

7308/97

LIMITE

PUBLIC 4

LEGISLATIVE TRANSPARENCY

STATEMENTS WHICH MAY BE RELEASED TO THE PUBLIC
MARCH 1997

This document contains a summary of definitive legislative acts adopted by the Council in March 1997, 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 – MARCH 1997 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1990th Environment Council on 3 March 1997			
Council Regulation (EC) on operations to aid uprooted people in Asian and Latin American developing countries	5737/97	27/97, 28/97, 29/97, 30/97, 31/97, 32/97	
Council Directive amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment	5847/97 + COR 1 (dk) + COR 2 (fin)	33/97, 34/97, 35/97, 36/97, 37/97	
Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin	6361/97	38/97, 39/97	
1991st Telecommunications Council on 6 March 1997			
Directive of the European Parliament and of the Council on a coordinated authorization approach in the field of satellite personal-communication services in the European Union	PE-CONS 3605/97 + COR 1 (en,dk,es) + COR 2 (p)	40/97, 41/97, 42/97	
Directive of the European Parliament and of the Council on a common framework for general authorizations and individual licences in the field of telecommunications services	PE-CONS 3606/97	43/97, 44/97, 45/97, 46/97, 47/97, 48/97, 49/97, 50/97, 51/97	D/EL abstention

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – MARCH 1997 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1993rd Internal Market Council on 13 March 1997 Directive of the European Parliament and of the Council amending for the fifteenth time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations Council Regulation amending Regulation (EC) No 1172/95, with respect to statistical territory, on the statistics relating to the trading of goods by the Community and its Member States with non-member countries Council Regulation 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 and agricultural matters	11807/1/96 REV 1 + ADD 1 + ADD 1 COR 1 (d,i,nl,en,dk,gr,es,p,fin,s) + ADD 1 COR 2 (fin) + ADD 1 COR 3 (d,en,dk,gr,es,fin,s) + REV 1 COR 1 (fin) 6063/97	52/97, 53/97	DK abstention
	5447/97 + COR 1 (nl) + COR 2 (en) + COR 3 (d)	54/97, 55/97, 56/97, 57/97, 58/97, 59/97, 60/97, 61/97, 62/97 63/97, 64/97, 65/97 66/97, 67/97, 68/97, 69/97, 70/97, 71/97, 72/97, 73/97	B abstention

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– MARCH 1997 –

DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
1994th Economic and Financial Questions Council on 17 March 1997 Council Decisions – authorizing the Kingdom of Belgium to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Kingdom of Denmark to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Federal Republic of Germany to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Hellenic Republic to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Kingdom of Spain to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the French Republic to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes	6222/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6223/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6224/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6225/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6226/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6227/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin)	74/97, 75/97, 76/97	

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– MARCH 1997 –

DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Decisions (continued) – authorizing Ireland to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Italian Republic to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Grand Duchy of Luxembourg to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Kingdom of the Netherlands to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Republic of Austria to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Portuguese Republic to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the Republic of Finland to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes	6228/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6229/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6230/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6231/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6232/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6233/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6234/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin)		

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– MARCH 1997 –

DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Decisions (continued) – authorizing the Kingdom of Sweden to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes – authorizing the United Kingdom of Great Britain and Northern Ireland to apply a measure derogating from Article 9 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes Council Decision authorizing the Federal Republic of Germany to conclude with the Czech Republic two agreements containing measures derogating from Articles 2 and 3 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes Council Decision authorizing the Federal Republic of Germany and the French Republic to apply a measure derogating from Article 3 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes 1995th Agriculture Council on 17 March 1997 Council Regulation amending Regulation (EEC) No 1107/70 on the granting of aids for transport by rail, road and inland waterway	6235/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 6236/97 + COR 1 (en,p,s) + REV 1 (d) + REV 2 (fin) 5822/97 + COR 1 (d) 6205/97 4980/1/96 REV 1	77/97, 78/97	

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– MARCH 1997 –

DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Regulation amending Regulation (EEC) No 2262/84 laying down special measures in respect of olive oil	6369/97		
Council Regulation amending Regulation (EEC) No 1442/88 on the granting, for the 1988/1989 to 1997/1998 wine years, of permanent abandonment premiums in respect of wine-growing areas	5596/97		
Council Regulation amending Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs	6013/97 + COR 1 (f,d,i,nl,en,dk,gr,es,p,fin) + REV 1 (s)	79/97, 80/97	I/EL against
Council Regulation amending Regulation (EEC) No 822/87 on the common organization of the market in wine as regards oenological practices and processes	6590/97	81/97, 82/97	
Council Directive amending and updating Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine	5001/97 + COR 1 + COR 2 (f) + COR 3 (dk) + COR 4 (gr) + REV 1 (s)	83/97, 84/97, 85/97, 86/97, 87/97, 88/97, 89/97	D/UK/S against
1996th General Affairs Council on 24 March 1997			
Council Regulation (EC) on HIV/AIDS-related operations in developing countries	5736/97	90/97, 91/97, 92/97, 93/97	

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – MARCH 1997 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Correction of a clerical error in Directive 96/85/EC of the European Parliament and of the Council amending Directive 95/2/EC on food additives other than colours and sweeteners, adopted by the Council on 9 December 1996 and not yet published in the Official Journal	PE-CONS 3630/1/96 REV 1		
Correction for urgent publication in the Official Journal in respect of Directives: (a) 96/69/EC of the European Parliament and of the Council of 8 October 1996 amending Directive 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (b) 96/79/EC of the European Parliament and of the Council of 16 December 1996 on the protection of occupants of motor vehicles in the event of a frontal impact and amending Directive 70/156/EEC	6580/97		
Council Regulation amending Regulation (EC) No 390/97 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1997 and certain conditions under which they may be fished	6650/97		

STATEMENT 27/97

Statement by the Council and the Commission re Article 9(3)

"The Council and the Commission state that the threshold of ECU 2 million provided for in Article 9(3) of this Regulation in no way constitutes a precedent for other thresholds, in other Regulations, applicable to the Committee on Developing Countries in Asia and Latin America."

STATEMENT 28/97

Statement by the Council and the Commission re Article 9(3) and (4)

"The Council and the Commission state that, when the rules of procedure of the Committee are reviewed, simplified and accelerated procedures will be specified, as need be, and as regards language arrangements by analogy with those of the EDF Committee, for emergency operations and for the supplementary commitments referred to in Article 9(4)."

STATEMENT 29/97

Statement by the Council and the Commission re Article 9(4)

"Member States' representatives in the Committee referred to in Article 10 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 30/97

Statement by the Commission re Article 10

"The Commission regrets the fact that in this instance the Council has amended the Commission proposal by replacing the type I advisory committee procedure with a type III(a) regulatory committee procedure; it considers that the procedure proposed or the management committee procedure would be better suited to requirements here."

STATEMENT 31/97

Statement by the Council re Article 13

"The Member States shall endeavour to forward their evaluation reports to the Commission."

STATEMENT 32/97

Statement by the Commission

"In order to avoid any risk of redundancy, confusion and possible criticisms, the Commission would have liked to introduce some changes to the text, so as to define the range of intervention of this instrument in relation to others, namely the one relating to humanitarian aid (Regulation No 1257/96), more appropriately.

At this stage of the cooperation procedure, any modifications other than those arising from the amendments approved by the European Parliament in the course of the second reading would require a new submission of the text to the Parliament and would thereby cause a delay in the approval of the legislative text. For this reason, the Commission refrains from proposing these modifications.

However, with a view to avoid any risk of redundancy, the Commission declares that it will implement all available internal coordination instruments, namely in the framework of the "Permanent Interservice Working Group on Assistance to Refugees, Internally Displaced Persons and Returnees in third countries (P.I.S.G.)."

STATEMENT 33/97

"The Belgian, French, Irish, Italian and Swedish delegations acknowledge the efforts made in order to achieve as wide and coherent a scope as possible for the EIA Directive.

They regret however that the activities covered by the IPPC Directive in the process of final adoption are not included in their totality in Annex I of the EIA Directive, that they are distributed between Annex I and Annex II, and that some of them are not even entirely included in the Annexes of the EIA Directive."

STATEMENT 34/97

"The Danish, Netherlands, Austrian, Finnish and Swedish delegations can, in a spirit of compromise, agree to the common position reached on the present proposal.

Under Community legislation, the public should, however, have the opportunity to express their opinion already in the "scoping" phase. This would guarantee the public early access to information on projects which may have a significant impact on the environment.

These delegations consider that Community legislation should not weaken the opportunities of the public to influence decision-making in the field of the environment. Therefore, they would have preferred to include consultation of the public in Article 5(2) concerning scoping.

They intend to apply existing national procedures which give the public the opportunity to give their opinion on the alternatives and the effects to be studied in the environmental impact assessment."

STATEMENT 35/97

"The Council and the Commission consider that it is important to take account of the likely significant transboundary effects of proposed projects when taking decisions relating to the authorization or financing of such projects. The application of the Espoo Convention between its contracting parties is of particular importance for the assessment of significant transboundary effects on the environment during the development consent process. Such effects should also be evaluated when the European Community is considering (co-)financing projects in a non-Member State which may have a significant effect on the environment of one or more Member States.

The Commission therefore undertakes that, when assessing the feasibility of projects which it has proposed to (co-)finance in a non-Member State which may have a significant effect on the environment of a Member State, it will ensure (in the framework of the relevant financing agreements and subject to their provisions) that the feasibility study includes an evaluation of the likely transboundary environmental effects of the project.

Member States undertake to follow a similar procedure whenever they (co-)finance projects in non-Member States which may have a significant effect on the environment."

STATEMENT 36/97

"The representatives of the Governments of the Member States meeting within the Council, noting that the Directive amending Directive 85/337/EEC shall enter into force on ... [**2 years** after its publication], reaffirm their intention to take the measures necessary to permit the deposit of the instruments of ratification, acceptance or approval of the Espoo Convention as soon as possible, taking account of the fact that the first meeting of the Parties to the Espoo Convention is tentatively scheduled for October 1997."

The Council reaffirms its agreement to the Community depositing its instrument of approval if possible before 30 June 1997, but not later than 31 December 1997."

STATEMENT 37/97

"The United Kingdom delegation considers that there are strong arguments for the view that the correct legal basis for these measures is Article 130s(2) rather than Article 130s(1)".

STATEMENT 38/97

COMMISSION STATEMENT

As regards the substances in respect of which documented applications for the establishment of maximum residue limits were lodged after 1 January 1996, the Council notes the Commission statement to the effect that they will be evaluated pursuant to Article 6 of Regulation (EEC) No 2377/90.

STATEMENT 39/97

COMMISSION STATEMENT

The Commission will ensure that substances in respect of which the scientific evaluation must be completed before 1 January 1998, in accordance with the first indent of the second paragraph of Article 14, are given priority by the European Agency for the Evaluation of Medicinal Products.

STATEMENT 40/97

"The Swedish delegation states that in Sweden the 1,6 GHz frequency band is, in accordance with international radio regulations, allocated to the aeronautical radio-navigation service and due account has to be taken of this safety service."

STATEMENT 41/97

"In voting for the draft Decision, the Portuguese delegation understands that the coordination referred to in Article 2(2) will be carried out in compliance with the principles of transparency and full participation by the Member States and with the procedures provided for in the Treaty on European Union."

STATEMENT 42/97

"The Commission declares that the provision in Article 2(4) does not exclude free choice of satellite technologies."

STATEMENT 43/97

Re Article 5(2)

"The Council and the Commission state that, under Article 5(2) of the Directive, Member States may require undertakings intending to provide telecommunications services and/or networks to be registered. Member States may open such a register for public consultation, provided fair competition and confidentiality are safeguarded."

STATEMENT 44/97

Re Article 7(1)

"The Commission confirms that Article 7(1)(c) allows Member States to issue individual licences in order to impose obligations under ONP legislation, but only with respect to those obligations that relate to the mandatory provision of publicly available telecommunications services and/or public telecommunications networks."

STATEMENT 45/97

Re Article 10

"The Commission confirms that, particularly when granting access to public or private land, Member States may include in authorizations any conditions designed to ensure compliance with rules on environmental protection and on town and country planning, including co-location and facility sharing, provided that such conditions are transparent, non-discriminatory, in proportion to the desired objective and objectively justified by the public-interest requirements concerned."

STATEMENT 46/97

Re Article 10

"The Greek delegation states that the size of the market should be included among the criteria for the limitation of the number of the individual licences, in connection with Article 10 of the proposal for a Directive on a common framework for general authorizations and individual licences in the field of telecommunications services."

STATEMENT 47/97

Re Article 11

"The Portuguese and Swedish delegations, in voting in favour of this draft Directive, state that on their understanding Article 11(2) does not aim at allowing Member States to impose special and disproportionate fees, as a financial counterpart to the granting of licences for the provision to the public of telecommunications services using the radioelectric spectrum, in particular mobile telephone services.

The Portuguese and Swedish delegations state furthermore that in their opinion such a possibility would be reflected as a specific penalty on the users of those services, in particular as regards tariff levels, would constitute in practice a new barrier as regards market access, favouring the incumbent and/or the most powerful operators, and would induce distortions of competition and legal asymmetries between Member States."

STATEMENT 48/97

Re Article 18

"The Commission confirms that this Directive, which harmonizes the conditions applicable to undertakings established in the Community, does not affect the possibility for Member States to adopt measures aimed at third-country undertakings not established in the Community, in accordance with Community law and the commitments of the Community and its Member States towards third countries."

STATEMENT 49/97

Re Article 22

"In relation to Article 22 and recital 25, the Commission recognizes the importance for some Member States of the concession contracts signed with the operators concerned before the entry into force of this Directive which concern the establishment, management and operation of telecommunications infrastructure and the provision of telecommunications services for a determined period, and accepts that contractual obligations imposed by such concession contracts and which do not affect the rights of other undertakings under Community law, including this Directive, are not affected by this Directive."

STATEMENT 50/97

Re Article 22

"The Greek delegation supports the principle of the establishment of a common framework for the granting of general authorizations and individual licences in the field of telecommunications services.

However, the Greek delegation has to vote against Article 22 in view of the existing contractual obligations and in particular those deriving from contracts already signed with telecommunications organizations offering telecommunications services. Greece by no means intends by its vote to cause any damage to the abovementioned organizations with which contracts have been signed."

STATEMENT 51/97

Re Annex, point 2.1

"The Commission confirms that the requirements of this Directive do not affect the additional transitional periods for the liberalization of telecommunications services granted to the identified Member States in the Council Resolutions of 22 July 1993 and 22 December 1994."

STATEMENT 52/97

"The German delegation states that it still considers it absolutely necessary to extend the derogation for small aluminium foundries to magnesium foundries. It will therefore continue to campaign for such a derogation and will submit a request at the latest during the 1998 negotiations on the first review of the PARCOM Decision."

STATEMENT 53/97

"The Danish delegation states that it does not wish to oppose the common position on the amended proposal for a Directive of the European Parliament and of the Council amending for the fifteenth time Council Directive 76/769/EEC, since it recognizes that the proposal involves an environmental improvement in the Community. However, the Danish delegation wishes to state that it would have preferred the adoption of the Commission's original proposal and was unable to support the changes made to PARCOM Decisions 92/4 and 93/1 at the initiative of the Community."

STATEMENT 54/97

Re legal basis

"The Belgian delegation abstains so as not to prevent the European Parliament from being informed of the Council's intention to adopt this Regulation on the basis of Article 235. It wishes to point out, however, that it considers Articles 43 and 100a of the Treaty to constitute the appropriate legal basis."

STATEMENT 55/97

Re legal basis

"The Commission regrets that the Council has decided to amend the legal basis which it had proposed by replacing Articles 43 and 100a of the Treaty by Articles 43 and 235.

The Commission recalls the case law of the Court of Justice under which using Article 235 as the legal basis for an act is justified only where no other provision empowers the Community to adopt that act.

The Commission considers Article 100a to be the appropriate legal basis in that the Regulation contributes to the proper functioning of the internal market and, by approximating national provisions, is designed to ensure that measures taken to establish that market are correctly applied.

Moreover, the amendment made by the Council results in the European Parliament being cut out of the co-decision procedure, after having expressed its Opinion at first reading.

The Commission accordingly reserves the right to make use of the legal channels open to it."

STATEMENT 56/97

Re second indent of Article 2(1)

"The Council and the Commission state that this Regulation must not duplicate the specific provisions on mutual assistance to be laid down in the framework of the common agricultural policy but must be complementary to those provisions. Under Article 23(4), the Committee provided for in Article 43 will have to define the agricultural operations covered."

STATEMENT 57/97

Re Article 3

"The Council and the Commission recognize that the provision laid down in Article 3 is specific to this Regulation and does not constitute a precedent in other fields."

STATEMENT 58/97

Re Articles 12, 16 and 21

"The Belgian delegation regrets that the Council could not agree to incorporate the Commission proposal in the text of the Regulation. The final sentence of Articles 12 and 16, as proposed by the Commission, merely embodies a general principle of law and the "acquis communautaire", observance of which by all the courts and authorities concerned is essential for agricultural and customs legislation to be applied properly. It shares the Commission's reflections in this respect."

STATEMENT 59/97

Re Articles 12, 16 and 21

"The Commission regrets that the Council has departed from its proposal in this matter. It considers that information obtained by an official of one Member State and communicated to another Member State should not be inadmissible in an administrative or judicial procedure in the second State solely on the grounds that it had not been obtained by national officials. The Commission considers that that in no manner affects the discretionary powers of national judicial authorities with regard to any use or consideration of information which they might select in the final analysis when examining the cases in question."

STATEMENT 60/97

Re Articles 23(2), 36(2) and 45(2)

"The Council and the Commission state that the words "prosecuting", "prosecution" and "take proceedings" in Articles 23(2), 36(2) and 45(2) have no criminal-law connotations."

STATEMENT 61/97

Re Article 23(4)

"The Council and the Commission agree that operations concerning application of agricultural legislation which will be covered by the CIS must be connected with international trade in goods without, however, the mechanisms of agricultural legislation being necessarily limited to those applicable to such trade."

STATEMENT 62/97

Re Article 29(3)

"The Council and the Commission state that it is agreed that total or partial access to the CIS by international or regional organizations will be authorized only on a basis of reciprocity; such access will furthermore be conditional on those organizations providing a level of data protection equivalent to that existing in the Community.

In addition, it is understood that the Commission will consult the Committee referred to in Article 43 and in the formation provided for in paragraph 5 before forwarding a proposal to the Council as laid down in paragraph 3 in order to obtain any comments on aspects relating to personal-data protection. The Council will be notified of such comments by the Commission."

STATEMENT 63/97

Re Article 34

"The Council and the Commission recall Statement No 1 entered in the minutes of the meeting at which Directive 95/46/EC was adopted (4730/95). Accordingly, when adopting the internal rules referred to in paragraph 1, the Commission will apply the principles of the protection of individuals with regard to the processing of personal data as enunciated in that Directive.

The Commission undertakes to submit to the Committee meeting in the ad hoc formation referred to in Article 43(5) an annual report on the application of its internal rules as adopted and published in accordance with Article 34."

STATEMENT 64/97

Re Article 37(4)

"The Council and the Commission state that the solution adopted in this paragraph for the verification of the Commission's activities with regard to data-protection rules shall be without prejudice to the solution to be adopted later by the Council in other instruments which may contain provisions concerning the same area."

STATEMENT 65/97

Re Articles 42 and 53(2)

"The Council and the Commission agree that the automated data exchanged between Member States cannot be entered in non-automated files by those Member States which do not apply data protection to non-automated processing."

STATEMENT 66/97

Re Articles 42 and 53(2)

"The Council and the Commission agree that the protection of manual data provided for in this Regulation is without prejudice to the scope of any horizontal Community legislation on data protection that may eventually be adopted."

STATEMENT 67/97

Re Articles 42 and 53(2)

"The Danish, Irish and United Kingdom delegations note that the manual data to which protection is to be applied under this Regulation is restricted in scope to a specialized area. The agreement of Denmark, Ireland and the United Kingdom in this case in no way compromises their belief that applying Community data-protection arrangements to manual data generally would be unnecessary, burdensome and contrary to proportionality."

STATEMENT 68/97

Re Articles 42 and 53(2)

"The Commission states that insofar as the legislation mentioned in the first subparagraph of Article 52(2) were to require Article 42 to be adapted rather than repealed, it undertakes to forward an appropriate proposal to the Council before the date of application of such legislation in all the Member States."

STATEMENT 69/97

Re Article 43

"The Commission regrets that the Council has not adopted the advisory committee procedure. The regulatory committee procedure with safety net which the Council has adopted does not guarantee in this particular instance that a decision will be taken in every case on the implementing measures for the Regulation."

STATEMENT 70/97

Re Article 43(3):

"The Council and the Commission agree that it will be laid down in the Rules of Procedure of the Committee that whenever the Committee meets in the ad hoc formation referred to in Article 43(5):

- it shall be responsible for:
 - = studying the problems involved in operating the CIS;
 - = studying any difficulties of application or interpretation which may arise during its operation;
 - = studying problems which may arise with regard to the exercise of independent supervision by the national supervisory authorities of the Member States or in the exercise of rights of access by individuals to the System;
 - = drawing up proposals for the purpose of finding joint solutions to problems;
- records of its meetings will be forwarded to the Committee in ordinary session and to the authorities to which the national supervisory authorities submit their reports. They will be examined within the Committee in ordinary session."

STATEMENT 71/97

Re Article 45(3)

"The Netherlands and the United Kingdom delegations note that under these provisions Member States are to notify the Member State supplying the information of their intention to use data obtained pursuant to this Regulation in actions or proceedings under criminal law. They consider that the Member State supplying the information in question may refuse authorization to make use of the data insofar as it would have had the right to refuse to supply them under the 1959 European Convention on Mutual Assistance in Criminal Matters."

STATEMENT 72/97

Re Article 49

"The Council and the Commission state that the communications to the Commission provided for in Article 49 are intended for the sole purpose of supplying the Community institutions with sufficient information for them to be aware of the action taken on the cases referred to in that Article."

STATEMENT 73/97

Re Article 51

"The Commission considers that Article 51 does not affect correct application of Articles 2 and 3 of this Regulation."

STATEMENT 74/97

- (a) The Member States express their commitment to transpose the authorization concerning telecommunications services into national law no later than 1 July 1997. If a Member State transposes the authorization at an earlier date, it must ensure that double taxation of telecommunications services provided by a supplier established in another Member State is avoided. This should be achieved by the Member State which transposed the authorization before 1 July 1997 not charging VAT.

Member States will inform each other of the date on which they transpose the authorization into their national law.

- (b) Referring to the first statement to the minutes of the Council, the Danish Member of the Council stressed that the Danish Government shall do everything in its powers in order to implement this undertaking but that of course, the Danish Parliament shall have to decide on this matter.

STATEMENT 75/97

The Commission draws the Council's attention to the fact that:

- the Decisions, as amended by the Council, do not meet the requirements laid down in Article 27 of the 6th Directive for allowing a derogation from the rules of that Directive;
- the optional nature of the derogations is liable to lead to non-harmonized application of VAT rules to telecommunications services, which may give rise to cases of double taxation and non-taxation incompatible with the principles of the internal market.

STATEMENT 76/97

The Commission states that in its opinion the second sentence of Article 2 is unnecessary, since the same result may be obtained by interpreting Article 10 of the Sixth Directive as it stands.

STATEMENT 77/97

"Austria states that it intends to study ways of encouraging the use of combined transport in sensitive areas in its territory, in compliance with the provisions of the Treaty."

STATEMENT 78/97

"The Council and the Commission note that the entry into force of the Alpine Convention justifies adjustment of this Regulation in order to allow for an improved system of support for combined transport in the areas concerned.

The Council invites the Commission to examine the issue and to submit appropriate proposals."

STATEMENT 79/97

Statement by the Commission

"This Regulation does not prevent the maintenance of national provisions on trade marks insofar as those provisions are in conformity with Community law and in particular with Article 14 of Regulation (EEC) No 2081/92."

STATEMENT 80/97

Statement by the Commission

"It is still possible for the misleading use of an ordinary designation of origin to be prohibited at national level in accordance with Directive 79/112/EEC and Directive 84/450/EEC concerning misleading advertising."

STATEMENT 81/97

Re Article 1(3)

"In its draft Regulations the Commission will lay down conditions of use such that the practices concerned may be used only to meet the requirements of proper wine-making and preservation of wine, while ensuring every guarantee as to health protection."

STATEMENT 82/97

Re Article 1(3)

"The Commission departments undertake to submit at the earliest opportunity to the Management Committee for its opinion the conditions governing the addition of oxygen to wines."

STATEMENT 83/97

The Italian delegation, supported by the Belgian, French and Luxembourg delegations, while agreeing to this Directive, would like to draw the Commission's attention to the Council Resolution of 22 December 1993 on the strengthening of veterinary epidemiological surveillance measures (Resolution 94/C 16/01) and in particular to the provision requesting the Commission to formulate a proposal with a view to achieving the objectives set out in the Resolution.

STATEMENT 84/97

The Danish, Irish and United Kingdom delegations state that they will continue to apply their existing national provisions for the treatment of warbles, in the context of their national plans, which are applied without discrimination after the introduction of bovine animals into their herds.

STATEMENT 85/97

The Commission has taken note of the requests for the amendment of the Annexes to Directive 64/432/EEC. It has always been the Commission's concern to base veterinary legislation on the best available technical and scientific knowledge. The Commission undertakes in the 1997 programme to give priority to updating the Annexes to that Directive.

STATEMENT 86/97

The Commission has taken note of the requests for Community financing for the surveillance network and for introducing a computerised database. The Commission stresses that Decision 90/424/EEC provides for appropriate legal bases for granting aid in this field (Article 37: identification, and Article 38: improvement of the control system). The Commission emphasizes that the Community rules will have to be observed and that financing will be within the limits of the appropriations available. As regards the said database, the Commission is prepared to look into the possibility of recourse to another budget heading if that were to prove absolutely necessary (B.I.360).

STATEMENT 87/97

Swedish statement

This proposal for the amendment of Directive 64/432/EEC involves improvements compared with current rules in a number of respects. Sweden nevertheless feels obliged to vote against the proposal. The reason for this is that it is dissatisfied with the wording of Annex E(II). Sweden has good animal health conditions and is free from a number of the diseases which may affect cattle and swine. This is due, among other things, to the fact that it has carried out or is carrying out, at great expense, control and monitoring programmes for contagious diseases which it regards as especially serious. It has sought additional guarantees for those diseases. It regards the possibility of obtaining additional guarantees as an important means of being able to maintain the good animal health situation in Sweden and regrets the fact that the possibility of such guarantees is now limited. It would be of particularly pressing importance to retain the possibility of additional guarantees in the case of the zoonoses *Leptospira hardjo* and *Leptospira pomona*.

STATEMENT 88/97

United Kingdom statement

The United Kingdom regrets that, at a late stage and without discussion, a text requiring Member States to have a database of pig movements was added to the proposal to amend Council Directive 64/432/EEC. The manner in which this was done limited the opportunity for consultation and consideration by national parliaments of an important issue of substance. The United Kingdom has therefore to vote against this proposal.

STATEMENT 89/97

German statement

The German delegation is in agreement with the fundamental objective of the proposal, which is to strengthen epidemiological monitoring. It would have approved the proposal if important matters such as the structure and financing of the monitoring network and the cost to farmers had been resolved. As these questions have not been settled, it must reject the proposal.

STATEMENT 90/97

Statement by the Council and the Commission re Article 6

"The Commission points out that, under the terms of the declaration by the European Parliament, the Council and the Commission of 6 March 1995, legislative acts concerning multiannual programmes not subject to the codecision procedure shall not contain an "amount deemed necessary".

Since the Commission proposal regarding the Regulation on HIV/AIDS-related operations in developing countries does not provide for the inclusion of a financial reference, this is the sole responsibility of the Council and does not affect the powers of the budgetary authority."

STATEMENT 91/97

Statement by the Council and the Commission re Articles 7 and 10

"In presenting, appraising and evaluating projects, the Commission will take into account the integrated approach to and the logistical framework of project cycle management."

STATEMENT 92/97

Statement by the Council and the Commission re Article 8(1)

"The Council states that the geographical committees competent for development are the DCALA, MED and EDF Committees and the Committee to be set up by the forthcoming Regulation on cooperation with South Africa."

STATEMENT 93/97

Statement by the Commission re Article 8(2)

"The Commission regrets the fact that on this occasion the Council has amended the Commission proposal, substituting a type III(a) regulatory committee procedure for the type I advisory committee procedure; it believes that the procedure originally proposed or a management committee procedure would be better suited to requirements in this area."