

12571/96

LIMITE

PUBLIC 12

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**LEGISLATIVE TRANSPARENCY**  
**STATEMENTS FOR RELEASE TO THE PUBLIC**  
**NOVEMBER 1996**

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Annexed hereto is a list of the final legislative acts adopted by the Council in November 1996, together with the statements in the minutes which it has decided to release to the public.

| STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC<br>– NOVEMBER 1996 –                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                     |                                                                                                                               |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-------|
| FINAL LEGISLATIVE ACTS                                                                                                                                                                                                                                                                                                  | TEXTS ADOPTED                                                                                                                                                                                                                                                       | STATEMENTS                                                                                                                    | VOTES |
| <p><b>1960th Council meeting (Economic and Financial Affairs), on 11 November 1996</b></p> <p>Council Regulation (Euratom, EC) concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities</p> | <p>8055/1/96 REV 1<br/>+ REV 1 COR 1 (fin)<br/>+ REV 2 (S)</p>                                                                                                                                                                                                      | <p>271/96, 272/96, 273/96, 274/96,<br/>275/96, 276/96, 277/96, 278/96,<br/>279/96,<br/>280/96, 281/96, 282/96,<br/>283/96</p> |       |
| <p><b>1961st Council meeting (Health), on 12 November 1996</b></p> <p>Decision of the European Parliament and of the Council adopting a programme of Community action on the prevention of drug dependence within the framework for action in the field of public health (1995-2000) (94/0135(COD))</p>                 | <p>PE-CONS 3623/1/96 REV 1<br/>+ REV 1 COR 1 (f)<br/>+ REV 1 COR 2 (fin)<br/>+ REV 1 COR 3 (i)<br/>+ REV 1 COR 4 (dk)<br/>+ REV 1 COR 5 (en)<br/>+ REV 1 COR 6 (d)<br/>+ REV 1 COR 7 (gr)<br/>+ REV 1 COR 8 (nl)<br/>+ REV 1 COR 9 (nl)<br/>+ REV 1 COR 10 (es)</p> | <p>284/96</p>                                                                                                                 |       |
| <p><b>1962nd Council meeting (Industry), on 14 November 1996</b></p> <p>Council Regulation amending Council Regulation (EC) No 3076/95 allocating, for 1996, certain catch quotas between Member States for vessels fishing in the Norwegian exclusive economic zone and the fishing zone around Jan Mayen</p>          | <p>10500/96</p>                                                                                                                                                                                                                                                     |                                                                                                                               |       |

| STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC<br>– NOVEMBER 1996 –                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |                                             |                                   |
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| FINAL LEGISLATIVE ACTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | TEXTS ADOPTED                                                                                                                                                                                 | STATEMENTS                                  | VOTES                             |
| <p><b>1963rd Council meeting (Agriculture), on 18 November 1996</b></p> <p>Council Directive amending Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed</p> <p>Council Regulation setting for the 1996/1997 marketing year the percentages referred to in Article 3(1)(a) of Regulation (EEC) No 426/86 in connection with the premium granted for products processed from tomatoes</p> <p><b>Council Regulation amending Regulation (EEC) No 805/68 on the common organization of the market in beef and veal</b></p> <p><b>1964th Council meeting (Budget), on 19 November 1996</b></p> <p>Directive and Regulations</p> <ul style="list-style-type: none"> <li>– Council Directive on the systems of chartering and pricing in national and international inland waterway transport</li> <li>– Council Regulation amending Council regulation (EEC) No 1101/89 on structural improvements in inland waterway transport</li> <li>– Council Regulation amending Council Regulation (EEC) No 1107/70 on the granting of aids for transport by rail, road and inland waterway</li> </ul> | <p>10651/96<br/>+ COR 1 (en,gr)<br/>+ COR 2 (en)</p> <p>11553/96</p> <p>11308/96</p> <p>7731/2/96 REV 2<br/>+ REV 2 COR 1</p> <p>7730/2/96 REV 2<br/>+ REV 2 COR 1</p> <p>7732/2/96 REV 2</p> | <p>285/96, 286/96, 287/96</p> <p>288/96</p> | <p>P opposed</p> <p>D opposed</p> |

| STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC<br>– NOVEMBER 1996 –                                                                                                             |               |            |       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------|-------|
| FINAL LEGISLATIVE ACTS                                                                                                                                                            | TEXTS ADOPTED | STATEMENTS | VOTES |
| <b>1965th Council meeting (Education), on 21 November 1996</b>                                                                                                                    |               |            |       |
| Council Decision amending Decision 93/246/EEC of 29 April 1993 adopting the second phase of the trans-European cooperation scheme for higher education (TEMPUS II) (1994 to 1998) | 11324/96      |            |       |
| Council Decision on the adoption of a multiannual programme to promote the linguistic diversity of Europe in the information Society                                              | 10670/96      | 289/96     |       |
| <b>1966th Council meeting (Fisheries), on 22 November 1996</b>                                                                                                                    |               |            |       |
| Council Regulations                                                                                                                                                               |               |            |       |
| – fixing the guide prices for the fishery products listed in Annex I(A), (D) and (E) of Regulation (EEC) No 3759/92 for the 1997 fishing year                                     | 11653/96      |            |       |
| – fixing the guide prices for the fishery products listed in Annex II to Regulation (EEC) No 3759/96 for the 1997 fishing year                                                    | 11655/96      |            |       |
| – fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604 for the 1997 fishing year                          | 11656/96      |            |       |
| Council Regulation introducing specific measures for live plants and floricultural products                                                                                       | 11686/96      |            |       |

**STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC  
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| FINAL LEGISLATIVE ACTS                                                                                                                                                  | TEXTS ADOPTED                                      | STATEMENTS                                                  | VOTES             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|-------------------------------------------------------------|-------------------|
| <b>1967th Council meeting (Development), on 22 November 1996</b><br><br>Council Regulation (EC) on rehabilitation and reconstruction operations in developing countries | 10546/96<br>+ COR 1 (fin)                          | 290/96, 291/96, 292/96 293/96,<br>294/96, 295/96,<br>296/96 |                   |
| <b>1970th Council meeting (Internal Market), on 26 November 1996</b><br><br>Council Regulation laying down common marketing standards for certain fishery products      | 10503/96<br>+ COR 1 (i,en,gr)<br>+ COR 2 REV 1 (s) |                                                             |                   |
| Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code                           | PE-CONS 3631/96<br>+ COR 1 (gr)                    | 297/96, 298/96, 299/96                                      | A/NL<br>abstained |

**STATEMENT 271/96**

**Council and Commission statement re Article 1:**

"The Council and the Commission confirm, for the purpose of interpretation of the first paragraph of Article 1, the statement in the Council minutes of 18 December 1995 re Article 1(2) of Regulation No 2988/95 on the protection of the Communities' financial interests.

Under that statement, "own resources, collected directly on behalf of the Communities are, under current Community legislation, those referred to in Article 2(1)(a) and (b) of Council Decision 94/729/EC, Euratom of 31 October 1994 on the system of the European Communities' own resources (OJ No L 293, 12.11.1994, p. 9)."

**STATEMENT 272/96**

**Council statement re second paragraph of Article 1:**

"The Council considers that this Regulation applies both to Community expenditure via the intermediary of the Member States and direct expenditure by the Commission."

**STATEMENT 273/96**

**Commission statement re second paragraph of Article 1:**

"The Commission is willing to draw up a "vade mecum" on the way in which its departments will apply this Regulation, and also a list of the Community sectoral regulations covered by this paragraph."

## **STATEMENT 274/96**

### **Commission statement re second indent of Article 2:**

- "1. The Commission considers that this Regulation is one of the instruments which will contribute to the objective fixed by the Madrid European Council of ensuring an equivalent level of protection within the Community in all areas of the budget. Its purpose is to act as a basis for the detection of irregularities and not to permit regular inspections of the implementation of Community rules.
2. To that end, the on-the-spot checks and inspections referred to in the second indent of Article 2 may be initiated when, in a given Member State, difficulties exist in cases which may harm the Communities' financial interests or the Union's credibility.
3. Without claiming that the concept of equivalence implies the achievement of an identical level of protection within the Community, the action undertaken on the basis of this Regulation will, in specific cases, enable inspection to be intensified with the aid of the Commission. The impact of these operations will be to restore particular situations and ensure adequately effective inspections throughout the Union.
4. The Commission would point out that homogeneity of on-the-spot checks and inspections should permit the recovery of sums unpaid or received in error, and the application of effective, proportionate and dissuasive Community or national penalties in all Member States, so as to ensure the effectiveness and uniformity of Community law."

## **STATEMENT 275/96**

### **Commission statement re Article 4:**

"The Commission states that for the purpose of applying Article 4 the term "in good time" will be understood as follows.

The competent authority or authorities of a Member State concerned by an on-the-spot inspection will be notified sufficiently early to allow the addressee authority the time required for reception and initial examination of the information provided by the Commission. The Member State should also be permitted time to organize the inspection of the operators concerned.

In exceptional circumstances, where it is essential that no time be lost if the on-the-spot inspection is to be assured of success, the Commission may notify the Member State concerned immediately before the inspection starts, using the swiftest means. Exceptional circumstances are the result of the combination of an item of information that the Commission has itself obtained immediately before acting and a situation in which any delay would mean certain failure. They do not authorize inspections without prior notice.

The Commission is not exempted from giving prior notification to the Member State concerned.

The Council takes note of this statement."

## **STATEMENT 276/96**

### **Council and Commission statement re second paragraph of Article 4:**

"The Council and the Commission state that the performance of a joint inspection must not cause a delay which is prejudicial to the rapidity and efficiency of the operation."



## **STATEMENT 277/96**

### **Council and Commission statement re third paragraph of Article 5:**

"The Council and the Commission state that "other economic operators concerned" includes any natural or legal person that is concerned but cannot necessarily be regarded as an economic operator within the meaning of the first paragraph.

Those covered would include suppliers, customers, subcontractors, carriers, customs and/or forwarding agents, insurers, processors and warehouse proprietors or tenants having a commercial relationship with the economic operators who have committed or are suspected of having committed an irregularity.

On-the-spot checks and inspections may be conducted at the premises of other economic operators concerned if required as part of an investigation to obtain additional evidence which is not available from the economic operators directly implicated (transport documents, contracts, ....) but which is essential for the detection of an irregularity committed by another person or the detection of a fraud ring organized by other persons."

## **STATEMENT 278/96**

### **Commission statement re Article 6:**

"The Commission states that national experts on secondment placed at its disposal by the Member States will not be able to perform on-the-spot checks and inspections alone. They will form part of an inspection team under the authority of an official or other servant of the Commission."

## **STATEMENT 279/96**

### **Statement by the French delegation re third subparagraph of Article 6(1):**

"The French delegation considers that the reference to applicable Community law means, in this instance, only the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities."

## **STATEMENT 280/96**

### **Council and Commission statement re Article 7(1):**

"The Council and the Commission state that national authorities must permit access to all the information required, including information obtained by national inspectors in the course of criminal investigations, where such information is available to the national administrative authorities."

## **STATEMENT 281/96**

### **Council statement re Article 8(3):**

"The Council states that this Article in no way implies that Commission inspectors may perform criminal investigation tasks in the Member States."

## **STATEMENT 282/96**

### **Council statement re Article 8(4):**

"The Council notes that Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters (OJ No L 144, 2.6.1981, p. 1), as amended by Regulation (EEC) No 945/87 (OJ No L 90, 2.4.1987, p. 3), will be replaced by a new Regulation on which a joint guideline has been agreed (see 4324/95 UD 10 AGRI 9), to which it is intended to make technical adaptations (see 6299/96 UD 43 AGRI 28) following adoption of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ No L 281, 23.11.1995, p. 31).

Pending adoption of the new Regulation, the Council would ask the Commission to ensure that its inspectors endeavour to guarantee a level of data protection which takes full account of the spirit of the provisions thereof."

## **STATEMENT 283/96**

### **Statement by the Austrian delegation re second paragraph of Article 9:**

"The Austrian delegation interprets the second paragraph of Article 9 as meaning that the Member States' power to adopt coercive measures is not affected by this Regulation."

## **STATEMENT 284/96**

### **Commission statement**

Re Article 5(4):

"The Commission undertakes to provide the European Parliament annually with the same information concerning decisions taken."

### **STATEMENT 285/96**

#### **Commission statement re Article 4(i)(2) of Regulation No 805/68**

- In implementing the arrangements laid down in Article 4(i)(2) of Regulation No 805/68, the Commission will make allowance, for the purposes of establishing a weight of 15% less than the average, for any different forms of carcase presentation applying in individual Member States.

### **STATEMENT 286/96**

#### **Commission statement re Article 4(i)(2) of Regulation No 805/68**

- The Commission confirms that, for the purposes of the arrangements laid down in Article 4(i)(2) of Regulation No 805/68, the premium may be granted to operators, including producers.

### **STATEMENT 287/96**

#### **Statement by the Italian delegation re Article 6a (new)**

The transposition in the legal text (Article 6a(1) of Regulation No 805/68 – Article 1(8) in 11308/96) of the conclusions reached by the Council on 28 and 29 October 1996 concerning the possibility, where necessary, of intervention buying of fresh or chilled meat of lean male bovine animals originating in the Community (weanlings) is not consistent with the spirit or the letter of what was approved by the Council (point 2 in 11254/96).

While this does not in any way change its view, the Italian delegation wishes to point out that this is an interpretation which extends the periods laid down in the context of the compromise agreed to by the Ministers and is therefore a precedent which it may in future invoke in any case where it sees fit.

## **STATEMENT 288/96**

### **Re the Regulation as a whole**

"The Council recognizes that a liberalization of the inland waterway market should be combined with initiatives to reduce overcapacity.

In order to make use of the ECU 20 million already entered in the 1996 budget, the Council has taken a positive view on establishing the legal framework for Community co-financing of scrapping programmes in inland waterway transport for this year.

However, the Council and the Commission state that in the period after 1996 the Community should not participate in the financing of the scrapping programmes in inland waterway transport."

## **STATEMENT 289/96**

"The Commission welcomes the contribution of the Conference of Translation Departments of the European States ("Küdes") to cooperation with respect to translation for governments. The Küdes will be invited to participate in consultations and other relevant initiatives taken by the Commission. Without delay, the Commission will discuss with the Küdes board how this can be implemented. In this context the Commission would refer to the existence of the Interinstitutional Translation Committee to promote coordination between the translation departments of the various institutions and the Translation Centre for bodies of the Union."

### **STATEMENT 290/96**

#### **Commission statement re Article 1(2)**

"The inclusion of the countries of the Caucasus and Central Asia among the countries eligible under the developing countries rehabilitation Regulation widens the geographical scope of the original proposal.

Unless the provisions of the future TACIS Regulation cover rehabilitation measures to assist those countries, it will be necessary to make provision for supplementary budgetary measures to allow operations to be implemented effectively for those countries without penalizing the current beneficiaries."

### **STATEMENT 291/96**

#### **Council and Commission statement re Article 6(3), first subparagraph**

"The Council and the Commission state that, when the Committee rules of procedure are reviewed, simplified, accelerated procedures will be laid down where necessary by analogy with those of the EDF Committee for urgent measures and cases of extra commitments as referred to in Article 6(4)."

### **STATEMENT 291/96**

#### **Joint Council and Commission statement re Article 6(4)**

"Member States' representatives in the Committee referred to in Article 7 should have the opportunity to review periodically the use made of this facility and if necessary to request further information on or discussion of particular cases."

### **STATEMENT 293/96**

#### **Commission statement re Article 7**

"The Commission regrets that in this case the Council has amended the Commission proposal by substituting a III(a) Regulatory Committee procedure for the I Consultative Committee procedure; it thinks that the proposed procedure or the management procedure would be better suited to the present requirements."

### **STATEMENT 294/96**

#### **Commission statement re the last paragraph of Article 9**

"The Commission will endeavour to forward all the information referred to in the last paragraph of Article 9 that is available at the time of notification."

### **STATEMENT 295/96**

#### **Council statement re Article 10**

"The Member States will endeavour to send the Commission their evaluation reports."

### **STATEMENT 296/96**

#### **Statement by the German delegation**

"The Federal Government recalls the declaration by the European Parliament, the Council and the Commission of 6 March 1995 on the incorporation of financial provisions into legislative acts, whereby all acts concerning multiannual programmes must contain a provision laying down the financial framework. The purpose of such an article is in particular to ensure compliance with the financial perspective and to encourage the Council, the Commission and the European Parliament to conform to budgetary discipline.

The Federal Government attaches great importance to the inclusion of such a provision. Its agreement to acts of this type will therefore, in future, be dependent upon the incorporation of such a provision."



### **STATEMENT 297/96**

Re Article 1(2)(b) relating to the second sentence of the first indent of Article 4(7)

"The Council and the Commission confirm that the addition of the second sentence in no way alters the fact that the first indent of Article 4(7) applies without prejudice to the relevant provisions on inward processing and processing under customs control."

### **STATEMENT 298/96**

Re Article 1(3) relating to Article 12

"The Austrian and Netherlands delegations regret that they are unable to accept the proposal for a Regulation because of their objections to the committee procedure chosen for binding origin information.

Because of the explicitly political and economic nature of rules of origin, the important legal consequences for the undertakings concerned with regard to non-preferential rules of origin and the legal situation in this field which is currently unclear and the future development of which is unpredictable within the World Trade Organization framework, the new binding origin information provided for in Article 12 of the Customs Code needs to be dealt with in a regulatory committee."

### **STATEMENT 299/96**

"The Commission remains committed to its proposal, and therefore regrets that the Regulation does not include the substantive element of its original proposal represented by the amendment of Article 220(1).

The Commission has taken note of the Council's request for a study to be carried out.

It nevertheless notes that the consequences of the Council's request would be a substantive amendment of the present rules.

The Commission points to the role, as the law currently stands, of importers who, as stated by the Commission in its work programme (COM(96) 17) on the fight against irregularities and fraud and as confirmed by the case law of the European Court of Justice, remain in principle legally and financially liable.

However, it will examine the request constructively, considering also the Court's recent case law, while bearing in mind the criteria for the smooth functioning of Community policies and giving priority to enhancing the consistency of the present rules and provisions, as well as the need to protect the Union's financial interests."