



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 17 November 2003 (01.12)
(OR. fr)**

15015/03

PUBLIC 10

NOTE

Subject: MONTHLY SUMMARY OF COUNCIL ACTS
OCTOBER 2003

This document gives:

- in **Annex I**, a list of legislative acts finally adopted by the Council in October 2003. This is accompanied by any statements for the minutes which may be released to the public (**Annex II**). The list also shows any opposing votes and abstentions, voting explanations and voting rules applicable.
- in **Annex III**, a list of other acts ¹ adopted by the Council in October 2003, showing any relevant voting results, voting explanations and statements which the Council has decided to make public.

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

It should be noted that only the minutes concerning the final adoption of legislative acts are authoritative. Extracts from the minutes in question may be obtained from the transparency section ("transparency@consilium.eu.int").

¹ Except for some acts of limited interest, such as procedural decisions, appointments, decisions of bodies set up by international agreements or minor budgetary decisions, etc.

OCTOBER 2003			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2529th Council meeting (Justice and Home Affairs) on 2 and 3 October 2003 Council Decision amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders	9429/02 + COR 1	185/03, 186/03	Unanimity
2530th Council meeting (Economic and Financial Affairs) on 7 October 2003 Council Directive amending Directive 77/388 EEC as regards the rules on the place of supply of gas and electricity	11314/03 + COR 1 (sv) + COR 2 (fr) + REV 1 (el)	187/03, 188/03	Unanimity

OCTOBER 2003			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
(a) Council Regulation on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92	6522/03 + COR 1 (de) + COR 2 (fr,it,nl,en,da,el,es,pt,fi,sv) + COR 3 (fi) + ADD 1 OC 578	189/03, 190/03	Unanimity
(b) Council Directive amending Council Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation	6930/03 + COR 1 (en) + COR 2 + COR 2 REV 1 (de) + COR 3 (sv) + COR 4 + COR 5 (de) + ADD 1 OC 579		Unanimity
Council Regulation amending Regulation (EC) No 2803/2000 as regards the opening and increase of autonomous Community tariff quotas for certain fishery products	12841/03 + COR 1 REV 1 (nl)		Qualified majority

OCTOBER 2003			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2531st Council meeting (Transport/Telecommunications/Energy) on 9 October 2003 Regulation of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods 2534th Council meeting (Agriculture and Fisheries) on 13 October 2003 Council Regulation amending Regulation (EC) No 2596/97 extending the period provided for in Article 149(1) of the Act of Accession of Austria, Finland and Sweden 2535th Council meeting (Employment, Social Policy, Health and Consumer Affairs) on 20 October 2003 Directive 2003/97/EEC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the type-approval of devices for indirect vision and of vehicles equipped with these devices, amending Directive 70/156/EEC and repealing Directive 71/127/EEC	PE-CONS 3644/03 13351/03 PE-CONS 3677/03	191/03	UK abstention Qualified majority Unanimity Qualified majority

OCTOBER 2003			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2536th Council meeting (Environment) on 27 October 2003 - Council Regulation modifying Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark to give effect to the accession of the European Community to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on 27 June 1989 - Council Decision approving the accession of the European Community to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on 27 June 1989 Council Directive restructuring the Community framework for the taxation of energy products and electricity Decision of the European Parliament and of the Council adopting a multi-annual programme (2003-2005) for the monitoring of the eEurope 2005 Action Plan, dissemination of good practices and the improvement of network and information security (MODINIS)	12813/03 + COR 1 (es) + COR 2 (fr) + REV 1 (fi) + REV 2 (nl) 12812/03 8500/03 + COR 1 (nl) + COR 2 (sv) + COR 3 (de) + REV 1 (da) PE-CONS 3678/03	192/03 193/03, 194/03, 195/03, 196/03, 197/03, 198/03, 199/03, 200/03, 201/03, 202/03, 203/03, 204/03	Unanimity Unanimity Qualified majority Qualified majority

OCTOBER 2003			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
Directive of the European Parliament and of the Council on the re-use of public sector information	PE-CONS 3679/03		Qualified majority

STATEMENT 185/03

Statement by the German and the Greek delegations

"As regards cross-border surveillance of persons other than the suspect, Germany and Greece will apply Article 40(1) of the Schengen Convention only when the requirements of Article 17(1) of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters are met."

STATEMENT 186/03

Statement by the German delegation

"The Federal Republic of Germany will ensure that the content of the Decision is transposed into national law in due course."

STATEMENT 187/03

Statement by the Council and the Commission

"The Council and the Commission agree that the treatment of financial derivatives such as forwards, futures and options on gas supplied through the natural gas distribution system and on electricity should be examined when the treatment of all financial derivatives is reviewed."

STATEMENT 188/03

Council statement

"The Council notes that, in case the liberalisation of the electricity and gas markets is not completed by 1 July 2007, the Commission undertakes to examine the functioning of the VAT regime for the supplies of electricity and gas and will present a report to the Council and the European Parliament within the next three months. If necessary the Commission will present a proposal for appropriate measures with a view to abolishing any possible distortion of competition caused by the VAT rules in this sector, by the end of 2007."

STATEMENT 189/03

Commission statement

"The Commission notes the unanimous adoption by the Council of a text for a Regulation on administrative cooperation in the field of VAT based on Article 93 and for a Directive on mutual assistance in the field of direct and indirect taxation based on Articles 93 and 94 of the Treaty. It reaffirms its position, in line with its original proposal, that the legal basis should be Article 95 of the Treaty. The Commission recalls that the principle objective of this Regulation and this Directive is not the harmonisation of fiscal provisions, but to provide for the exchange of information between Member States."

STATEMENT 190/03

Statement by the Commission and the Council

"The Commission and the Council state that Article 27 (4) of the Regulation is only intended to extend the possibility of verification of VAT identification numbers to persons providing services referred to in the last indent of Article 9(2)(e) of the Sixth VAT Directive and not to change Member States' existing verification procedures."

STATEMENT 191/03

Statement by the United Kingdom

"The United Kingdom supports the food safety measures contained within the proposal for a regulation on smoke flavourings intended to be used in or on food. We are unable to support its adoption, however, as we have doubts about the omission of Article 308 of the Treaty from the legal base of the regulation. The authorisation procedure adopted is very similar to the Commission's "centralised" procedure on which the Council Legal Service advised that a legal base of Article 308 was necessary. The UK reserves the right to take such further action as it may consider appropriate".

STATEMENT 192/03

Statement by the Commission, the Council and the representatives of the Governments of the Member States meeting within the Council

Statement on Article 3 of the Decision

"In the event of matters coming under the shared competence of the Community and its Member States being involved in future negotiations in the Madrid Union Assembly, the Commission, the Council and the representatives of the Governments of the Member States reiterate the obligation for the Member States and the Community Institutions to cooperate which results from Opinion 1/94 of the Court of Justice."

STATEMENT 193/03

Statement by the Council and the Commission

State aid

"With a view to reducing the legal uncertainty arising from the application of the state aid rules, the Council and the Commission agree:

- that the energy taxation Directive is in compliance with Community commitments to integrate environmental concerns into the energy taxation area, that it will improve the functioning of the Internal Market and that the Commission should go to the greatest possible lengths to ensure that measures taken by Member States in accordance with the exemptions and tax reductions laid down in the Directive will be considered compatible with state aid rules;
- that Member States may notify for approval comprehensive state aid schemes laying down the general rules and conditions Member States' authorities will apply when granting aid in relation to the new energy tax Directive. After their authorisation, these regimes do not require further notification of the individual cases of application to specific sectors or companies;
- that energy products should essentially be subject to a Community framework when used as heating fuel or motor fuel. It can be considered that it is in the nature and the logic of the tax system to exclude from the scope of the framework dual uses and non-fuel uses of energy products as well as mineralogical processes. Member States may then take measures to tax or not to tax or to apply total or partial taxation to each use. Electricity used in similar ways should be treated on an equal footing. Such exceptions to the general system or differentiations within that system, which are justified by the nature or general scheme of the tax system, do not involve state aids.

The Council furthermore states that it understands the legal situation arising with the adoption of this Directive in relation to the Treaty rules on state aid as it was set out by the Commission at the meeting of the Working Party on Tax Questions on 14 November 2002."

STATEMENT 194/03

Council statement

Community emission trading scheme:

"On the basis of a proposal from the Commission, the Council undertakes to positively examine tax measures which will accompany the future implementation of a Community emission trading scheme, particularly in order to avoid cases of double taxation."

STATEMENT 195/03

Statement by the United Kingdom and Ireland

Re Article 2(5):

"The United Kingdom and Ireland state that they are prepared to agree to this provision for the Excise Committee to update the codes of the combined nomenclature used in the Energy Products Directive, without altering the effective coverage of the Directive's provisions or any minimum rates, in the interest only of securing an overall agreement on this Directive."

STATEMENT 196/03

Statement by the Council and the Commission

Re Article 4(2):

"The Council and the Commission state that the concept of "indirect taxes" referred to in Article 4(2) of the Directive also covers the charges calculated directly or indirectly on the quantity of the product at the time of release for consumption and used to fund social security."

STATEMENT 197/03

Commission statement

Re Article 7:

- "The Commission states that the measures adopted in this Directive, based on Community minimum rates only, do not solve the problems of distortions of competition the haulage markets are confronted with, and their consequences. The resultant distortions need to be eliminated.
- On the basis of a proposal from the Commission, the Council undertakes to positively examine an adjustment of the weight limit in the definition of commercial purposes with a view to securing accordance with the weight limits in any future Directive reforming the Eurovignette Directive or any new Directive on transport infrastructure charging."

STATEMENT 198/03

Council statement

Re Article 12(2):

"The Council states that in calculating the tax level Member States need not adjust the quantity according to the temperature of each transaction, but may adopt simplified national procedures to take account of variations in temperature.

Adjustments for standard temperature shall be calculated on the basis of the tables published by the International Organisation for Standardisation under the references ISO 91/1 – 1982 or any subsequent revision."

STATEMENT 199/03

Re Article 14(b):

- "All delegations, with the exception of Ireland and Spain, and the Commission agree that as a matter of principle, and in the interests of a consistent tax system, commercial aircraft fuel should be taxed on the same basis as any other fuel. However, the question of competition with third countries needs to be taken into account and any distortion of competition with socio-economic implications has to be avoided. All delegations, with the exception of Ireland and Spain, and the Commission are of the view that an appropriate strategy would be to pursue the discussion on this matter with the ICAO and that when taxation of such products is allowed at international level, the Council needs to decide, on the basis of a proposal from the Commission, whether to abolish the exemption."
- "Ireland and Spain cannot concur with the policy position regarding the taxation of aviation fuel as set out in the above statement. Ireland's and Spain's concerns about aviation fuel taxation derive from their peripheral status, the dispersal of their populations, which adds to transport costs, and the need to maintain competitiveness in the EU vis-à-vis third countries in relation to tourism."

STATEMENT 200/03

Council statement

Re Article 15(d):

"On the basis of a proposal from the Commission, the Council undertakes to positively examine a common definition of environmentally friendly (or high-efficiency) cogeneration with a view to securing compatibility with the Directive of the European Parliament and the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market."

STATEMENT 201/03

Commission statement

Re Article 15 and 16:

"The Commission notes that landfill gases, sewage treatment gases and biogases are within the scope of the definition of "biomass"."

STATEMENT 202/03

Statement by the Council and the Commission

Re Article 18:

- "The Council and the Commission declare that the derogations for the level of taxation of commercial diesel in France and Italy are prolonged to allow for an in-depth analysis of the Commission proposal on commercial diesel.
- Bearing in mind the needs of professionals in the road haulage industry, the Council notes that this transition period relates to the commitment of the Council to further analyse the Commission proposal on commercial diesel."

STATEMENT 203/03

Statement by the Council and the Commission

Re Article 21(5):

"The Council and the Commission state that "distributor or redistributor" means the natural or legal person who delivers the gas or electricity and carries out invoicing or arranges for invoicing to be carried out."

STATEMENT 204/03

Commission statement

Re Article 24:

"The Commission notes that in the first indent of paragraph 2, the terms "whose permanent fitting enables fuel to be used directly" do not exclude the presence of a shut-off valve on the pipe connection between standard tanks."

OCTOBER 2003	
OTHER ACTS	Votes made public
2529th Council meeting (Justice and Home Affairs) on 2/3 October 2003 Council Resolution on a strategy for customs cooperation 10856/03 + COR 1 + COR 2 + REV 1 (sv) 2530th Council meeting (Financial and Economic Affairs) on 7 October 2003 Council Decision on the adoption of amendments to be made to Articles 3 and 7 of the Monetary Convention between the Italian Republic, on behalf of the European Community, and the Vatican City State, represented by the Holy See, and authorising the Italian Republic to give effect to these amendments 12376/03 + COR 1 (en) 2531st Council meeting (Transport/Telecommunications/Energy) on 9 October 2003 Common Position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council amending Council Directives 70/156/EEC and 80/1268/EEC as regards the measurement of carbon dioxide emissions and fuel consumption of N₁ vehicles 5997/03 + COR 1 (pt) + ADD 1 + ADD 1 COR 1 2532nd Council meeting (General Affairs and External Relations) on 13 October 2003 Iraq • Council Common Position amending Common Position 2003/495/CFSP on Iraq 12953/1/03 REV 1 • Council Regulation amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq 12954/1/03 REV 1	

OCTOBER 2003	
OTHER ACTS	Votes made public
Interinstitutional Agreement on better law-making 12175/03 + COR 1 (en,pt) 2535th Council meeting (Employment, Social Policy, Health, Consumer Affairs) on 20 October 2003 Council Regulation on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003 12939/03 Council Regulation amending the anti-dumping measures imposed by Regulation (EC) No 769/2002 on imports of coumarin originating in the People's Republic of China 12808/03 Council Resolution on transforming undeclared work into regular employment 13456/03 Council Conclusions on open coordination for adequate and sustainable pensions 13247/03 + REV 1 (fi) Council Resolution on initiatives to combat trafficking in human beings, in particular women 13328/03 + COR 1 (sv) 2536th Council meeting (Environment) on 27 October 2003 Council Regulation adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta 12431/03	

OCTOBER 2003	
OTHER ACTS	Votes made public
Council Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of furfuryl alcohol originating in the People's Republic of China 13292/03 Steel products • Council Decision on the conclusion of an Agreement between the European Community and the Russian Federation amending the Agreement between the European Coal and Steel Community and the Government of the Russian Federation on trade in certain steel products of 9 July 2002 12065/1/03 REV 1 • Council Regulation amending the Commission Decision of 8 July 2002 on administering certain restrictions on imports of certain steel products from the Russian Federation 12044/03 Hygiene of foodstuffs • Common position adopted by the Council with a view to the adoption of a Regulation of the European Parliament and of the Council on the hygiene of foodstuffs 10543/1/02 REV 1 + COR 1 (en) + COR 2 (fr) + ADD 1 + ADD 1 REV 1 (sv) • Common position adopted by the Council with a view to the adoption of a Regulation of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin 5420/1/03 REV 1 + COR 1 (de,it,nl,da,el,es,pt,fi) + COR 2 (en) + COR 3 (fr) + COR 4 + ADD 1 + ADD 1 REV 1 (sv) • Common position adopted by the Council with a view to the adoption of a Regulation of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption 11583/03 + COR 1 (fr) + COR 2 (fi) + ADD 1 + ADD 1 REV 1 (sv) • Common position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council repealing certain Directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption, and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC 11584/03 + ADD 1 + ADD 1 COR 1 (fr)	

OCTOBER 2003	
OTHER ACTS	Votes made public
Liberia • Council Common Position amending Common Position 2001/357/CFSP concerning restrictive measures against Liberia 13512/03 + COR 1 (fi) • Council Regulation amending Regulation (EC) No 1030/2003 concerning certain restrictive measures in respect of Liberia 13513/03 Council Conclusions on a European Environment and Health Strategy 13690/03	
