



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 23 May 2005 (30.05)
(OR. fr)**

9147/05

PUBLIC 4

NOTE

Subject : MONTHLY SUMMARY OF COUNCIL ACTS
 APRIL 2005

This document contains:

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

APRIL 2005			
DEFINITIVE LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES/VOTING EXPLANATIONS AND VOTING RULES
2651st Council meeting (Economic and Financial Affairs) on 12 April 2005 Council Regulation amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings Decision of the European Parliament and of the Council establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies 2653rd Council meeting (COMPETITIVENESS – Internal Market, Industry and Research) on 18 April 2005 Directive of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ("Unfair Commercial Practices Directive")	5810/05 + COR 1 (lv) + COR 2 (fr) PE-CONS 3688/04 + ADD 1 (en) + ADD 2 (nl) PE-CONS 3616/05	26/05, 27/05, 28/05, 29/05, 30/05, 31/05, 32/05, 33/05	Qualified majority Qualified majority DK, SE against Qualified majority

STATEMENT 26/05**Statement by the United Kingdom, the Netherlands, Luxembourg and Estonia**

The United Kingdom, the Netherlands, Luxembourg and Estonia strongly support the principle of mutual recognition as a key policy tool for completing the internal market. They therefore regret the deletion of the "country of origin" principle.

They note the Commission statement on the essential compatibility of the proposal in its current form with the proper functioning of the internal market. Since this is a maximum harmonisation directive which Member States will transpose to give equivalent effect to its principles, it should therefore ordinarily be presumed that traders who conform with the laws in the Member State where they are established will not be in breach of the laws in other Member States.

This de facto principle should be communicated to economic operators to provide them with the legal certainty and confidence needed to fully realise the potential of the internal market, as called for by the Presidency Conclusions to the Spring European Council, 25 – 26 March 2004."

STATEMENT 27/05**Statement by Portugal, Italy and Slovenia**

"Portugal, Italy and Slovenia note the non-existence of any stable definition of "average consumer" and, therefore, consider that the text of recital 18 refers to one of the many "average consumer" benchmarks resulting from the European Court of Justice jurisprudence."

STATEMENT 28/05

Statement by Denmark and Sweden

"In general, Denmark and Sweden find that the proposal on Unfair Commercial Practices in practice will lead to fully harmonised rules on Commercial Practices within the Community and thereby an overall increase in the consumer protection to the benefit of both consumers and companies in the internal market.

However, Denmark and Sweden are of the opinion that the proposal is likely to have a negative impact on the level of consumer protection in certain specific areas where Member States already have implemented stricter national legislation than provided for in existing minimum directives in the consumer field.

A change of these minimum directives should be carried out through a revision of the existing directives and not through this proposal. The derogation proposed in Article 3(5a) does not guarantee that existing minimum directives will be harmonised at a sufficient level of consumer protection before the proposed five-year period expires.

For these reasons, Denmark and Sweden cannot support the proposal for a Directive on Unfair Commercial Practices."

STATEMENT 29/05

Statement by the Commission

"The Commission can only agree to the deletion of Article 4(1) of its proposal on the understanding that the present Directive provides for a full harmonisation of the domain covered by the Directive and that for this reason Article 4(1) is not legally required to ensure the proper functioning of the internal market in this field. The practical implementation of this Directive will be actively monitored by the Commission so as to achieve its uniform application."

STATEMENT 30/05

Statement by the Commission

"The Commission strongly disagrees with the declaration tabled by Portugal, Italy and Slovenia."

STATEMENT 31/05

Statement by Germany

"The European Parliament's amendments to the common position are broadly acceptable to the Federal Republic of Germany. However, the amendments to recital 17 and Article 5(5) elicit the following comment:

Article 429, third paragraph, of the EC Treaty states that a Directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. Germany therefore assumes that this principle – irrespective of the European Parliament's amendments – also applies to Annex I. In particular, Germany does not construe the provisions as meaning that the national legislator is bound by the Directive to transpose the Annex literally."

STATEMENT 32/05

Statement by Austria

"Austria can in principle accept the amendments to the common position passed by the European Parliament.

The wording of the second indent of the proposed amendment 19 to Annex I, point 28 (6618/05), could however be misconstrued and requires clarification. It gives the impression that there is in any case unfair commercial practice if claiming the prize is subject to the consumer incurring a cost.

But that could not be what is intended by this provision since, even in serious games of chance, sending a postcard or making a telephone call in order to claim the prize involves costs to the consumer. It would also be difficult for the business to assume responsibility for the precise amounts involved. Giving rise to postal and telephone charges at the general standard rate (i.e. postal and telephone charges and e-mail or SMS charges which do not exceed that rate) should not be regarded as unfair commercial practice.

This provision must therefore be interpreted as not covering postal, telephone or similar charges at the standard rate."

STATEMENT 33/05

Statement by the Commission

"The Commission does not share the position expressed by Germany in its declaration in relation to Annex I to the Directive."

STATEMENT 34/05

Statement by the Commission

Trailers

"The Commission is prepared to examine the specific insurance problems concerning trailers in the context of the report which it has to submit to the European Parliament and to the Council under Article 6 of the Fourth Motor Insurance Directive (2002/26/EC) before 20 July 2005."

STATEMENT 35/05

Statement by the Commission

Legal expenses

"The Commission believes that consumers would benefit from increased opportunities to obtain insurance coverage for the necessary and appropriate costs of legal proceedings following motor vehicle accidents within the European Union. The Commission will examine the current availability of voluntary insurance contracts for legal expenses and the impact of such insurance cover on the cost of premiums for policyholders in Member States and will report back to the European Parliament and the Council as soon as possible."

STATEMENT 36/05

Statement by the Council and the Commission

"The Council and the Commission note that the expenditure concerned by this Regulation will not be on such a scale as to give rise, on its own, to the need for a SAB for the financial year 2005."

Joint statements by the Council and the Commission

STATEMENT 37/05

Re Article 11

"The Council and the Commission agree that the content of the joint deployment plans will take due account of the special characteristics of each fishery and each fishing area, in particular when defining the conditions under which a Member State's means of control and inspection could enter waters under the sovereignty or jurisdiction of another Member State."

STATEMENT 38/05

Re Article 18

"The Council and the Commission agree that in drawing up detailed rules the issue of dealing with cases of force majeure will be addressed."

STATEMENT 39/05

Re Article 19

"The Council and the Commission consider that the internal structure of the Agency should reflect the specific aspects of the various regions."

STATEMENT 40/05

Re Article 25

"The Council and the Commission state that the number of representatives of the Commission agreed to as regards the Administrative Board of the Community Fisheries Control Agency is determined by reference to the specific nature of the Common Fisheries Policy and does not constitute a precedent for other agencies in the future."

STATEMENT 41/05

Statement by the German, French, Swedish and United Kingdom delegations

Re Article 21

"Germany, France, Sweden and the United Kingdom note by way of clarification that the Regulation applies the Protocol on the Privileges and Immunities of the European Communities explicitly only to the Community Fisheries Control Agency itself, but not to the staff of the Agency. The issue of taxation of the staff therefore arises. These Member States are of the opinion that a solution to this issue should be found that enables Member States to take account of the salaries and emoluments paid by the Agency when determining the national tax to be imposed on income from other sources and to tax pensions and similar staff benefits exclusively at national level.

In this connection Germany, France, Sweden and the United Kingdom would finally draw attention to the statement for the minutes made with France and Sweden on the European Defence Agency at the 2064th meeting of Coreper, Part 2, on 8 September 2004 (see "I/A" item note 11567/04 of the Council of the European Union dated 7 and 13 September 2004). These Member States wanted to hold a general discussion on the granting of privileges and immunities in the EU. Germany now agrees to the Regulation, confident that such a critical review of the granting of privileges and immunities will now be carried out swiftly.

In future, our position will continue to be guided by the principle that privileges and immunities (particularly fiscal privileges and exemptions from national taxation) should only be granted insofar as is strictly necessary in the light of the further integration of the Member States of the EU."

APRIL 2005	
OTHER ACTS	Votes made public
Written procedure completed on 8 April 2005	
Council Regulation amending Regulation (EC) No 601/2001 imposing a definitive anti-dumping duty and definitively collecting the provisional anti-dumping duty imposed on imports of certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey 7075/05 2651st Council meeting (Economic and Financial Affairs) on 12 April 2005 Council Decision concerning the conclusion of the Agreement between the European Union and Romania on security procedures for the exchange of classified information 12472/04 Council Regulation imposing certain specific restrictive measures directed against certain persons and entities in view of the situation in Côte d'Ivoire 5827/05 Council Common Position concerning conflict prevention, management and resolution in Africa and repealing Common Position 2004/85/CFSP 6759/05 + COR 1 (en) Common Position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council on the management of waste from extractive industries and amending Directive 2004/35/EC 16075/04 + COR 1 (pt) + COR 2 (pt) + COR 3 (lv) + COR 4 (sv) + COR 5 (et) + COR 6 (sk) + COR 7 (mt) + COR 8 + COR 9 (nl) + ADD 1, 6929/05	

APRIL 2005	
OTHER ACTS	Votes made public
2652nd Council meeting (Justice and Home Affairs) on 14 April 2005	
Convention on 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 Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19 June 1980, and to the First and Second Protocols on its interpretation by the Court of Justice of the European Communities 6240/05, 6507/05, 6508/05, 6510/05, 6511/05 Council Decision authorising Member States to ratify, in the interests of the European Community, the Seafarers' Identity Documents Convention of the International Labour Organization (Convention 185) 6686/05 Council Decision concerning the conclusion of the Agreement between the European Union and the Republic of Bulgaria on security procedures for the exchange of classified information 5310/05 + COR 1 Council Decision concluding consultations with the Republic of Guinea under Article 96 of the Cotonou Agreement 7367/05, 7440/1/05 REV 1	
2653re Council meeting (COMPETITIVENESS – Internal Market, Industry and Research) on 18 April 2005	
Council Decision amending the Council Decision of 16 December 1980 setting up the Consultative Committee for the Fusion Programme 7368/05 + REV 1 (lt)	

APRIL 2005	
OTHER ACTS	Votes made public
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) 7839/05 Council and Commission Decision on the conclusion of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, 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 13163/04 + COR 1 (hu) + COR 2 + COR 3 + COR 4 (pl) Common Position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) 5571/05 + COR 1 (fi) + COR 2 (es) + COR 3 (pt) + REV 1 (hu) + REV 2 (lt) + REV 3 (sk) + REV 4 (sl) + REV 5 (es) + ADD 1, 7788/05 + ADD 1 2655th Council meeting (General Affairs and External Relations) on 25 April 2005 Council Common Position relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons 7768/05 Adoption by the Council of an updated version of the EU Common Military List (equipment covered by the European Union Code of Conduct on Arms Exports) 7820/05 + COR 1 + REV 1 (da) + REV 2 (el)	

APRIL 2005	
OTHER ACTS	Votes made public
Council Common Position extending restrictive measures against Burma/Myanmar and amending Common Position 2004/423/CFSP 7930/05 Council and Commission Decision on the conclusion of the additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, 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 13165/04 + COR 1 + COR 2 (nl) + COR 3 (pl) + COR 4 pt) Council Decision on the signing and provisional application of a Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, 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 5509/05 + COR 1 (es) + REV 1 (pl) Council Regulation imposing a definitive anti-dumping duty on imports of furfuraldehyde originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 7681/05 Council Regulation establishing additional customs duties on imports of certain products originating in the United States of America 7752/05 + REV 1 (sk) + COR 1 (fr) + COR 2 (de) + COR 3 (it) + COR 4 (lv) + COR 5 (pt) + COR 6 (sv)	

APRIL 2005	
OTHER ACTS	Votes made public
2657th Council meeting (Agriculture and Fisheries) on 26 April 2005 Council Joint Action amending the mandate of the Special Representative of the European Union for the South Caucasus 8164/05 Council Decision designating the seat of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union 8151/05 + COR (en) + COR 2 (en) Written procedure completed on 28 April 2005 Council Regulation amending Council Regulation (EC) No 2605/2000 imposing definitive anti-dumping duties on imports of certain electronic weighing scales (REWS) originating, inter alia, in the People's Republic of China 8168/05	NL against
