



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 31 March 2005 (07.04)
(OR. fr)**

7684/05

PUBLIC 2

NOTE

Subject: MONTHLY SUMMARY OF COUNCIL ACTS
FEBRUARY 2005

This document contains:

- in **Annex I**, a summary of definitive legislative acts adopted by the Council in February 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 February 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 actions of limited scope such as procedural decisions, appointments, decisions of bodies set up by international agreements, specific budgetary decisions, etc.

FEBRUARY 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2638th Council meeting (Economic and Financial Affairs) on 17 February 2005			
Council Directive amending Directive 90/434/EEC 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States	16276/7/04 REV 7	1/05, 2/05	Unanimity
Council Decision authorising the United Kingdom to apply an exemption from climate change levy for low-value solid fuel in accordance with Article 19 of Directive 2003/96/EC	5663/05 + REV 1 (lt)		Unanimity
Council Regulation amending Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession as regards agriculture and facilities for persons crossing the line	6236/05	3/05	Qualified majority
Council Regulation amending Regulation (EC) No 88/98 as regards the extension of the trawling ban to Polish waters	5602/05		Qualified majority

FEBRUARY 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2639th Council meeting (Education, Youth and Culture) on 21 February 2005 Directive of the European Parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste Legislative act adopted following the European Parliament's 2nd reading in the framework of the codecision procedure Decision of the European Parliament and of the Council amending Decision No 1419/1999/EC establishing a Community action for the "European Capital of Culture" event for the years 2005 to 2019 (22.2.2005) Legislative act adopted following the European Parliament's second reading in the framework of the codecision procedure Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (23.2.2005)	PE-CONS 3601/05 + COR 1 (pt) 6612/05 6619/05		Qualified majority Qualified majority Qualified majority

FEBRUARY 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2642nd Council meeting (Justice and Home Affairs) on 24 February 2005 Council Framework Decision on attacks against information systems Council Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property Council Framework Decision on the application of the principle of mutual recognition to financial penalties Council Decision concerning the introduction of some new functions for the Schengen Information System, including in	15010/04 + COR 1 (de) + REV 1 (es)	4/05	Unanimity
	14648/04 + COR 1 (es) + COR 2 + COR 3 (da) + REV 1 (sl) + REV 2 (pl)		Unanimity
	6838/04 + COR 1 (de) + COR 2 (sv) + COR 3 (de) + COR 4 (sv) + REV 1 (pl)	5/05, 6/05, 7/05, 8/05, 9/05, 10/05, 11/05, 12/05, 13/05	Unanimity
	10667/04 + COR 1 (sv)	14/05, 15/05, 16/05	Unanimity

FEBRUARY 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
the fight against terrorism	+ REV 1 (hu)		
2643rd Council meeting (Agriculture and Fisheries) on 28 February 2004			
Council Regulation amending Regulation (EC) No 2007/2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process	5250/05 + COR 1 (de)	17/05, 18/05, 19/05, 20/05	CZ/PT abstentions MT/SE/UK against Qualified majority
Decision of the European Parliament and of the Council establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable	PE-CONS 3605/05	21/05	Qualified majority
Council Directive amending Annex IV to Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community	6558/05	22/05	FR/PT abstentions Qualified majority

STATEMENT 1/05

Statement by the Council and the Commission

"The Council and the Commission agree that Article 8 of Directive 90/434/EEC does not deprive shareholders resident in Member States of the benefits of the Directive in a case where the majority holding is acquired from Community residents and from residents of third countries."

STATEMENT 2/05

Statement by Italy

"Italy reserves the right to apply the Directive amending Council Directive of 23 July 1990, No 900/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States, to exchange of shares as defined by Article 1, paragraph 3, letter (b), as from the date of its transposition into national legislation."

STATEMENT 3/05

Statement by the Government of the Republic of Cyprus

"In agreeing to the amendment of Article 4(2) of Council Regulation (EC) No 866/2004, the Government of the Republic of Cyprus reiterates its position that, as sovereign authority, entitled to exercise lawful jurisdiction over the entire territory of the Republic of Cyprus, it is the sole competent authority to designate the points of entry to and exit from the territory of the Republic. The Government of the Republic of Cyprus recalls that all ports, harbours and airports situated in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control have been declared closed in accordance with the rules of international law confirmed by the International Court of Justice. Thus, ports, harbours and airports that have not been expressly declared open and duly authorised by the Government of the Republic of Cyprus as points of entry and exit for passengers and goods, may not be lawfully used for inward or outward movement of goods."

STATEMENT 4/05

Statement by the Commission

"The Commission regrets that Article 6(2) of the Framework Decision does not provide for a minimum level of penalty for the illegal access offence as defined in Article 2."

STATEMENT 5/05

Statement by the Commission

"The Commission holds that compensation orders such as mentioned in Article 1(b)(ii) are covered by Council Regulation (EC) No 44/2001 on jurisdiction and enforcement of judgements in civil and commercial matters and are therefore not to be considered financial penalties according to Article 1(b) of this Framework Decision."

STATEMENT 6/05

Statement by the Council

"The Council takes note that Germany intends to submit an initiative for a further Framework Decision containing measures on cooperation between Member States in proceedings for road traffic offences, following corresponding provisions in the draft agreement of the Council on cooperation between the Member States of the European Union in proceedings for road traffic offences and the enforcement of financial penalties in respect hereof. The Council will examine the proposal with a view to the early adoption of such measures."

STATEMENT 7/05

Statement by the Council

"The Council takes note that the agreement on Articles 5, 7(2)(g) and 20(3) is without prejudice to:

- the positions of the Member States in respect of solutions to be found regarding future instruments on mutual recognition in criminal matters, and
- the interpretation of existing instruments on mutual recognition in criminal matters."

STATEMENT 8/05

Statement by Germany on the reference to conduct which infringes road traffic regulations in Article 5(1)

"Only infringements of traffic rules and of rules for the protection of traffic installations shall be regarded as infringements, and not general criminal offences or infringements of general regulatory provisions. Hence, only those provisions whose protective purpose concern the safety of road traffic or the maintenance of traffic installations shall be understood to be provisions regulating road traffic."

STATEMENT 9/05

Statement by Austria

"Austria declares that it will recognise and execute decisions on offences under the last indent of Article 5(1) without verification of double criminality as provided for in Article 5(3) only if the issuing State has indicated in the Certificate the details of the offence, the relevant legal rules and the precise provision of the instrument, adopted on the basis of the TEC or the TEU, which constitutes the legal basis for the decision."

STATEMENT 10/05

Statement by the Commission

"The Commission emphasises that Article 6 of the Treaty on European Union requires the respect of fundamental rights arising from the constitutional traditions common to Member States. To the extent that Recital 6 refers to constitutional principles which are not common to Member States, it should be construed so as only to allow a Member State to apply those of its constitutional principles which are not common, to its own procedures."

STATEMENT 11/05

Statement by Portugal

"Portugal declares that it intends to make use of the possibility provided for in Article 20(2)(b) with regard to recognition of decisions concerning legal persons, limiting such recognition to cases in which the obligation to provide for the criminal liability of legal persons is laid down in a European Union instrument."

STATEMENT 12/05

Statement by Austria

"The Republic of Austria declares pursuant to Article 20(2)(b) of the Framework Decision that it is limiting its application, with regard to legal persons, for a period of 5 years from the date of entry into force to decisions related to conduct for which a European instrument provides for the application of the principle of liability of legal persons."

STATEMENT 13/05

Statement by Ireland and Sweden

"Ireland and Sweden consider that Recital 6 (and similar recitals in other Framework Decisions of the EU dealing with mutual recognition of decisions in criminal matters) should be construed as not preventing a Member State from applying its constitutional rules relating to due process, freedom of association, freedom of the press and freedom of expression in other media, even though they may not be common to all Member States, when providing for the execution of a decision of relevant authorities of other Member States. In the opinion of Ireland and Sweden any interpretation of Recital 6 which would restrict its applicability to a Member State's own procedures would not only make the provision redundant but would contradict its very terms."

STATEMENT 14/05

Statement by the German delegation

"Germany would point out that national members of Eurojust and their assistants, when carrying out their work for Eurojust, are not subject to national law but only to the Eurojust Decision. The technical arrangements for access to the SIS by national members of Eurojust must therefore be determined by the Council. Germany proposes that a technical access model be developed that is similar to that chosen for the partial participation of the United Kingdom and Ireland in the SIS."

STATEMENT 15/05

Statement by the German delegation

"Germany would point out that the different wordings used in Article 101a(1) and 101b(1), under which only Europol is to have the right to search SIS data "directly", do not necessarily mean that no provision may be made for direct access by Eurojust (for the national members of Eurojust and their assistants)."

STATEMENT 16/05

Statement by the German delegation

"Germany welcomes the agreement that has been reached on the SIS initiative put forward by Spain. Germany would continue to argue that the authorities that issue residence permits for aliens need access to data on aliens in accordance with Article 95 of the Schengen Convention. It is also essential for Eurojust to have access to data in accordance with Article 100 of the Schengen Convention. Germany assumes that a start will be made without delay on examining the question of extending Eurojust's access to further categories of data, as already proposed at the Council meeting on 19 December 2002, taking account of the requirements set out in the letter from the Eurojust College. Germany also assumes that the Member States will soon reach consensus on these issues in the context of further discussions on the development of the SIS, and suggests that a specific brief should be given to the relevant working party."

STATEMENT 17/05

Statement by the Polish delegation

"Poland is in favour of the introduction of tariff quotas for imports of sugar from Serbia and Montenegro, Bosnia and Herzegovina as well as Albania as an instrument to regulate access to the Community market and to prevent from fraudulent practices observed in the past.

Nevertheless, Poland is of the opinion that the quota level should not surpass substantially an exportable surplus calculated on the basis of a production-consumption balance sheet. In this context, the proposal for granting tariff quotas for sugar to the countries which do not have production of sugar is especially incomprehensible.

The European Union is facing a significant reform of its sugar CMO. A drastic cut of sugar production quotas is one of the key elements of the reform plans. In Poland's opinion, fixing tariff quotas at the proposed level shall be regarded as incoherent with the thrust of the sugar reform and misleading for our partners, especially taking into account that some of them might accede the European Union in the future."

STATEMENT 18/05

Statement by the Commission on tariff quotas for Serbia and Montenegro

"The Commission proposes the introduction of tariff quotas for the Community's imports of sugar from Serbia and Montenegro, Bosnia and Herzegovina as well as Albania. The quota quantity originally proposed for Serbia and Montenegro is 150 000 tonnes.

In view of the fact that Serbia and Montenegro has undertaken to grant the Community a satisfactory tariff preference for its own imports of sugar, the Commission now proposes that the quota quantity for Serbia and Montenegro be fixed at 180 000 tonnes.

In the event of Serbia and Montenegro subsequently not fulfilling its undertaking, the Commission will propose that the quota be reduced to 150 000 tonnes."

STATEMENT 19/05

Statement by the Commission on refunds for EU sugar exports to the Western Balkans

"As regards the current suspension ¹ of refunds for exports of sugar to the Western Balkans region as a whole with a view to countering the possibility of fraudulent "carousel" trade patterns, the Commission confirms that if preferential access is granted to EU sugar, measures will be taken to impede such trade patterns."

¹ Commission Regulations (EC) Nos 430, 431 and 432/2003 of 7 March 2003 (OJ L 65, 8.3.2003).

STATEMENT 20/05

Statement by the Danish delegation

"Denmark accepts the proposal for an import quota regime for sugar from Serbia-Montenegro, including Kosovo, Bosnia-Herzegovina and Albania. However, in order to ensure compliance with the outcome of the discussions of the reform of the CMO on sugar, Denmark finds that the proposed import regime with quotas should be reconsidered once the new market regulation for sugar has been adopted."

STATEMENT 21/05

Statement by the Danish delegation

"Denmark would have preferred a lower budget for the programme. However, in the concrete situation – taking into account the state of play in the negotiation with Parliament – Denmark will not oppose a compromise budget on EUR 149 million."

STATEMENT 22/05

Statement by the Council and the Commission

"The Council has decided to postpone the implementation of the "debarking" element for wood packaging material of Commission Directive 2004/102/EC until March 2006 to allow the further collection of research results under way in Member States and at international level and to take into account results of ongoing discussions on ISPM 15 on technical aspects of debarking of wood. The Council recommends to present these results at the latest on 31 December 2005. However, the Council and the Commission believe that at least an adequate level of EU phytosanitary protection relating to wood packaging material on which the emergency measures under 2001/219/EC are based must remain in place and that the level envisaged by the Directive must be reached as from March 2006.

To this end the Commission confirms that it intends:

1. to continue to follow the research and discussion results on technical aspects of debarking of wood and take the appropriate measures to review the relevant Community measures, in particular in relation to USA, Japan, Canada and China;
2. to review at the Standing Committee on Plant Health the emergency measures currently in place concerning USA, Japan, Canada and China in order to ensure that an adequate level of EU phytosanitary protection is maintained on the level on which the emergency measure 2001/219/EC is based;
3. to maintain contacts internationally at technical level, with the support of Member States, on the issue of debarking."

FEBRUARY 2005	
OTHER ACTS	Votes made public
Written procedure completed on 2 February 2005	
Council Joint Actions extending the mandates of the European Union Special Representatives - amending and extending the mandate of the Special Representative of the European Union for the African Great Lakes Region 5606/05 - extending the mandate of the Special Representative of the European Union for Afghanistan 5605/05 - extending the mandate of the Special Representative of the European Union for the Middle East peace process 5621/05 - extending the mandate of the Special Representative of the European Union for the South Caucasus 5622/05 - extending the mandate of the Special Representative of the European Union in the former Yugoslav Republic of Macedonia 5612/05 - extending the mandate of the Special Representative of the European Union in Bosnia and Herzegovina 5610/05	
Written procedure completed on 14 February 2005	
Council Regulation amending the anti-dumping measures imposed by Regulation (EC) No 348/2000 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine 5647/05 + ADD 1 (en) <u>Statement by the German delegation</u> <i>"Germany is abstaining because the product distinction required by the draft Regulation in terms of customs tariff is not possible."</i>	DA/EE/FI/HU/LT/LV/ SE against CZ/DE/SI abstentions

FEBRUARY 2005	
OTHER ACTS	Votes made public
2638th Council meeting (Economic and Financial Affairs) on 17 February 2005 Council Decision extending the period of application of the measures provided for by Decision 2002/148/EC concluding consultations held with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement 6135/05 Council Joint Action amending Joint Action 2004/789/CFSP on the extension of the European Union Police Mission in the Former Yugoslav Republic of Macedonia (EUPOL PROXIMA) 5252/05 Council Joint Action amending Joint Action 2002/210/CFSP on the European Union Police Mission 5253/05 Council Decision on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters 5457/05 + ADD 1 (en) + REV 1 (pt) + REV 2 (fi) + COR 1 (et) + COR 2 (it) + COR 3 (lt) + COR 4 (lv) + COR 5 (da), 5994/02/05 REV 2 ADD 1 Council Regulation on the conclusion of the Protocol defining for the period 1 January 2004 to 31 December 2006 the tuna fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Democratic Republic of Madagascar on fishing off Madagascar 5150/05 + REV 1 (lt) Common Position adopted by the Council with a view to the adoption of a Regulation of the European Parliament and of the Council on controls of cash entering or leaving the Community 14843/04 + COR 1 (pt) + ADD 1, 16047/04 + ADD 1	

FEBRUARY 2005	
OTHER ACTS	Votes made public
2640th Council meeting (General Affairs and External Relations) on 21 February 2005 Council Common Position extending and amending Common Position 2004/179/CFSP concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova 5831/05 Council Common Position extending Common Position 2004/161/CFSP renewing restrictive measures against Zimbabwe 5639/05 + ADD 1 Council Common Position amending Common Position 2004/423/CFSP renewing restrictive measures against Burma/Myanmar 5726/05 + COR 1 (en) Relations with Armenia, Georgia, Moldova and Russia – Decisions on the conclusion of Protocols to the Partnership and Cooperation Agreements in order for the ten new Member States to accede to those Agreements (a) Armenia 5780/05 + COR 1 (en) (b) Georgia 5791/05 (c) Moldova 5772/05 (d) Russia 5801/05 Council Decision concerning the implementation of Common Position 2004/694/CFSP on further measures in support of the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) 5833/05	

FEBRUARY 2005	
OTHER ACTS	Votes made public
Relations with the Western Balkans • Council and Commission Decision on the conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, 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 14025/04 + COR 1 • Council and Commission Decision concerning the conclusion of a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, 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 14211/04 + REV 1 (en) + COR 1 (except en) Council Decision on the signing and provisional application of the agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the extension and amendment of the Agreement between the European Community and Ukraine on trade in textile products 5390/05 Council Decision on the signing and the provisional application of an agreement in the form of an Exchange of Letters between the European Community and the Republic of Belarus amending the Agreement between the European Community and the Republic of Belarus on trade in textile products 16272/04 + COR 1 (sl)	

FEBRUARY 2005	
OTHER ACTS	Votes made public
2642nd Council meeting (Justice and Home Affairs) on 24 February 2005 Council Decision amending the Decision of 27 March 2000 authorising the Director of Europol to enter into negotiations on agreements with third States and non-EU related bodies 6160/05 2643rd Council meeting (Agriculture and Fisheries) on 28 February 2004 Council Decision on the signing and provisional application of an additional protocol to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, 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 5769/05 Council Decision on the conclusion of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part 6098/05	
