

8468/98

LIMITE

PUBLIC 5

LEGISLATIVE TRANSPARENCY

STATEMENTS WHICH MAY BE RELEASED TO THE PUBLIC
APRIL 1998

This document contains a summary of definitive legislative acts adopted by the Council in April 1998, together with statements in the minutes which the Council has decided may be released to the public.

It should be noted that only the minutes concerning the definitive adoption of legislative acts are authentic. Extracts from the minutes in question may be released to the public in the same way as the statements in the minutes under the conditions laid down in the Code of Conduct of 2 October 1995.

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – APRIL 1998 –			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2081st Council meeting (Employment and Social Affairs) on 7 April 1998			
Council Regulation amending Regulation (EC) No 1626/94 laying down certain technical measures for the conservation of fishery resources in the Mediterranean	6271/98	38/98, 39/98	
Council Regulation amending Regulation (EC) No 45/98 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1998 and certain conditions under which they may be fished (new TACs and quotas in the North Sea)	7103/98	40/98, 41/98, 42/98	Against B
Council Directive on the extension of Directive 97/81/EC on the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC to the United Kingdom of Great Britain and Northern Ireland	7010/98 + REV 1 (s)	43/98	
Council Directive on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	7011/98 + COR 1 (dk) + COR 2 (es) + REV 1 (s)	44/98, 45/98, 46/98, 47/98, 48/98, 49/98, 50/98, 51/98, 52/98, 53/98, 54/98, 55/98, 56/98, 57/98	Abstention I

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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2082nd Council meeting (Agriculture) on 20 April 1998 Council Regulation as amended by Regulation (EC) No 724/97 determining measures and compensation relating to appreciable revaluations that affect farm incomes	7616/98 + COR 1 (s)	58/98, 59/98	Against D
2083rd Council meeting (Economic and Financial Questions) on 21 April 1998 Council Decision authorizing the Kingdom of Denmark to apply or to continue to apply reductions in, or exemptions from, excise duties on certain mineral oils used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC Council Decision authorizing the Kingdom of the Netherlands to apply to certain mineral oils when used for specific purposes, reductions in, or exemptions from excise duty in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC	5428/98 5901/98		
2084th Council meeting (Consumer Affairs) on 23 April 1998 Directive of the European Parliament and of the Council on injunctions for the protection of consumers' interests	PE-CONS 3604/98	60/98, 61/98, 62/98, 63/98, 64/98	Against D

STATEMENTS IN THE MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
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DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2085th Council meeting (General Affairs) on 27 April 1998 Directive of the European Parliament and of the Council on settlement finality in payment and securities settlement systems Council Directive amending Directive 95/21/EC concerning the enforcement, in respect of shipping using community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port state control)	PE-CONS 3603/98 + COR 1 (i,dk,fin) + COR 2 (s) 7469/98 + COR 1 (d)	65/98, 66/98, 67/98, 68/98 69/98	

STATEMENT 38/98

Statement by the Commission

"The Commission, noting certain delegations' concern regarding the validity of the measure banning the use of helicopters and aeroplanes in the purse-seine fishery for bluefin tuna in the Mediterranean, undertakes to act at all stages of the ICCAT decision-making process so that ICCAT is in a position to decide at its next annual meeting (November 1998) on a possible revision of the Recommendation concerned.

The Commission calls upon the concerned Member States to provide the technical information necessary for this purpose, so that this information can be presented and discussed at the relevant meetings of the ICCAT's Scientific Committee."

STATEMENT 39/98

Statement by the Spanish delegation

"The Spanish delegation notes with concern the Commission's Declaration on the occasion of the adoption of this Regulation. Spain is convinced that such Declaration undermines the Community's credibility when accepting international obligations, since it expresses a commitment to modify a measure to which the European Community had not objected at the moment of its adoption.

Spain takes note of this Declaration, which creates a precedent in relation with international obligations of the Community about which some Member States raise doubts and concerns.

Finally, Spain affirms its view that the Commission's Declaration does not prejudice what the European Community's position will be on the subject at the next Annual Meeting of ICCAT."

STATEMENT 40/98

Statement by the Spanish delegation

"Spain states that the allocation of new TACs and quotas in Community waters of the North Sea approved at this Council is without prejudice to any future allocations that may be adopted in Community, international or third-country waters of the North Sea and adjacent areas.

In addition, Spain states that it shares the view that discards can be avoided through the allocation of quotas, as stated in the discussion on the approval of this Regulation, and that this could be invoked as a precedent on other occasions."

STATEMENT 41/98

Statement by the Portuguese delegation

"The Portuguese delegation gives its agreement to the adoption of the Regulation setting new maximum total catches for 1998 for certain species in the North Sea bearing in mind that such maximum catches apply only to catches made in Community waters.

The Portuguese delegation accordingly considers that the present allocation of fishing possibilities cannot serve as a precedent for future quota allocations for these species which the European Community may obtain in waters under the jurisdiction or sovereignty of third countries or in areas of the high seas."

STATEMENT 42/98

Statement by the Finnish delegation

"Finland considers that Article 94(3) of the Act of Accession guarantees Finland the right to fish for species not subject to quotas in the Community zone. This is also confirmed by the opinion of the Council Legal Service (13108/97 PECHE 455 JUR 420 ADD 2).

On this basis Finland considers that the solution to be adopted today does not exclude Finland from future quota decisions concerning the North Sea."

STATEMENT 43/98

Statement by the United Kingdom

"The United Kingdom Government fully supports the extension of the Directive on the protection of part-time workers to the United Kingdom. The Directive will improve the standing and provision of part-time work, while contributing to the promotion of flexible labour markets across Europe and the Government wholeheartedly welcomes this. The United Kingdom is pleased that the Directive results from agreement between the social partners on the best way to provide minimum standards in the workplace for part-time workers and it endorses this approach.

The United Kingdom also recognises and welcomes the intention of the social partners to cover discrimination in all aspects of working conditions, including pay. However, on legal advice, the UK considers that the directive implements the Framework agreement only on matters other than pay, which is excluded under Article 2(6) of the Agreement on social Policy. This is purely a matter of law. The Government is fully committed to the principle of equal pay for part-time workers and will consider how best to give this effect in national law."

STATEMENT 44/98

Statement concerning the non-regression principle

"The Council and the Commission state that the adoption of this Directive must not give rise in the Member States to a lowering of the present levels of protection of workers' health and safety against risks relating to chemical agents at the workplace."

STATEMENT 45/98

Re Article 3

"The Council invites the Commission to take forward the recommendations of the Advisory Committee on Safety, Hygiene and Health Protection at Work as presented in the Committee's opinion on the establishment of occupational exposure levels in the European Community adopted in July 1994 (Doc. 5191/1/94), updated as appropriate, and in particular the recommendation to review the Commission guidance note on the procedure for scientific review and evaluation, and arrangements for consultation (Doc. 803/2/93)."

STATEMENT 46/98

Re Article 3

"France is accepting the Directive so as to obviate any postponement of clarification and harmonization efforts as regards health and safety at work.

It stresses however the need for a review of the present arrangements for fixing occupational exposure limit values with a view to achieving a procedure which respects the following principles:

- the evaluation of the relation between health effects and the level of exposure must be based exclusively on the available scientific data (epidemiological and toxicological);
- the fixing of the limit values, taking socio-economic considerations into account, should be the subject of a quite separate stage;
- the entire procedure must guarantee the reliability and independence of the scientific assessment."

STATEMENT 47/98

Re Article 3

"Italy observes with regret that the provision regarding indicative limit values contained in Article 3 of the proposal for a Directive on chemical agents runs counter to the objective of harmonizing Community legislation. This, in fact, will result in a permanent lack of harmonization, with the result that worker protection will differ from Member State to Member State and that Community undertakings will have to bear different safety costs."

STATEMENT 48/98

Re Article 3(1)

"The Council and the Commission state that the independent scientific assessment referred to in Article 3(1) is at present carried out by the Scientific Committee for Occupational Exposure Limits to Chemical Agents established by Commission Decision 95/320/EEC of 12 July 1995."

STATEMENT 49/98

Re Article 3(9) and Article 12(2)

"Italy is in favour of accepting the European Parliament's amendment concerning the inclusion of the entire paragraph 9 in Article 3 without deleting the second sentence."

This position is justified by the fact that, in the opinion of the Italian Government, whereas the first sentence involves an act of simple acknowledgment, the second would direct the European Commission towards action to achieve closer harmonization in line with the provisions of Treaty Article 118a on the gradual and continuous improvement of worker protection at the workplace."

STATEMENT 50/98

Re Article 3(10) and Article 12(2)

"The Council and the Commission state that, in drawing up the standardised methods for the measurement and evaluation of workplace air concentrations in relation to occupational exposure limit values, particular attention will be paid to the norms established by the European Committee for Standardization (CEN)."

STATEMENT 51/98

Re Article 6(6)

"The Council and the Commission undertake to ensure that the text of the future Directive relating to explosive atmospheres will be complementary to that of the present Directive."

STATEMENT 52/98

Re Article 8(3)

"The Council invites the Commission, when drawing up future proposals in the context of the system of specific information on dangerous substances and preparations, in particular safety data sheets, to take particular account of the need to ensure that employers, especially small and medium-sized enterprises, are provided by the suppliers of hazardous chemical agents with the information which is indispensable for protecting the safety and health of their workers."

STATEMENT 53/98

Re Article 12(2), first subparagraph

"In drawing up the practical guidelines referred to in Article 12(2), first subparagraph, the Commission will undertake the necessary consultations with the experts of the Member States."

STATEMENT 54/98

Statement by the Austrian delegation on Measurement Procedures

"Austria supports the Directive, taking the view that no progress on health and safety at work should be held up.

However it stresses that it would have preferred to lay down minimum requirements for measurements in the Directive and further requirements for measurements in the practical guidelines referred to in Article 12(2) of this Directive."

STATEMENT 55/98

Re Annex I

"The Council invites the Commission to re-examine, in the light of the latest scientific data and in accordance with the procedures laid down in Article 3, the occupational exposure limit value contained in Annex I.

The Commission undertakes to carry out such a re-examination."

STATEMENT 56/98

Re Annex II.1

"The Council invites the Commission to re-examine, in the light of the latest scientific data, the binding biological limit value contained in Point I.1 of Annex II.1.

The Commission undertakes to carry out such a re-examination."

STATEMENT 57/98

Commission statement on the amendments proposed by the European Parliament

"The Commission regrets the Council's decision not to accept the European Parliament's main amendments, which the Commission has incorporated in its re-examined proposal."

STATEMENT 58/98

Statement by the German delegation

"The Federal Government takes the view that the current agri-monetary measures relating to appreciable revaluations have proved their worth. It assumes that the abolition of agriculture conversion rates on entry to the third stage of economic and monetary union will not result in any disadvantages for agriculture."

STATEMENT 59/98

Statement by the Italian delegation

"The Commission proposal to extend the agri-monetary compensatory measures for appreciable revaluations during the period 1 May 1998 to 31 December 1998 does not appear to be a move in the direction of de-activating automatic agri-monetary measures for the period in question, an objective which has been advocated by the Italian delegation on many occasions.

We consider, however, that we can support the favourable opinion expressed by the majority of the other delegations, but we wish to stress the need to speed up work on the proposal to amend the measures, particularly in the framework of a smoother transition to the single currency."

STATEMENT 60/98

"The Danish, Irish, Luxembourg, Austrian, Finnish and Swedish delegations stated that they supported the common position, as this Directive was a step forward towards consumer protection in the European Union, but that they regarded that as without prejudice to the rules with respect to the applicable substantive law.

It is likely that in many cases the court or administrative authority called upon in the context of infringements of the Directive will apply its own law (*lex fori*), i.e. the law of the Member State where the infringement originated. This may have unsatisfactory consequences.

To avoid such a situation, those delegations would have preferred a rule in this Directive stating that the applicable law was the law of the Member State where the infringement had its effect. The reasons for this are as follows:

- it is more reasonable to apply the law to which the affected consumers are accustomed, and with which firms doing business in that State are obliged to comply;
- if an infringement has its effect in a Member State with a higher level of consumer protection, the application of the substantive law of the Member State where the infringement originates will decrease that level of protection, in particular if the requirements for fair marketing practice are less stringent than in the Member State where the infringement has its effect;
- in order to create fair market competition in a Member State, it is important to apply the same law to all enterprises acting on that market, whatever the nationality of the enterprise concerned."

STATEMENT 61/98

"The German, French, Italian and United Kingdom delegations stress that, in accordance with the criteria laid down by their national legislations, organizations whose purpose is to protect the interests referred to in Article 1 of the Directive are exclusively organizations which effectively represent the collective interests of consumers.

The role of organizations of persons engaged in a commercial, industrial or handicraft activity or exercising a profession will be studied when an initial Commission report examines the scope of this Directive as regards the protection of the collective interests of persons engaged in such activities."

STATEMENT 62/98

"The Austrian delegation would stress that, under the criteria laid down by national legislation, organizations the aim of which is to protect the interests referred to in Article 1 of the Directive are also organizations which, in addition to the collective interests of undertakings, can represent or defend the collective interests of consumers."

STATEMENT 63/98

"The Council and the Commission note that this Directive is a step forward in protecting consumers in the European Union, but that other questions concerning more horizontal aspects of consumer protection such as the recognition and enforcement of court rulings may need to be further addressed, bearing in mind that in some Member States infringements of consumer legislation are dealt with under public law. The Council and the Commission consider that every effort should be made to solve this question in the framework of appropriate conventions or in any other way."

STATEMENT 64/98

"The Council and the Commission confirm that the conventions referred to in the 7th preamble include the Convention signed in Brussels on 27 September 1968."

STATEMENT 65/98

"The Council and the Commission state that whenever it appears to the Commission that a third country is not granting Community institutions effective access to a system comparable to that granted by the Community to institutions from that third country, the Commission may submit proposals to the Council for the appropriate mandate for negotiation with a view to obtaining comparable opportunities for Community institutions."

STATEMENT 66/98

"The Council and the Commission state that a system governed primarily by the law of a Member State, but certain operations of which are governed by the law of another state, is covered by the present Directive."

STATEMENT 67/98

"The Commission states, with respect to the notification mentioned in Article 6(3), that it would be prepared to assemble a list based on the information provided by the Member States in order to facilitate the notification between Member States."

STATEMENT 68/98

"The Italian delegation is in favour of the proposal made by the Luxembourg Presidency concerning the new Article 9(2) since this amendment is a material element within the overall proposed directive.

However, the Italian delegation holds the view that further harmonization on the procedures in setting up collateral security is absolutely necessary in order to avoid obstacles, which may arise when a collateral security is provided mainly in connection with a central depository system located in another Member State.

Furthermore, harmonized procedures and publicity should be ensured in setting up collaterals."

STATEMENT 69/98

"The Danish delegation welcomes the Commission's proposal for an amendment of Directive 95/21/EC on Port State control, with a view to enforcing the ISM Code. The Danish delegation subscribes to a strict enforcement of the ISM Code on national flagged vessels as well as on foreign ships calling at EC ports.

According to the amendment of the Directive, one of the sanctions on non-compliance is the banning of ships from EC ports. The present national legislation does not allow Denmark to take such a measure. For this reason, a full Parliamentary procedure is required; hence Denmark may not be able to implement this specific element of the amendment as of 1 July 1998."