



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 14 October 2005 (19.10)
(OR. fr)**

13305/05

PUBLIC 9

NOTE

Subject : MONTHLY SUMMARY OF COUNCIL ACTS
SEPTEMBER 2005

This document contains:

- in **Annex I**, a summary of definitive legislative acts adopted by the Council in September 2005. This is accompanied by statements in the minutes which may be released to the public (**Annex II**). The summary also mentions any votes against and abstentions, explanations of vote, and the voting rules applicable;
- in **Annex III**, a list of the other acts¹ adopted by the Council in September 2005, with a reference, where appropriate, to voting results, explanations of vote and statements which the Council has decided to make public.

This document is also available via the Internet ("<http://ue.eu.int>"); see under "Documents", then "Summary of Council Acts".

It should be noted that only the minutes concerning the definitive adoption of legislative acts are authentic. Extracts from the minutes in question may also be obtained from the Transparency Department ("transparency@consilium.eu.int").

¹ With the exception of certain acts of limited scope such as procedural decisions, appointments, decisions of bodies set up by international agreements, specific budgetary decisions, etc.

SEPTEMBER 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2677th meeting of the Council (Agriculture and Fisheries) on 19 and 20 September 2005			
Council Regulation on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)	8688/05 + COR 1 (es) + COR 2 (da) + REV 2 (it) + REV 3 (hu)	99/05, 100/05, 101/05, 102/05, 103/05, 104/05, 105/05, 106/05, 107/05, 108/05, 109/05, 110/05, 111/05	Qualified majority PT abstention
Council Regulation amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs	12003/05		Qualified majority
Council Regulation amending Regulation (EC) No 850/98 as regards the protection of deep-water coral reefs from the effects of fishing in certain areas of the Atlantic Ocean	12014/05 + COR 1 (da)	112/05	Qualified majority
Council Decision on the exchange of information and cooperation concerning terrorist offences	11259/05 + COR 1 + COR 2 (da) + REV 1 (sk)		Unanimity

SEPTEMBER 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
Council Decision establishing the European Police College (CEPOL)	10040/1/05 REV 1	113/05, 114/05, 115/05	Unanimity
Directive of the European Parliament and of the Council on cross-border mergers of limited liability companies	PE-CONS 3632/05 + COR 1 (fi) + COR 2 (en) + COR 3 (hu) + COR 4 (it) + COR 6 (pt) + COR 7 (sl) + COR 8 (es) + REV 2 (pl) + REV 3 (lt) + REV 4 (de) + REV 4 COR 1 (de)	116/05	Qualified majority IT against
Directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles	PE-CONS 3617/05	117/05	Qualified majority

SEPTEMBER 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
Directive of the European Parliament and of the Council amending for the 27th time Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (toluene and trichlorobenzene)	PE-CONS 3626/05 + REV 1 (en) + REV 2 (fr) + REV 3 (nl) + REV 4 (sl)		Qualified majority
Regulation of the European Parliament and of the Council amending Regulation (EC) No 1059/2003 on the establishment of a common classification of territorial units for statistics (NUTS) by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union	PE-CONS 3622/05	118/05, 119/05, 120/05	Qualified majority
Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing	PE-CONS 3631/05 + COR 1 + COR 2 (pl) + REV 1 (sv) + REV 1 COR 1 (sv) + REV 2 (fr) + REV 2 COR 1 (fr) + REV 2 COR 2 (fr) + REV 3 (pt) + REV 4 (de) + REV 4 COR 1 (de)	121/05	Qualified majority

SEPTEMBER 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
Council Decision amending Annex II of Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles	11299/05 + REV 1 (de)	122/05	Qualified majority DK/FI against ES/SE abstention

STATEMENT 99/05**Declaration by the Commission concerning the relationship between the Paying Agency and the Managing Authority**

"The Managing Authority is responsible in particular for ensuring that operations are selected for funding in accordance with the criteria applicable to the programme (Article 75 RD-regulation). The Paying Agency will, in particular based on information from the Managing Authority, have to take the necessary measures in order to provide sufficient guarantees that the procedures for allocating aid have been respected before payment is authorised (Article 6 Financing Regulation).

For several RD measures, a specific selection process has to be put into place by the Managing Authority (or by the body to which this activity was delegated). For others, no specific selection process is required as unequivocal eligibility criteria are fixed in advance. The eligibility of these requests is checked by the paying agencies (or the body to which this activity was delegated in conformity with Article 6 of the Financing Regulation)."

STATEMENT 100/05

Declaration by the Commission with regard to financial programming

"For Member States with regionalised programming a facility in the implementing regulation will be introduced to allow for a certain flexibility in the uptake of financial resources. By simple notification to the Commission, Member States will have the possibility to adjust in the year "n" the financial tables of regional programmes for the year "n" and following years, including transfers between programmes, as long as the total Community contribution for each programme is not affected and the annual rural development allocation of the Member State is respected."

STATEMENT 101/05

Declaration by the Commission with regard to interest rate subsidies for the modernisation of farms

"Based on Article 71(5) the Commission will examine in the context of the implementing regulation the modalities under which interest rate subsidies as another form of support for farm investments can be accepted."

STATEMENT 102/05

Declaration by the Commission concerning controls

"In addition to the orientations set out in the working document of the Commission in Council document No 7975/05, the Commission will, in view of limiting controls to the strict necessary, take into account, when preparing the detailed rules, the following points:

- The multi-annual nature of commitments under certain measures;
- To limit the number of visits to beneficiaries in the measure possible;
- The specificities of forestry area compared to agricultural area."

STATEMENT 103/05

Declaration by the Council and the Commission regarding voluntary modulation

"In the context of the discussions on the Financial Perspectives for the period 2007-2013, the issue of voluntary modulation will be examined together with the question of the overall rural development funding. It relates to the capacity of Member States which have applied in 2006 reductions of direct payments as provided for in Regulation (EC) No 1655/2004, to apply an additional reduction up to the rate estimated each year to be required to cover the difference between the amount available as a result of the reductions under that Article 10 of Regulation (EC) No 1782/2003 and the amount necessary to finance the expenditure for accompanying measures decided before the end of 2005 and continued under axis 2 of the rural development regulation. The amounts resulting from these additional reductions would be transferred to the EAFRD and allocated to the Member State concerned for the purpose of programming under the rules for rural development support."

STATEMENT 104/05

Declaration by the Council and the Commission regarding Bulgaria and Romania

"For Bulgaria and Romania the same facilities will be offered for the programming period 2007-2013 upon their accession as for the Member States which joined in May 2004. For the contribution in the cost of advisory services for farmers receiving semi-subsistence support an increase in the aid intensity to 100% will be considered."

STATEMENT 105/05

Declaration by the Commission regarding state aids for enterprises

"Enterprises not covered by Article 28(3) of the Regulation can receive state aid support in accordance with articles 87, 88 and 89 of the Treaty."

STATEMENT 106/05

Declaration by the Commission regarding Article 39 on agri-environment

"In the implementing regulation the Commission will introduce detailed rules for the calculation of agri-environment payments, which will be granted annually, including the transaction cost element."

STATEMENT 107/05

Declaration by Finland and Sweden on Article 69(4)c

"In allocation of the resources on the basis of Article 69(4)c, the particular situations and needs of the current Objective 1 areas situated in the northern and eastern parts of Finland and northern parts of Sweden shall be taken into account, if these areas would no longer qualify as Convergence areas, and taking into account respective Accession Treaties."

STATEMENT 108/05

Statement by Portugal

"In a desire to send a clear signal at this time to European agriculture of its confidence in the European institutions and to contribute towards a more stable and predictable agricultural sector, the Portuguese delegation supports the compromise proposal by the Presidency and the Commission. It hopes that, when the financial perspective is approved, due account will be taken of the report on Portuguese agriculture drawn up by the Commission and submitted to the European Council in 2003 which recognises the importance of pursuing a policy of rural development for restructuring the sector in Portugal."

STATEMENT 109/05

Presidency declaration, supported by the Commission and all Member States except Germany and Sweden

"The resources available for commitment from the EAFRD for the period 2007 to 2013 as set out in the Commission proposal for the financial perspective 2007-2013 would be 88,75 billion at 2004 prices. The annual breakdown would be that shown hereafter. Of these resources, at least 31,3 billion at 2004 prices would be concentrated in regions eligible for the Convergence Objective. The definitive amounts will be fixed in the context of a decision on the financial perspective and the Interinstitutional Agreement for the period 2007 to 2013.

EUR million - 2004 prices

Year	2007	2008	2009	2010	2011	2012	2013
	11 759	12 235	12 700	12 825	12 952	13 077	13 205

"

STATEMENT 110/05

Statement by Luxembourg, Spain and Austria, supported by Portugal

"On 20 June 2005 the Council, under Luxembourg's Presidency, reached unanimous political agreement on the Regulation on support for rural development, including wording for Article 69 that had been the subject of legal analysis. The Luxembourg, Spanish and Austrian delegations are very concerned by the fact that, during the technical transposition procedure, politically sensitive changes were made to the wording in question, on the grounds of non-compliance with the Interinstitutional Agreement, changes which the Luxembourg, Spanish and Austrian delegations consider to be unnecessary from a legal standpoint."

STATEMENT 111/05

Statement by Hungary, Poland, the Czech Republic and Lithuania, supported by Slovakia

"Hungary, Poland, the Czech Republic and Lithuania support all the efforts to make progress on the legislative proposals that underpin the financial framework. In that context they welcome the adoption of the regulation on support for rural development by the European Agricultural Fund for Rural Development. However, the provisions of the regulation governing the eligibility of non-recoverable VAT must not be regarded as a reference for the other relevant legislative proposals. Hungary, Poland, the Czech Republic and Lithuania reiterate their position taken at the June European Council that the rules on non-recoverable VAT should be the same as those that apply to the structural funds and to the cohesion fund for the programming period 2000-2006."

STATEMENT 112/05

Joint Council and Commission statement

"The Council and Commission agree that it is important to ensure that conservation measures are based on the best available scientific advice. As in other similar cases, the Commission will therefore keep the scientific basis for this Regulation under review and will consider making the necessary proposals in response to relevant scientific developments.

The Council and Commission also agree that the fact that this Regulation does not prohibit the use of certain fishing gears, notably longlines, cannot be construed as a precedent."

STATEMENT 113/05

Declaration by the Council

"The Council stresses the urgent need for a general debate on the granting of immunities and privileges in the EU, in particular for decentralised bodies. The Council notes that the incoming UK Presidency will initiate the first stages of such a review."

STATEMENT 114/05

Declaration by the United Kingdom

"The UK stresses that the application of the Protocol on Privileges and Immunities of the European Communities (1965) to the Director and to the Secretariat of CEPOL does not set a precedent for its application to the staff of other agencies and bodies including those which are financed through the Community budget or to which the EC Staff Regulations apply."

STATEMENT 115/05

Declaration by the Commission

"The Commission wishes to state that it profoundly disagrees with the Council's refusal to accept that the Commission should be represented on the Board of Governors of the European Police College as a member with the right to vote.
The Commission therefore reserves all the rights conferred upon it under the Treaty."

STATEMENT 116/05

Statement by Denmark on the proposal for a Directive on cross-border mergers of limited liability companies

"Denmark can support the above proposal for a Directive on cross-border mergers of limited liability companies.

However, Denmark would point out that it is unfortunate that the threshold for the right to employee participation should have been raised in this proposal for a Directive, compared with the Regulation on the Statute for a European company and the related Directive on the involvement of employees.

Thus Denmark finds that the threshold in the proposed Directive on cross-border mergers should also be 25% of the number of employees before the merger and not $33\frac{1}{3}\%$ as appears in the current compromise. Denmark consequently finds that the increase in the threshold from 25% to $33\frac{1}{3}\%$ must not set a precedent for future Directives in other areas."

STATEMENT 117/05

Statement by Sweden and the United Kingdom

"The delegations of Sweden and the United Kingdom have cast a positive vote for this Directive in the interests of environmental gains and can, as part of the overall compromise, accept the inclusion of the provisions on tax incentives. However, we regard our vote as being without prejudice to the question of the inclusion of such tax provisions in future legislation under Article 95 of the Treaty, which we consider to be an inappropriate legal basis for such provisions."

STATEMENT 118/05

Statement by the Commission

"In the light of the concerns expressed by Slovenia, the Commission is prepared to review the regional classification of Slovenia within the context of Article 5(4) of Regulation (EC) 1059/2003 at an appropriate moment, should this be required.

This contains the provisions that the amendment of NUTS classification may be adopted at intervals of less than three years."

STATEMENT 119/05

Statement by the Commission

"The Commission notes that Regulation (EC) 1059/2003 as it currently stands permits the revision of the NUTS classification for all EU members."

STATEMENT 120/05

Statement by the Slovenian delegation

"Slovenia highly appreciates the Commission's efforts to amend Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

However, in the accession negotiations, Slovenia and the European Union made an agreement that for the period up to the end of 2006 the whole territory of Slovenia would be provisionally considered as one single region at NUTS-2 level. Furthermore, Slovenia will continue discussions on the territorial division ensuring balanced regional development with the Commission in order to review, already being a Member State, its NUTS classification at the end of 2006 at the latest. A special unilateral declaration was made regarding this issue, added to the Final Act to the Treaty of Accession to the European Union.

On the basis of this declaration, Slovenia expects the discussions with the EU on the territorial division on NUTS-2 level to be concluded in a way which will enable not only an agreement on the territorial division by the end of 2006, but also its actual implementation. This is also in line with the agreement made in the framework of the accession negotiations."

STATEMENT 121/05

Statement by the Council on the use of the word "penalties" in the English version of legal instruments of the European Community

"In the opinion of the Council, when the word "penalties" is used in the English version of legal instruments of the European Community, this word is used in a neutral sense and does not relate specifically to criminal law sanctions, but could also include administrative and financial sanctions, as well as other types of sanctions. When Member States are obliged under a Community act to introduce "penalties", it is up to them to choose the appropriate type of sanction in conformity with the case law of the ECJ.

In the Community language database, the following translations are made of the word "penalties" in some other languages:

in Czech, "*sankce*", in Spanish, "*sanciones*", in Danish, "*sanktioner* ", in German, "*Sanktionen*", in Estonian, "*sanktsioonid*", in French, "*sanctions*", in Greek, "*κυρώσεις*", in Hungarian, "*jogkövetkezmények*", in Italian, "*sanzioni*", in Latvian, "*sankcijas*", in Lithuanian, "*sankcijos*", in Maltese, "*penali*", in Dutch, "*sancties*", in Polish, "*sankcje* ", in Portuguese, "*sanções*", in Slovenian, "*kazni*", in Slovak, "*sankcie*", in Finnish, "*seuraamukset*" and in Swedish, "*sanktioner*".

If, in revised English versions of legal instruments where the word "sanctions" has previously been used, this word is replaced with the word "penalties", this does not constitute a substantive difference."

STATEMENT 122/05

Statement by Denmark, Finland and Sweden

"Denmark and Finland voted against the proposal and Sweden abstained for the following reason.

In principle, the use of cadmium should be limited to the greatest extent possible; and the use of cadmium should be prohibited where substitutes are available.

According to the Directive on end-of-life vehicles, certain materials and components can be exempt from the prohibitions laid down in the Directive if the use of heavy metals is unavoidable.

Since it was documented already in 2002 that environmentally friendly battery technologies had been developed and were in use, the proposal to extend the exemption permitting the use of cadmium in batteries for electrical vehicles until 31 December 2008 is unacceptable."

SEPTEMBER 2005	
OTHER ACTS	Votes made public
Written procedure completed on 2 September 2005 Council Regulation amending the Annex to Regulation (EC) No 2042/2000 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan 11664/05 Written procedure completed on 8 September 2005 Council Decision concerning proposals, on behalf of the European Community and the Member States, for amendments to Annexes I-III of the 1998 Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants 11386/05 <u>Statement by the Commission made public</u> <i>"The Commission confirms that it is in an advanced stage of preparing a proposal for Community control measures on PFOS under Directive 76/769/EEC and that best endeavours are taken in order to submit this proposal to the European Parliament and to the Council in autumn 2005. The Commission also confirms that, in the future submission of a proposal on PFOS to the UNECE Protocol on POPs and during the subsequent international negotiations, it will seek to ensure full coherence between the EU control measures and international action on PFOS."</i> Written procedure completed on 9 September 2005 Council Joint Action on the European Union Monitoring Mission in Aceh (Indonesia) (Aceh Monitoring Mission - AMM) 11681/05, 11830/05	

SEPTEMBER 2005	
OTHER ACTS	Votes made public
Written procedure completed on 12 September 2005	
Council Regulation imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain finished polyester filament fabrics originating in the People's Republic of China 11690/05 + COR 1 (el)	DK/NL against FI/DE/LT/SE abstention
2677th meeting of the Council (Agriculture and Fisheries) on 19 and 20 September 2005	
Council Decision on the conclusion of the Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010 11445/05 + COR 1 + REV 1 (lv), 11449/05 + ADD 1 REV 1	ES/FR/PT abstention
Council Common Position extending Common Position 2004/661/CFSP concerning restrictive measures against certain officials of Belarus 11714/05	
Council Decision on the signing, on behalf of the Community, of the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters 10723/05 + REV 1 (es) + REV 2 (lv) + REV 2 COR 1 (lv)	
Council Decision on the signing, on behalf of the Community, of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil or commercial matters 10725/05 + COR 1 (sv) + COR 2 (de) + COR 3 (de) + REV 1 (es) + REV 2 (lv) + REV 2 COR 1 (lv)	

SEPTEMBER 2005	
OTHER ACTS	Votes made public
Council Decision concerning the conclusion of a Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union 5100/05 + COR 1 (nl) + COR 2 (pt) Council Decision on the conclusion of a Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union 9649/05 Council Decision concerning the conclusion of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union 5092/05 Council Decision on the conclusion of the Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union 9648/05	

SEPTEMBER 2005	
OTHER ACTS	Votes made public
Council Regulation abolishing tariff quota for imports of soluble coffee covered by CN code 2101 11 11 11114/05 Council Decision on the existence of an excessive deficit in Portugal 12398/05	PL against