Spanish quota, although it would contribute to better conservation of stocks and to maintaining the Community's credibility within ICCAT.

Spain notes the precedent set by the submission of this proposal, which runs counter to the conservation and management measures adopted by an international organisation of which the European Community is a member, for reference in future cases where Spanish interests are affected in a different way."

STATEMENT 124/98

Statement by the Commission and the Council

"In the framework of the next revision of the arrangements for quotas for the production of potato starch

- the Commission and the Council will analyse the consequences to be drawn for the regime from the decisions that may have been taken by then on the reform of the Common Agricultural Policy; and
- the Commission and the Council, will, in considering how to respond to any expansion in the market for potato starch, take note of particular problems which exist in regions of the Community".

STATEMENT 125/98

Statement by the German delegation

The Federal Government assumes that, having regard to the breeder's privilege on plant variety protection law (e.g. section 10a of the Plant Variety Protection Act), to the privilege of experimentation in patent law (e.g. section 11 of the Patent Act) and to Article 12 of the Directive on the Legal Protection of Biotechnological Inventions, the breeding of plant varieties and animal races will not, subsequent to the Directive's implementation in national law, be unreasonably prejudiced by the effect of patents for biological material.

The Commission is hereby requested to take particular account of this point in the reports that it has to draw up pursuant to Article 16 of the Directive.

STATEMENT 126/98

Statement by the French delegation on Article 2(2) and recital 31⁽²⁾

The wording of the Directive attempts to define precisely the frontier between the protection conferred by patents and that covered by plant variety rights. The following two points are specifically intended to assist towards that end:

- Article 2(2) incorporates into the Directive the case law of the European Patent Office in the Lubrisol case. But the final wording, which departs considerably from that used in the case, must in no case lead to a reduction in what the EPO, in its judgment, stated should be the scope of essentially biological processes;
- recital 31 aims to define the extent of protection by patents in any plant grouping putting that patent into practice. But its interpretation must not allow indirect appropriation of plant material and genetic resources by using marker genes covered by a patent.

STATEMENT 127/98

Statement by the United Kingdom and Netherlands delegations

The United Kingdom considers that, in preparing its annual report under Article 16(c) on the development and implications of patent law in the field of biotechnology and genetic engineering, the Commission should consider the breadth of patent rights, the effects of patents on research and, in accordance with Article 130v of the Treaty, take account of the implications for developing countries.

In addition, the United Kingdom notes that there has been no consideration as to whether the provisions of the Directive would be appropriate in other countries, in particular developing countries.

The Netherlands delegation associates itself with this statement.

STATEMENT 128/98

Statement by the Austrian delegation regarding Article 16(c)

With reference to Article 16 of the Biotechnology Patents Directive, the Commission is called upon to examine the following points in particular detail, when drawing up its annual report:

- Development of patenting practice with regard to human, animal and plant genes and genetic sequences, and animals and plants as such (number of patent applications, number of patents granted, patent law disputes and/or compulsory licences).
- Seed and livestock protected under patent law: number of patent applications, patents granted, licence rights derived therefrom and the implications for agricultural practice and breeders of varieties in accordance with Article 11 of the Directive.
- Implications for research and development, particularly with regard to small and medium-sized businesses and university institutes.
- Economic and social implications for the situation of indigenous peoples and the Third World.

Austria assumes that any amendment to the Directive required on the basis of experience acquired will be submitted as soon as possible by the Commission for discussion and for a decision to be taken.

STATEMENT 129/98

Statement by the Commission

Re Local augmentation:

"The Commission, on the basis of assurances given by the other parties to the Agreement, declares that the Agreement provides the means for high quality satellite navigation and positioning services covering all the Member States of the European Union."

STATEMENT 130/98

Re Article 9, paragraph 2 (a)

"The Italian delegation declares its intention of making use of this provision for the Strait of Messina. It agrees however to review the situation and the need for such a derogation in the light of experience gained with the system."

STATEMENT 131/98

Re Article 9, paragraph 4

"The Council and the Commission agree that during the period from the entry into force of this Directive until, in the first instance, 31 December 1999, the best possible efforts should be made to consider requests by Member States under Article 9, paragraph 4."

STATEMENT 132/98

Re Article 13

"The Commission declares that it intends to single out clearly and group matters arising from the application of this Directive and to convene for that purpose dedicated meetings of the Committee set up by Article 12 of Council Directive 93/75/EC in order to allow Member States to ensure proper representation on the Committee."

STATEMENT 133/98

Re Article 15

"The Council and the Commission declare that the acceptance of the dates of implementation provided for in Article 15 of the Directive should not be used as a waiver towards the obligations of contracting parties under the SOLAS Convention."

STATEMENT 134/98

Commission statement

"The Commission proposal on tobacco advertising forms part of a more general approach to smoking issues. In the light of reactions received to its communication of December 1996 on the prevention of smoking, the Commission is actively examining how existing Directives on the labelling of tobacco products and on their tar content can be revised and updated. Furthermore, possible actions in other areas, such as that of additives to tobacco products, are presently the subject of analysis on the basis of requests for information made to the Member States."

STATEMENT 135/98

Statement by the Greek delegation

"The text of this Directive in no way affects the commitments entered into by the European Community with regard to producers of tobacco and tobacco products. The imminent review of the common organisation of the market (COM) in tobacco must take account only of factors directly related to the protection and further development of Community production, bearing in mind the major shortfall in tobacco products on the Community market."

STATEMENT 136/98

Statement by the German delegation

"The German delegation would again stress the considerable difficulties it has with the proposal for a Directive, which it rejects owing to legal and substantive concerns. The Federal Government's doubts about the sustainability of the powers in Article 100a, Article 57(2) and Article 66 of the TEC as a basis for the proposal for a Directive have not been removed, nor have the contradictions between the planned ban on advertising and the principle of proportionality. The Federal Government also feels that the proposal for a Directive is not in accordance with the principle of subsidiarity."

STATEMENT 137/98

RE ARTICLE 10 OF DIRECTIVE 93/53/EEC

The Council notes that the Commission has not yet submitted the report referred to in Article 10(3) of Directive 93/53/EEC concerning the placing on the market of infected live fish from non-approved farms in non-approved zones. It invites the Commission to submit this report, accompanied where appropriate by suitable proposals, as a matter of urgency. It further invites the Commission, when drawing up the report, to give particular attention to the need to ensure: that epidemiological surveys are carried out when a List II disease is suspected; that fish from farms that are infected or suspected of being infected are placed under official supervision; that fish from such farms are only placed on the market under strict controls; and that the Commission and Member States are informed without delay of all outbreaks of List II diseases.

STATEMENT 138/98

HEALTH INSPECTIONS AND SAMPLING

The Council invites the Commission to re-examine the requirements laid down in Annex B to Directive 91/67/EEC regarding maintenance of the approval of approved zones, in particular the health inspection and sampling requirements, and, if it deems it appropriate, to submit a proposal to the Council for a revision of those requirements based on risk assessment allowing the level of inspections and sampling to be varied in the light of the degree of risk involved in the different categories of farms concerned.

STATEMENT 139/98

HEALTH INSPECTIONS AND SAMPLING

The Council invites the Commission to submit as soon as possible proposals for a revision of Directive 91/67/EEC, in particular Articles 6 and 14 thereof, so as to take account of experience acquired since the Directive was introduced and of developments in technical and scientific knowledge.

STATEMENT 140/98

The Council and the Commission emphasise the temporary need to use vaccination to control bovine brucellosis but also recognise the disadvantage of marketing within the European Union bovine animals with different health statuses as regards brucellosis.

STATEMENT 141/98

The Council invites the Commission to review the bovine brucellosis situation with the aim of achieving an optimal animal health status and trade conditions which simplify certification without increasing the risk of transmission of the disease.

STATEMENT 142/98

The Finnish delegation considers that the tuberculosis testing methods referred to in Annex B to Directive 97/12/EC are not reliable for Bison bison. In the Finnish delegation's opinion, the Commission should take steps to confirm adequate test methods including those for Bison bison. Pending such confirmation, the Member States should be able to continue checking for tuberculosis in Bison bison in accordance with their national legislation.

STATEMENT 143/98

The Commission confirms that calculations for determining the status of herds will take into account only those cases where the competent authority declared status ineligibility on animal-health grounds.

STATEMENT 144/98

When Annexes B, C and D (Chapter II) are revised, the Commission will seek to establish a standardised reference method for brucellosis (Annex A, II).

STATEMENT 145/98

Statement by the Council

The Council notes the Commission's intention to submit a report, accompanied if necessary by appropriate proposals, on the practical consequences of reducing the maximum THC level to 0,2%.

STATEMENT 146/98

Statement by the Italian delegation

"In giving its assent to the Council Decision on consultation of the European Central Bank on draft national legislative provisions, the Italian delegation emphasises that when that consultation concerns emergency legislative provisions, such as the Decree-law provided for in Article 77(2) of the Italian constitution, the opinion of the Central Bank must be formulated within a time that reflects the urgent nature of the provision in question".

STATEMENT 147/98

Council statement re Article 1 (3) of the Directive

"The Council recalls the importance it attaches to the provision for all employees of appropriate minimum standards of employment protection which take into account the specific needs of particular industrial sectors and activities.

In that context, the Council invites the Commission to re-examine the situation and to submit any appropriate proposals, bearing in mind the nature of the Shipping Industry. "

STATEMENT 148/98

Joint Commission and Council statement re Article 4a (3)

"The Council and the Commission note that, at the date of adoption of this Directive, only Italy has national legislation of the kind referred to in Article 4a (3)."

STATEMENT 149/98

Commission statement re the whole of the Directive

- "1. Although it is for the Member States to determine the system of penalties to be applied in cases of violation of the national measures taken in implementation of the Directive, such penalties must, in accordance with the case law of the Court of Justice, be effective, proportionate and dissuasive.
2. The Commission considers that the Directive should be implemented without discrimination on the basis of race, ethnic origin, sex, sexual orientation, colour, religion, age, handicap or national origin.
3. The Commission had proposed in Article 6A of the Directive that Member States should provide for employee representatives who enjoy the necessary independence to carry out the information and consultation functions assigned to them.

The Commission regrets that this article has not been accepted and notes that, in the light of the case law of the European Court of Justice, Member States are under an obligation to take all the necessary measures to ensure that employee representatives are provided for in view of the information and consultation requirements contained in article 6 of the Directive."

STATEMENT 150/98

Statement by Spain re the whole of the Directive

"Spain wishes to support points 1 and 3 of the Commission statement."

STATEMENT 151/98

Austrian statement re Article 2(1)(d)

"Austria states that the term "employment law" is to be interpreted broadly and that employment relationships under private law with local and regional bodies also fall within the scope of the Directive."

STATEMENT 152/98

Statement by Belgium and the Netherlands re Article 2(1)(d)

"Belgium and the Netherlands interpret Article 2(1)(d) as meaning that officials who have their own staff regulations do not fall within the scope of the Directive."

STATEMENT 153/98

Statement by Germany re Article 4a

"Germany is agreeing to this amending Directive on the assumption that it does not require any amendment of the German Insolvency Code."

STATEMENT 154/98

Statement by the Council relating to dividing the Commission's proposal in two parts:

"The Council reaffirms its commitment to extending the Regulations to students and the other insured persons not presently covered. Taking note, however, of

- (a) the urgent need to include special schemes for civil servants and persons treated as such, following judgment CJ EC, November 1995, Case C-443/93 (Ioannis Vougioukas v. Idryma Koinonikon Asfalikseon – IKA), ECR 995, p. I-4033;
- (b) the problems encountered in reaching agreement on suitable coordination arrangements for students and other insured persons not presently covered;

The Council has agreed that the extension to special schemes for civil servants should be given particular priority. The Council recognises, however, that the Commission proposal on the extension of the coordination of national legislation concerning students and to the other insured persons not presently covered remains before the Council."

STATEMENT 155/98

Statement by Germany:

"GERMANY

- supports the extension of Regulations (EEC) 1408/71 and 574/72 to special schemes for civil servants;
- is conscious, nonetheless, that, in respect of members of a German special scheme for civil servants, cover for benefits in kind is already provided throughout the territory of the Union;
- intends that the existing arrangements in respect of benefits in kind for these civil servants should continue;
- declares, however, that this should not impose additional administrative or financial burdens on other Member States;
- will accordingly take steps to ensure that where persons who are covered by a special scheme for civil servants reside in other Member States, they shall be informed by their institutions to report to the appropriate authorities of the Member State of residence that they do not wish to avail themselves of rights to benefits in kind granted under the national legislation of that states. Where appropriate, this may be done with reference to Article 17a of the Regulation;
- states that if these persons do not act in accordance with this advice, this matter will be reviewed with the Member States concerned with the view to reaching a solution acceptable to both parties."

STATEMENT 156/98

Statement by Spain:

"SPAIN

- supports the extension of Regulations (EEC) 1408/71 and 574/72 to special schemes for civil servants;
- is conscious, nonetheless, that, in respect of persons insured in a Spanish special scheme for civil servants, the armed forces and the judicial administration, cover for benefits in kind is already provided throughout the territory of the Union;
- intends that the existing arrangements in respect of benefits in kind in the special scheme for civil servants, the armed forces and the judicial administration should continue;
- declares, however, that this should not impose additional administrative or financial burdens on other Member States;
- will accordingly take steps to ensure that where persons who are covered by a special scheme for civil servants, the armed forces and the judicial administration reside in other Member States, they shall be informed by their institutions to report to the appropriate authorities of the Member State of residence that they do not wish to avail themselves of rights to benefits in kind granted under the national legislation of that state. Where appropriate, this may be done with reference to Article 17a of the Regulation;
- states that if these persons do not act in accordance with this advice, this matter will be reviewed with the Member States concerned with the view to reaching a solution acceptable to both parties."

STATEMENT 157/98

Statement by the Council (Re the German and Spanish statements):

"The Council takes note of the declarations by Germany and Spain in respect of benefits in kind for persons covered by a special scheme for civil servants residing in other Member States."

STATEMENT 158/98

Statement by Belgium:

"Where a person covered by a special scheme for civil servants in a Member State is simultaneously self-employed in another Member State, Belgium would like the Administrative Commission on Social Security for Migrant Workers to assess the application of Article 14d in order to identify the practical problems it raises and to find appropriate solutions."

STATEMENT 159/98

Statement by the Council (Re Articles 14e and 14f):

"The Council declares that the new arrangements prescribed at Articles 14e and 14f set out the general rules for determining the legislation applicable where civil servants or persons treated as such carry out a simultaneous activity in another Member State. The Council recognises that these general rules cannot necessarily apply in the interest of all of the persons covered by these situations. Where this is the case, the Council agrees that the Member States concerned should apply Article 17 of the Regulation to ensure that no hardship arises."

STATEMENT 160/98

Statement by the Council relating to the deletion of the provisions on fiscal matters

"The Council notes that the fiscal treatment of contributions to and benefits from supplementary pension schemes varies greatly between Member States. It believes that this fact raises issues which go wider than the position of posted workers covered by this Directive.

In this context, the Council recalls the Conclusions of the ECOFIN Council of 1 December 1997 which noted that the Commission has undertaken to consider problems relating to the taxation of pensions and insurance benefits, with the assistance of the Taxation Policy Group, with a view to possibly drawing up a proposal for a Directive."

STATEMENT 161/98

Statement by Austria and Germany on Article 3(f)

"The contributions referred to in Article 3(f) also include payments into pension reserves and other contributions to provident funds."

STATEMENT 162/98

Statement from the Council and the Commission on Article 4 in particular

"The Council and the Commission declare that this Directive and in particular its Article 4 do not imply any obligation for the Member States to ensure the preservation of vested pension rights of workers who move from one Member State to another where they do not exist in the supplementary pension scheme for workers who remain in the same Member State."

STATEMENT 163/98

Statement from the Commission on the deletion of Article 10

"The Commission regrets that the Council has not retained its proposal for Article 10 (Article 11 of its proposal of 08.10.1997 – COM(97) 486 final), which provides for the establishment by the Member States of a system of sanctions applicable to violations of the national provisions implementing this Directive. Indeed, several directives previously adopted by the Council have contained this provision."

STATEMENT 164/98

Article 5 – Restructuring Aid

"The Commission states that to fulfil the viability criterion, the restructuring plan must be capable of putting the company into a position of covering all its costs including depreciation and financial charges and generating a return on capital such that, after completing its restructuring, the firm will not require further injections of state aid and will be able to compete in the market place on its own merits."

STATEMENT 165/98

Article 7 – Regional investment aid

"The Commission states that in assessing cases under Article 7 it will ensure that the aid is not being used as a hidden operating aid and that the investment will improve the competitiveness of the yard concerned. The Commission also will verify that the aided investment is limited to improving the productivity of the existing installations of the yard and does not relate to the creation of new yards or new facilities such as new docks or slipways."

STATEMENT 166/98

Cumulation of aid

"The Commission states that in applying this regulation it will ensure that its rules on cumulation of aid are respected. In particular the Commission will ensure that where any investment expenditure is eligible in whole or in part for aid under two or more schemes, aid for the common portion can only be combined under the different schemes provided that the cumulated amount of aid does not exceed the highest of the applicable ceilings under the schemes in question."

STATEMENT 167/98

Regional Policy scheme

"The Council and the Commission state that the limits on Regional Investment Aid set out in Article 7 reflect the particularly sensitive nature of the shipbuilding industry in the EU and the thereby continuing need to ensure that distortions to competition are minimised. The relationship between these limits therefore is unique to the shipbuilding industry and as such has no relevance as regards to the application of the principles of economic and social cohesion as laid down in Articles 2, 3(j) and 130a *et seq* of the EC Treaty and general Community regional aid policy."

STATEMENT 168/98

Re Article 1

"The Commission undertakes within 4 months from the adoption of the Directive and after consulting the Committee provided for in Article 5, to adopt a vade mecum on the functioning of the Directive."

STATEMENT 169/98

Re Article 8(1), penultimate subparagraph

"The Commission undertakes to follow its established practice whereby Member States obtain translations into their official languages of draft rules relating to information society services notified under Article 8(1) within fifteen days of their receipt."

STATEMENT 170/98

Re Article 8(1)

"The Commission wishes to point out that Member States can consult the Commission prior to the communication referred to in Article 8(1), notably where they have questions or doubts as to the need to effect a communication or a new communication pertaining to the rules relating to information society services. The Commission undertakes to take a decision on any such request as soon as possible."