

10497/96

LIMITE

PUBLIC 10

LEGISLATIVE TRANSPARENCY

STATEMENTS WHICH MAY BE RELEASED TO THE PUBLIC
SEPTEMBER 1996

The Annexes to this document contain a summary of definitive legislative acts adopted by the Council in September 1996, together with statements in the minutes which the Council has decided may be released to the public.

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – SEPTEMBER 1996 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1946th Council meeting (Agriculture) on 16 and 17 September 1996			
Regulation of the European Parliament and of the Council amending Regulation (EEC) No 1601/91 laying down general rules on the definition, description and presentation of aromatized wine-based drinks and aromatized wine-product cocktails	6762/1/96 REV 1		E against
Council Regulation opening and providing for the administration of Community tariff quotas for certain fishery products originating in Ceuta	9441/96		
Council Regulation opening and providing for the administration of autonomous Community tariff quotas for certain fishery products (second series 1996) (herring)	9549/96		
Council Regulation amending for the sixth time Regulation (EEC) No 1866/86 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound	9192/96 + COR 1		
Council Directive on the disposal of Polychlorinated Biphenyls and Polychlorinated Terphenyls (PCB/PCT)	8009/96	196/96, 197/96, 198/96, 199/96, 200/96	
Council Regulation opening and providing for the administration of Community tariff quotas for certain industrial products (polyethylene terephthalate film and hard disks)	9444/96 + COR 1 (s)		

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – SEPTEMBER 1996 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1948th Council meeting (Labour and Social Affairs) on 24 September 1996 Council Directive concerning integrated pollution prevention and control	9388/96 + COR 1 (nl), + COR 2 (s), + COR 3 (d), + COR 4 (s), + COR 5 (en), + COR 6 (f,i,gr,p), + COR 7 (es) 9388/1/96 REV 1 (fin)	201/96, 202/96, 203/96, 204/96, 205/96, 206/96, 207/96, 208/96, 209/96, 210/96, 211/96, 212/96, 213/96, 214/96, 215/96, 216/96, 217/96, 218/96, 219/96, 220/96, 221/96, 222/96	
Directive of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services	PE-CONS 3621/96	223/96, 224/96, 225/96, 226/96, 227/96, 228/96, 229/96, 230/96, 231/96 232/96, 233/96, 234/96, 235/96, 236/96	UK against P abstention
1949th Council meeting (Telecommunications) on 27 September 1996 Council Directive on ambient air quality assessment and management	9040/96 + COR 1 (fin), + COR 2 (gr), + COR 3	237/96, 238/96, 239/96, 240/96	
Council Regulation (EC) on aid to shipbuilding	10052/96 + COR 1 (d)	241/96, 242/96, 243/96, 244/96, 245/96, 246/96	D, FIN, NL against

STATEMENT 196/96

"Belgium, Denmark, Germany, Ireland, Italy, Luxembourg, Austria, the Netherlands, Finland, Sweden and the United Kingdom would like the Commission to submit as soon as possible a proposal to amend Directive 75/439/EEC on the disposal of waste oils, as amended by Directive 87/101/EEC, in order to reduce the limit of 50 ppm of PCBs for waste oils likely to be regenerated or used as fuel."

STATEMENT 197/96

"The Commission states that it will submit to the Council as soon as possible a proposal for amendment of Directive 75/439/EEC on the disposal of waste oils, as amended by Directive 87/101/EEC, in order to reduce the limit of 50 ppm of PCBs in the case of mixtures intended for incineration, including waste oils, to 20 ppm."

STATEMENT 198/96

"Germany, Belgium, Denmark, the Netherlands and the United Kingdom, as Member States bordering on the North Sea, as well as Austria, Finland, Luxembourg and Sweden, reaffirm their commitment to disposing of PCBs and used PCBs, and to decontaminating or disposing of equipment containing PCBs as soon as possible and by 1 January 2000 at the latest."

STATEMENT 199/96

"France reaffirms its more stringent commitments for the disposal of PCBs as defined in PARCOM Decision 92/3."

STATEMENT 200/96

"The Council and the Commission state that the obligation to be undertaken by Member States to decontaminate or to dispose of equipment containing PCBs, is to be done:

- as soon as possible and at the latest by the end of 2010 for inventoried equipment and the PCBs contained therein and taking due account of the provisions of Article 9(2);
- as soon as possible for non-inventoried equipment and the PCBs contained therein, as provided for in Articles 6(3) and 11(1)."

STATEMENT 201/96

Re the Directive in general:

"The Danish, French, Luxembourg, Austrian, Netherlands, Finnish and Swedish delegations can, in a spirit of compromise, agree to the common position reached on the proposal for a Council Directive concerning integrated pollution prevention and control as they consider it important to achieve a high level of protection for the environment as a whole through Community-wide application of the integrated environmental permit procedure.

They also consider it important that the Directive should promote the application of the best available techniques in the Member States as uniformly as possible in order to avoid distortions of competition. The Danish, Austrian, Finnish and Swedish delegations have therefore proposed amendments to Articles 2(11), 9(4) and 18(1) and to Annex IV in order to strengthen the provisions on best available techniques.

In the application of the Directive, the granting of a permit should be based on the use of the best available techniques (BAT). Local environmental conditions and geographical location of the installation can be taken into account, when necessary, in a way that promotes the achievement of a high level of environmental protection and the minimization of long-range or transboundary pollution.

Best available techniques have to be taken fully into account when deciding emission limit values in the Community. The licensing authorities should promote environmentally advantageous technical development.

The new Directive should not weaken the existing environmental standards already determined in the "acquis communautaire" in the field of the environment or the national environmental legislation of Member States.

The Danish, French, Luxembourg, Austrian, Netherlands, Finnish and Swedish delegations intend to continue their strict application of the best available techniques."

STATEMENT 202/96

Re the Directive in general:

"The United Kingdom delegation considers that the system introduced by this Directive, which is based on an integrated approach for deciding emission limit values on the basis of the best available techniques, does not prejudice future discussions on quality objectives for the environment, which are also laid down in other existing Directives."

STATEMENT 203/96

Re the Directive in general:

"The Belgian delegation notes that some of the European Parliament's amendments have not been accepted by the Council and the Commission; the Belgian delegation wishes to point out that if it should modify, at second reading and in the light of the European Parliament's opinion, a stance on the adoption of a common position of the Council on the basis of Article 130s paragraph 1 of the Treaty which is different from that taken at first reading, it has the right to do so, and as appropriate to support amendments not accepted by the Commission."

STATEMENT 204/96

Re Article 1:

"The Belgian delegation considers that the competent authorities responsible for performing the duties arising from this Directive must endeavour to monitor installations not covered by the Directive within an approach that integrates checks on the various forms of pollution, in the interests of a high level of protection for the environment as a whole."

STATEMENT 205/96

Re Article 2(6):

"The Austrian delegation considers that the final part of Article 2(6) does not preclude future changes in emission limit values for installations making indirect releases, on the basis of Article 18(1)."

STATEMENT 206/96

Re Article 2(8):

"The Council and the Commission state that when the Member States assign any tasks arising from this Directive to representative bodies, the provisions of Directive 90/313/EEC and those provisions of the present Directive that concern access to information and the role of the public will be fully applicable to such bodies."

STATEMENT 207/96

Re Article 2(10)(b):

"The Council and the Commission state that Member States may lay down general criteria for assessment by the competent authorities in cases where changes in operation may have significant negative effects within the meaning of Article 2(10)(b)."

STATEMENT 208/96

Re Article 3(d):

"The Council and the Commission state that, in order to ensure the efficient use of energy as provided for in Article 3(d), Member States may have recourse, inter alia, to voluntary sectoral agreements."

STATEMENT 209/96

Re Articles 6(1) and 9(1):

"The German delegation considers that, in applying Article 6(1) and 9(1), account may also be taken of the fact that the installation for which a permit is sought forms part of a site registered on the list of sites drawn up in accordance with Regulation (EEC) No 1836/93 of 29 June 1993, provided that a validated environmental statement has been prepared pursuant to Article 5 of that Regulation."

STATEMENT 210/96

Re Article 9 in general:

"The Council and the Commission confirm that the Member States may maintain and adopt within the framework of their internal legislation stronger protection measures than those laid down in this Directive and stricter requirements for the installations concerned."

STATEMENT 211/96

Re Article 9(3):

"The Austrian delegation maintains that, in view of the importance of ground water for water supplies in Austria, requirements less stringent than those provided for in Directive 80/68/EEC cannot be allowed."

STATEMENT 212/96

Re Article 9(7):

"The Swedish delegation commented that it was possible to support the introduction of the most recent techniques while in certain cases operating trial periods before taking decisions on the specific conditions. Temporary conditions are set for the trial period on the basis of the best available techniques. The Swedish delegation felt that such practice was in accordance with the provisions of the proposed Directive."

STATEMENT 213/96

Re Article 9(8):

"The Council and the Commission confirm that the general binding rules referred to in Article 9(8) are to be in conformity with the provisions of the Directive and that, more especially, public involvement at the time of issue of individual permits for installations covered by Annex I must be assured."

STATEMENT 214/96

Re Article 13(1):

"The Council and the Commission consider that the deadline for the periodic reconsideration of the permit conditions should not exceed a period of about 10 years, without prejudice to the conditions of early reconsideration referred to in paragraph 2 of this Article."

STATEMENT 215/96

Re Article 15(3):

"The Commission states that the inventory to be established in accordance with Article 15(3) should be regarded both as an important tool in itself and as an important element in the process of creating a comprehensive and fully integrated register of polluting emissions in the Community, which can provide decision-makers at all levels as well as the general public with easily accessible, reliable and comparable data on polluting activities.

The Commission recognizes that a pragmatic, step-by-step approach will be needed in developing a comprehensive polluting emission register which includes all important sources of emissions. The construction of such a register must build on a gradual harmonization and integration of registers already existing at national, international and Community level in order to ensure transparency and comparability and avoid duplication.

In this process the Commission will be assisted by the Committee set up in the framework of Article 19 of this Directive.

The Commission will also be assisted in this work by the European Environment Agency, which includes emission inventories in its current multiannual work programme and which is to be made responsible for the publication of the emission inventory provided for in Article 15(3)."

STATEMENT 216/96

Re Article 20(3):

"The Council and the Commission, having regard to their respective responsibilities, state that they will jointly take the necessary steps to ensure that the decision-taking on subsequent amendments to the Directives mentioned in Annex II will be in line with the time schedules laid down in this Directive."

STATEMENT 217/96

Re Annex I, point 1.1:

"The Greek delegation considers that the material requirements of Directive 88/609/EEC for existing installations still apply without prejudice to any amendments to that Directive on account of existing relevant provisions in other international instruments."

STATEMENT 218/96

Re Annex I, point 3.5:

"The Council and the Commission state that Member States or the competent authorities as defined in Article 2(8) may choose to subject activities in point 3.5 of Annex I either to one of the two criteria or to the condition that both criteria must be met at the same time."

STATEMENT 219/96

Re Annex I, points 4.1 and 6.4:

"The Greek delegation considers that the installations referred to in points 4.1 and 6.4 of Annex I do not include those which merely formulate, clean and package the products concerned."

STATEMENT 220/96

Re Annex I, point 6.2:

"With regard to the categories of industrial activities and, specifically, installations for bleaching fibres and textiles within the meaning of point 6.2 of Annex I to the Directive, the German delegation states that bleaching processes involving the use of hypochlorites, chlorine compounds or combinations of elemental chlorine and alkali are not in its opinion the best available techniques within the meaning of this Directive.

The delegation expects that its statement will be taken into account as part of the exchange of information provided for in Article 16 of the Directive."

STATEMENT 221/96

Re Annex I, point 6.7:

"The Council and the Commission state that the Member States or the competent authorities as defined in Article 2(8) are required to make the activities referred to in point 6.7 of Annex I subject to the provisions of this Directive where either of the two consumption capacity criteria is fulfilled."

STATEMENT 222/96

Re Annex I, point 6.7:

"The United Kingdom delegation confirms that the solvent consumption capacity referred to in point 6.7 of Annex I is the solvent consumption capacity of an installation in normal operation."

STATEMENT 223/96

Re the Directive as a whole

The Council and the Commission stated:

"This Directive is without prejudice to Regulation (EEC) No 1408/71 (Social security for migrant workers)."

STATEMENT 224/96

Re the Directive as a whole

The Council and the Commission stated:

"This Directive shall not affect the exclusive right of the Member State within the territory of which the undertaking contemplating posting a worker is established to make the posting subject to the consent of the worker concerned."

STATEMENT 225/96

Re Article 1(3)(a)

The Council and the Commission stated:

"The provisions of Article 1(3)(a) cover posting situations which meet the following conditions:

- the transnational provision of services by an undertaking on its own account and under its direction under a contract concluded between the undertaking and the party for whom the services are intended;
- posting as part of such provision of services.

Therefore, if the above conditions are not met, the following situations do not fall within the scope of Article 1(3)(a):

- that of a worker who is normally employed in the territory of two or more Member States and who forms part of the mobile staff of an undertaking engaged in operating professionally on its own account international passenger or goods transport services by rail, road, air or water;
- that of a worker forming part of the travelling staff of a press, radio/television or entertainment business engaged temporarily on its own account in its field of activities in the territory of another Member State."

STATEMENT 226/96

Re Article 1(3)(c)

The Council and the Commission stated:

- "1. The provisions referred to do not, as regards Member States the legislation of which makes no provision for temporary employment or prohibits the placement of workers with user undertakings, entail any obligation to make provision for that type of employment or to authorize such placement.
2. The provisions referred to do not preclude application by the Member States of their rules on temporary employment or on the placement of workers with user undertakings to undertakings not established in their territory and operating there within the framework of the provision of services within the meaning of the Treaty."

STATEMENT 227/96

Re Article 3

The Council and the Commission stated:

- "1. The first and second subparagraphs of Article 3(1) do not, as regards the Member States the legislation of which makes no provision for minimum wages, entail any obligation to make provision for such wages.
2. Article 3 does not entail any obligation on Member States to extend declarations of universal applicability ("Allgemeinverbindlicherklärungen") where their content and scope are concerned."

STATEMENT 228/96

Re point (a) of the first subparagraph of Article 3(1)

The Council and the Commission stated:

"In accordance with Article 2(2) of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time ⁽¹⁾ "rest periods" means any period which is not working time.

The term "rest periods" therefore also covers, in accordance with national provisions, periods of inactivity caused by inclement weather."

STATEMENT 229/96

Re points (b) and (c) of the first subparagraph of Article 3(1)

The Council and the Commission stated:

"Points (b) and (c) cover national social fund ("Sozialkassen") benefit scheme contributions and benefits, governed by collective agreements or legal provisions, provided that they do not come within the sphere of social security."

STATEMENT 230/96

Re point (f) of the first subparagraph of Article 3(1)

The Council and the Commission stated:

"Point (f) does not entail any obligation on Member States to set up a system for continued payment of wages to pregnant women and women who have recently given birth if their incomes are protected under a statutory social security scheme."

⁽¹⁾ OJ No L 307, 13.12.1993, p. 18.

STATEMENT 231/96

Re point (c) of the first subparagraph of Article 3(1) and Article 3(7)

The Council and the Commission stated:

"When comparing the remuneration specified in point (c) of the first subparagraph of paragraph 1 with that which should be paid by virtue of the law applicable to the employment relationship, account should be taken, where remuneration is not determined by the hour, of the relationship of the remuneration to the number of hours to be worked and of any other relevant factors."

STATEMENT 232/96

Re the first indent of Article 3(10)

The Council and the Commission stated:

"The expression "public policy provisions" should be construed as covering those mandatory rules from which there can be no derogation and which, by their nature and objective, meet the imperative requirements of the public interest. These may include, in particular, the prohibition of forced labour or the involvement of public authorities in monitoring compliance with legislation on working conditions."

STATEMENT 233/96

Re Article 4(3)

The Council and the Commission stated:

"When implementing this provision Member States shall, where appropriate, use such means as will enable them to obtain adequate and reliable information."

STATEMENT 234/96

Re Articles 4 and 5

The Council and the Commission stated:

"This Directive does not oblige Member States to establish additional public authorities responsible for monitoring minimum terms and conditions of employment."

STATEMENT 235/96

Re Article 6

The Council stated:

"The Council notes that the Member States declare themselves willing to maintain the homogeneity of the legal system created by the Lugano Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters and to begin negotiations with the EFTA Member States as soon as possible in order to conclude with them, before the date on which this Directive must be transposed into national law, an agreement stipulating that, insofar as it recognizes jurisdiction other than that resulting from the jurisdiction arrangements in the said Convention, Article 6 of the Directive also applies to undertakings established in an EFTA State."

STATEMENT 236/96

Re Article 6

The Commission took note of this statement.

STATEMENT 237/96

"The Council, being fully aware of the need to take further action to protect the environment against acidification, eutrophication, depositions of persistent organic pollutants and toxic metals and taking into account that relevant air transported pollutants are or will be regulated elsewhere, takes note of **the report on a Community strategy on acidification and recalls its conclusions on acidification of December 1995.**"

STATEMENT 238/96

Re Article 4(1):

"The Council and the Commission deem it necessary that, following the time limit specified for compliance with the limit value applying to each pollutant, the Commission should draw up a report on the levels observed in the Member States. The report will be forwarded to the Council accompanied, if appropriate, by a proposal for revision of the limit values and alert thresholds."

STATEMENT 239/96

"The United Kingdom thinks that it may be necessary to fix a guide value not only for ozone but also for other secondary transfrontier pollutants such as photochemical particles."

STATEMENT 240/96

Re Article 12:

"The Council notes the Commission's intention to associate the Member States' experts, in an appropriate way, in the final editing of the provisions referred to in Article 4(5)."

STATEMENT 241/96

"The Council reaffirms its strong commitment to the OECD Shipbuilding Agreement, which it ratified in December 1995 in preparation for its scheduled introduction on 1 January 1996. It regrets that the Agreement has not yet entered into force due to its non-ratification by the USA. The Council recalls its conclusions of 20 May 1996 and urges this partner to complete ratification as soon as possible."

STATEMENT 242/96

"The Council invites the Commission to follow closely the developments regarding the ratification of the OECD Agreement and to report to the Council at its coming sessions, particularly at its April 1997 session."

STATEMENT 243/96

"The Council and the Commission agree that if, failing ratification by all partners, the international agreement concluded under the OECD has not entered into force on 1 June 1997, the Commission will submit appropriate proposals to enable the Council to reach a decision before 31 December 1997 on the attitude to be adopted by the Union."

STATEMENT 244/96

"The Council notes that the Commission, in view of the delay of the entry into force of the Agreement, will raise the question of the Standstill Provisions at the meeting of the Parties Group to the OECD Agreement in October 1996. If appropriate, existing decisions on National Aid Schemes affected by this will be modified by the Commission in accordance with Community law after that meeting."

STATEMENT 245/96

"France regrets the situation caused by US procrastination over ratification of the OECD Agreement on shipbuilding; the European Union thus finds itself bound by an Agreement which will not apply until the time chosen by the partner which takes the longest to honour its commitments.

Concerned at the vote which took place this year in the House of Representatives, France would point out that it will consider the agreement nul and void if the United States should ask to ratify an amended version.

Finally, it draws the attention of the European Institutions to the extremely vigorous protectionist measures taken by States which have not signed the OECD Agreement and to the serious distortions of competition which might arise from an imbalance in the situation."

STATEMENT 246/96

"The Netherlands and Finnish delegations draw attention to the problems of the shipbuilding markets and invite the Commission to improve the functioning of the seventh shipbuilding Directive:

by assessing the feasibility of lowering the aid ceiling from the present level of 9%;

by applying different aid ceilings for various types of ships and abolishing the aid in cases where the competition is mainly between Community shipyards as stated in Article 4(2) on intra-European competition;

by a stringent application of the notification obligation imposed by Article 4(5) of the Directive and by improving the surveillance and transparency of the Directive."