

5804/96

LIMITE

PUBLIC 4 (DECLAR)

LEGISLATIVE TRANSPARENCY
STATEMENTS RELEASED TO THE PUBLIC
January/February 1996

This document contains a list of the definitive legal acts adopted by the Council in January and February 1996, together with the statements in the minutes which the Council has decided to release to the public.

ANNEXES

STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC – JANUARY AND FEBRUARY 1996 –			
DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1900th Council meeting on Economic and Financial Questions on 22 January 1996 Council Regulation establishing favourable tariff treatment for imports of certain goods into the free zones of Madeira and the Azores by reason of their end use 1901st Council meeting on Agriculture on 22 January 1996 Council Regulations – amending Regulation (EEC) No 1873/84 authorizing the offer for disposal for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EEC) No 822/87 – amending Regulation (EEC) No 2390/89 laying down general rules for the import of wines, grape juice and grape must Council Regulation setting for the 1995/1996 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 Council Decision extending the period of application of Decision 82/530/EEC authorizing the United Kingdom to permit the Isle of Man authorities to apply a system of special import licences to sheepmeat and beef and veal Council Regulation amending Regulations (EC) No 3285/94 and No 519/94 with respect to the uniform Community surveillance document	4001/96 4160/96 4161/96 4230/96 4412/96 4158/96		

STATEMENTS IN THE MINUTES RELEASED TO THE PUBLIC
– JANUARY AND FEBRUARY 1996 –

DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Written procedures completed on 16 February 1996			
Decision of the European Parliament and of the Council adopting an action plan to combat cancer within the framework for action in the field of public health	PE-CONS 3618/95		
Decision of the European Parliament and of the Council adopting a programme of Community action on health promotion, information, education and training within the framework for action in the field of public health (1996-2000)	PE-CONS 3617/95	1/96	
Decision of the European Parliament and of the Council adopting a programme of Community action on the prevention of AIDS and certain other communicable diseases within the framework for action in the field of public health (1996-2000)	PE-CONS 3619/95 + COR 1(en)		
1903rd Council meeting on General Affairs on 26/27 February 1996			
Directive of the European Parliament and of the Council amending Directive 89/647/EEC as regards recognition of contractual netting by the competent authorities			
1904th Council meeting on Agriculture on 26 February 1996			
Directive of the European Parliament and of the Council on the legal protection of data bases	4339/1/96 + COR 1(i) + COR 2(p) 4339/2/96 (fin)	2/96, 3/96, 4/96	
	PE-CONS 3602/96	5/96, 6/96, 7/96, 8/96, 9/96	Abstention P

STATEMENT 1/96

Finland attaches particular importance to the programme of action on health promotion, information, education and training. In our opinion, broad-based health promotion yields better and more lasting results than the purely pathological approach. There should be an across-the-board effort to influence people's way of life and living conditions in the Community.

The programme supports pathology-related programme targets but is also equally supportive of action to prevent other health problems. Separate mention is made in the Annex to the draft Decision of coronary and vascular diseases and alcohol-related and mental health problems, which are of major importance for public health in Europe and each of which is comparable in its importance to diseases for which the Union has its own programme. It is important, therefore, that this programme is implemented and that sufficient appropriations are set aside for it.

STATEMENT 2/96

Re Annex, "Annex II point 3(a)(i)"

"The Commission and the Council state that point 3(a)(i) is intended to cover all forms of contractual netting which involve novation, including those in which novation applies more than once, so as to produce a net amount for each currency and value date. However, to comply with the conditions for recognizing novation, the net amounts must result from an agreement that creates a single contractual obligation extinguishing the former contractual obligations."

STATEMENT 3/96

Re Annex, "Annex II point 3(b)"

"The Commission, in order to achieve the Directive's main objective, which is to eliminate to the extent possible the legal risks related to contractual netting agreements, invites Member States in which the validity of contractual netting is not yet legally recognized to introduce the necessary provisions to ensure such recognition as soon as possible."

STATEMENT 4/96

Re Annex, "Annex II point 3(b) second paragraph"

"The Commission states:

- that, given the common practice of using standardized agreements; the recognition of contractual netting by the competent authorities does not imply that these authorities must check each single agreement, and
- that a consultation of the authorities competent for the supervision of the counterparty to such an agreement should take place only if "necessary", i.e. if the competent authorities have doubts on, or incomplete or outdated knowledge of, the legal validity of the contractual netting under the jurisdiction in which the counterparty is incorporated."

STATEMENT 5/96

Statement by the Italian delegation

While the Italian delegation is voting in favour of the text of the Directive, it feels it must draw attention to the importance of the problems – which are already in existence and will probably increase in future as a result of technological developments – surrounding the issue of compulsory licences as the only mechanism able to contain the possibility of abuse of dominant positions, not only between competing undertakings but also, in particular, in respect of science, education and the freedom of information, which could be subjected to undue restrictions.

The Italian delegation therefore expects the Commission to perform to the full its customary duty of verifying the implementation of the Directive and to make timely proposals for adjusting to developments in the sector and eliminating abuse.

STATEMENT 6/96

Statement by the Swedish delegation

Sweden supports a decision adopting a Directive on the legal protection of databases. The Directive represents an important contribution to the harmonization of rules in this area. However, we consider that the Directive should have been framed in such a way as not to exclude copying of electronic databases for individual use. Sweden believes that the Directive should have left latitude to allow consumers to make isolated copies of a database for use only among their immediate family and friends. It has always been a basic rule of Swedish copyright law that rightholders must not be able to interfere in the purely private domain. Admittedly, the distribution of privately produced copies causes rightholders economic damage. However, such distribution is already prohibited under other rules and there is no reason in our view for anyone buying, say, a database to be banned altogether from making a copy for his own use or for other members of his family.

STATEMENT 7/96

Statement by the Portuguese delegation

Databases are one of the main instruments of the information market, which is still in its infancy.

The Portuguese delegation approves the Directive's final objective of providing effective protection for databases.

However, granting exclusive new rights must not substantially alter the conditions of access to that vital product, information.

We therefore consider that the interests of users and of certain specific sectors, such as teaching and research, should be reflected in a more balanced manner in the Directive.

We consider that a greater restriction of the powers conferred on the database producer would better meet these concerns and would be compatible with the goal sought, i.e. creating a European database industry.

In these circumstances the Portuguese delegation will abstain when the Council adopts the Directive on the legal protection of databases.

STATEMENT 8/96

Statement by the Finnish delegation

Finland approves and votes for the adoption of the Directive on the legal protection of databases. In certain respects, however, fully satisfactory solutions for Finland have not been achieved.

Firstly, the Directive is not clear enough as regards the distinction between the protected database and the selection or arrangement of its contents by reason of which the base is protected. Finland points out that recitals 15, 27, 35, 38, 39 and 58 do not fully match the substance of the relevant Articles of the Directive.

Secondly, Finland believes that the Directive should have been formulated so that it does not exclude private copying of electronic databases. At least the Directives have made it clear that a lawful acquirer of an electronic database is allowed to copy the database in order to be able to use it. This would correspond to the solution adopted in the Directive on the legal protection of computer programs.

Thirdly, Finland would have preferred the Directive to leave the parties full contractual freedom in all respects.

Fourthly, the restricted acts under the sui generis right, in particular extraction, should have been defined more clearly.

Finally, Finland emphasizes the importance of the legislative measures of the European Union in the field of databases.

STATEMENT 9/96

Statement by the Commission re Article 16(3)

Within the framework of the report provided for in Article 16(3), the Commission undertakes to examine:

- (a) the desirability of further harmonization of the exceptions to the copyright and sui generis right, in particular in the light of the use made by the Member States of the options offered in this respect by this Directive;
- (b) the effects of Article 15 on the respective interests of the parties concerned.