

9819/97

LIMITE

PUBLIC 7

LEGISLATIVE TRANSPARENCY
STATEMENTS RELEASED TO THE PUBLIC
JUNE 1997

The Annex to this document contains a list of final legislative acts adopted by the Council in June 1997, accompanied by statements for the minutes which the Council decided to release to the public.

STATEMENTS FOR THE MINUTES RELEASED TO THE PUBLIC – JUNE 1997 –			
FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2011th Council (General Affairs) on 2 June 1997			
Directive of the European Parliament and of the Council on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of open network provision (ONP)	PE-CONS 3610/97 + COR 1 (gr) + COR 2 (f) + COR 3 (f,d,nl,dk,gr,es) + COR 4	153/97, 154/97	Abstention by L
Council Regulation on aid to certain shipyards under restructuring	8148/97	155/97, 156/97, 157/97, 158/97, 159/97	DK/FIN/S against Abstention by UK
Council Directive amending Directive 91/439/EEC on driving licences	11847/1/96 REV 1	160/97, 161/97	
2013th Council (Health) on 5 June 1997			
Decision of the European Parliament and of the Council adopting a programme of Community action on health monitoring within the framework for action in the field of public health (1997-2001)	PE-CONS 3612/97	162/97, 163/97, 164/97	
Council Decision repealing Decision 77/186/EEC on the exporting of crude oil and petroleum products from one Member State to another in the event of supply difficulties	12178/96 + COR 1		

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FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2014th Council (Economic and Financial Affairs) on 9 June 1997			
Council Decision authorizing the United Kingdom to apply an optional measure derogating from Article 17 of the sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes	8408/97		
Council Regulations			
– amending Regulation (EEC) No 189/92 adopting provisions for the application of certain control measures adopted by the Northwest Atlantic Fisheries Organization	5508/97		
– amending Regulation (EC) No 3069/95 establishing a European Community observer scheme applicable to Community fishing vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organization (NAFO)	5509/97		
2015th Council (Labour and Social Affairs) on 27 June 1997			
Council Directive amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	8201/97 + COR 1 (fin)	165/97, 166/97, 167/97, 168/97, 169/97, 170/97, 171/97	
Council Regulation amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving with the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71	8078/97		

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FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2016th Council (Transport) on 17 June 1997			
Eighth Directive of the European Parliament and of the Council on summer-time arrangements	PE-CONS 3614/97	172/97, 173/97	Abstention by F
Council Regulation (EC) on certain provisions relating to the introduction of the euro	5074/97 + COR 1 + COR 2 (s) + COR 3 (es) + COR 4 (f) + COR 5 (nl) + COR 6 (gr) + COR 7 REV 1 (f,d,i,nl,en,gr,es,p,s) + COR 8 REV 1 (f) + COR 9 (d) + REV 1 COR 1 (fin) + REV 1 COR 1 REV 1 (fin) + REV 2 (dk) + REV 2 COR 1 REV 1 (dk)		
2017th Council (Environment) on 19 June 1997			
Directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (95/0074(COD))	PE-CONS 3611/97 + COR 1 (i) + COR 2 REV 1 (p) + COR 3 (s)	174/97, 175/97, 176/97, 177/97, 178/97, 179/97, 180/97	Abstention by D

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FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2018th Council (Agriculture) on 25 June 1997			
Council Regulation concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC and amending Directives 90/425/EEC and 91/496/EEC	8523/97 + REV 1 (s)	181/97, 182/97, 183/97	Abstention by UK
Council Directive amending Directive 93/113/EC concerning the use and marketing of enzymes, micro-organisms and their preparations in animal nutrition	8892/97	184/97, 185/97	
Council Regulation amending Regulation No 79/65/EEC setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Economic Community	7595/97	186/97	
Council Regulation laying down general rules for the application of measures to improve the production and marketing of honey	9174/97	187/97, 188/97, 189/97	
Council Regulation amending Regulation (EC) No 3290/94 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations	9087/97		F and I against

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FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Regulation fixing, for the 1997/1998 marketing year, certain sugar prices and the standard quality of beet	9005/97		
Council Regulation fixing, for the 1997/1998 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, and the amount of compensation for storage costs	9006/97		
Council Regulation fixing the target price for milk and the intervention prices for butter and skimmed-milk powder for the 1997/1998 milk marketing year	9010/97		
Council Regulation fixing, for the 1997/1998 marketing year, the intervention price for adult bovine animals	9011/97		
Council Regulation fixing the basic price and the standard quality for pig carcasses for the period 1 July 1997 to 30 June 1998	9013/97		
Council Regulation fixing the amount of aid in respect of silkworms for the 1997/1998 rearing year	9009/97		

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FINAL LEGISLATIVE ACTS	TEXT S ADOPTED	STATEMENTS	VOTES
Council Directive amending – Council Directive 76/895/EEC of 23 November 1976 relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables; – Council Directive 86/362/EEC of 24 July 1986 relating to the fixing of maximum levels for pesticide residues in and on cereals; – Council Directive 86/363/EEC of 24 July 1986 relating to the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin; – Council Directive 90/642/EEC of 27 November 1990 relating to the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables 2019th Council (General Affairs) on 26 June 1997	9076/97	190/97, 191/97, 192/97, 193/97, 194/97, 195/97, 196/97	D against
Council Decision concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation (MAGP IV) 2021st Council (Telecommunications) on 27 June 1997	7466/97 + COR 1 (d) + COR 2	197/97, 198/97, 199/97, 200/97, 201/97, 202/97, 203/97	F and UK against
Council Regulation amending the Annex to Regulation (EC) No 1255/96 temporarily suspending the autonomous Common Customs Tariff duties on certain industrial and agricultural products	8003/97		

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FINAL LEGISLATIVE ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Regulation amending Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products 2022nd Council (Culture) on 30 June 1997 Council Directive on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure, and repealing Directive 84/466/Euratom Council Decision authorizing Member States to apply and to continue to apply to certain mineral oils, when used for specific purposes, existing reduced rates of excise duty or exemptions from excise duty, in accordance with the procedure provided for in Article 8(4) and 8(6) of Directive 92/81/EEC Council Regulation amending Regulation (EEC) No 4064/89 on the control of concentrations between undertakings (Articles 87 and 235)	8766/97 + COR 1 (nl) + COR 2 (nl) + COR 3 (en) + COR 4 (d) 8666/97 + COR 1 (es) + COR 2 (dk) + COR 3 (s) + REV 1 (p) 8536/97 + COR 1 (f,i,nl,en,dk,gr,es,p,fin,s) + COR 2 (fin) + COR 3 (d) + COR 4 (s) + COR 5 (f,d,i,nl,en,dk,gr,es,p,fin) 9153/97 + COR 1	204/97, 205/97, 206/97 207/97, 208/97, 209/97, 210/97, 211/97, 212/97, 213/97, 214/97, 215/97, 216/97 217/97, 218/97, 219/97, 220/97, 221/97, 222/97, 223/97, 224/97, 225/97,	Abstention by P

STATEMENT 153/97

Statement by the Commission

"The Commission undertakes, when giving its opinion on the EP amendments [to the voice telephony Directive] at second reading, to accept the principle of amendment No 25 for the interconnection Directive, but it will look carefully at the implementation of the facilities identified, and in particular at the provision that the indication of a new number should be without charge to the user."

STATEMENT 154/97

Statement by the Council

"The Council states that it will give serious thought to and take account of the Commission's opinion."

STATEMENT 155/97

Statement by the Federal Government of Germany

"The German Government declares that MTW and Volkswerft will not receive any further aid for restructuring, rescue, loss compensation or privatization in addition to the amounts already notified to the Commission, except such aid which is generally available under prevailing Community rules on aid for shipbuilding."

STATEMENT 156/97

Statement by the Spanish Government

"The Spanish Government declares that the publicly owned shipyards in Spain, i.e. AESA-Puerto Real, AESA CADIZ, AESA SEVILLA, AESA SESTAO, ASTANDER, JULIANA and BARRERAS, will not receive any further aid for restructuring, rescue, loss compensation or privatization in addition to the amounts already notified to the Commission, except such aid which is generally available under prevailing Community rules on aid for shipbuilding."

STATEMENT 157/97

Statement by the Commission

"The Commission declares that it takes note of these statements by the Spanish and German Governments."

STATEMENT 158/97

Statement by the Commission

"Injurious pricing by yards under restructuring

Based on the monitoring procedures provided for in Articles 11 and 12 of the 'seventh Directive and in Article 2 of this Regulation, the Commission will intervene if one of the yards under restructuring in Germany or Spain enters into a contract on sales prices or containing price relevant conditions which are obviously below the prevailing conditions of the market.

In case one of the yards is competing for a specific contract with a yard from another Member State, and there is no serious competition from third countries, the Member State may refer the case to the Commission, if it is felt that the price offered by the yard under restructuring is abnormally low, due to the restructuring aid granted.

The Commission will examine such cases based on the provisions of the seventh Directive, in particular Article 4(5). The Commission may require that the price offered by the yard under restructuring is raised, at maximum up to the lowest price offered by one of the yards competing for the order in another Member State.

In addition the Commission recalls the precisions it provided to the Council in November 1995 [11282/95 COR 2] in regard of State aids and abuse of a dominant position (Article 86 of the EC Treaty)."

STATEMENT 159/97

Statement by the Commission

"In view of the uncertainty over the treatment of FPSOs, the Commission recalled that under the seventh Directive on shipbuilding the term "shipbuilding" covers the building in the Community of "... metal-hulled seagoing vessels" including "... ships for other work at sea of not less than 100 GRT excluding drilling platforms".

The Commission has taken the view that FPSOs fall within the definition of shipbuilding if the completed vessel is seagoing and capable of directed movement under its own power through for example use of propellers and other propulsion devices.

The nature of FPSOs can vary in that some are more barge-like and clearly have no independent means of manoeuvrability. Others have limited manoeuvrability capacity which basically allows the FPSO to maintain a fixed position in the sea. Finally, there are those FPSOs which are capable of fully independent propulsion. This last category would appear to be encompassed by the seventh Directive.

Those of more modest propulsion capabilities would need to be examined on a case-by-case basis to see if they fall within the seventh Directive or not.

In order to resolve the uncertainty on the treatment of FPSOs under the seventh Directive the Commission confirms that it will carry out a technical assessment of these constructions.

The Commission will inform the Council of the conclusions of this technical assessment so that it can be taken into account in its further deliberation on this subject."

STATEMENT 160/97

Re Article 1, point 2

"The Commission undertakes as soon as possible to convene the Committee provided for in Article 1, point 2, of the proposal for a Directive currently before the Council, to enable it to proceed with the subdivision of the harmonized codes listed in Annexes I and Ia, and to examine whether they should be compulsory or optional, paying particular attention to the fact that the codes and/or subcodes used must be sufficiently explicit to show clearly the conditions under which the licence-holder is authorized to drive a vehicle."

STATEMENT 161/97

Re Article 1(2)

"The United Kingdom states that, in its view, the use of subdivisions of harmonized codes should remain voluntary for reasons of both cost and practicality."

STATEMENT 162/97

Statement by the Commission

"When carrying out the next Community Statistical Programme (1998-2002) the Commission shall ensure that appropriate attention is given to the development of statistics in the area of health monitoring with a view to strengthening this programme." ⁽¹⁾

STATEMENT 163/97

Statement by the Commission

Re Article 5(4):

"The Commission undertakes to give the European Parliament each year the same information concerning decisions taken."

STATEMENT 164/97

Statement by the European Parliament

"The European Parliament takes note of the declaration of the Commission and commits itself to support this action during the budgetary procedure." ⁽¹⁾

⁽¹⁾ This statement will be published in the OJ together with the Decision.

STATEMENT 165/97

Statement by the Council and the Commission on the coherence of Community legislation

"In view of the dangers resulting from carcinogens, the Council and the Commission emphasize the need to:

- continue their endeavours to simplify and improve the coherence of the legislation existing in this area;
- list in a single and easily accessible source all carcinogens defined as such in the Directives."

STATEMENT 166/97

Statement by the French delegation on the coherence of Community legislation

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

However, it stresses that it would have preferred the wording of this Directive to go further down the path marked out by the joint statement on the coherence of Community legislation.

In view of this, and having regard to the especially important role of limit values for exposure at work, it insists that the aim of Annex III to the Directive should be to list, as soon as possible, the greatest possible number of limit values for carcinogens and that it should include, immediately, those which are already compulsory at Community level. In addition, procedures for lowering the limit values in Annex III should be adopted forthwith, where scientific information exists to make this possible."

STATEMENT 167/97

Statement by the Council on mutagenic substances

"The Council invites the Commission to submit, as soon as the scientific and technical knowledge permits and, in any event, not later than 31 December 1997, a proposal to further amend the existing Directive 90/394/EEC with a view to providing appropriate standards of protection for workers against the risks from mutagenic substances not already covered by that Directive, taking account of the particularly dangerous nature of these substances.

The Council notes the intention of the Commission to examine the relevant technical and scientific issues immediately in consultation with the Member States."

STATEMENT 168/97

Statement by the Council on wood dusts and other substances which could have similar carcinogenic effects

"The Council invites the Commission to put forward the question of carcinogenicity of wood dusts to the Scientific Committee on Occupational Exposure Limits and the Advisory Committee on Safety, Hygiene and Health Protection at Work with a view to putting forward proposals for the inclusion of wood dusts in Directive 90/394/EEC.

The Council believes that any such proposals should clarify how the provisions of Directive 90/394/EEC could be applied to wood dusts and other substances which could have similar carcinogenic effects."

STATEMENT 169/97

Statement by the Commission on mutagenic substances, wood dusts and other substances which could have similar carcinogenic effects

"The Commission takes note of the invitation of the Council, to which it will give appropriate attention. The Commission reserves the right, however, to respond in accordance with the terms of the Treaty, in particular as regards its right of initiative."

STATEMENT 170/97

Statement by the Council on impact studies

"The Council refers to point 3(a) of its Resolution of 27 March 1995 on the transposition and application of Community social legislation and asks the Commission in future systematically to submit appropriate impact studies with proposals for Directives including an evaluation of the compliance costs and socio-economic benefits of the proposals, notably their implications for employment and for small and medium-sized enterprises."

STATEMENT 171/97

Statement by the Commission on impact studies

"The Commission takes note of the invitation of the Council, to which it will give appropriate attention bearing in mind the nature of the subject-matter of the proposals and the significance of their impact on business."

STATEMENT 172/97

Re the Directive as a whole

"The Council and the Commission consider that the social and economic implications of summer-time arrangements justify thorough examination, which will be effected before the eighth Directive expires. For this purpose, the Commission will forward a detailed report to the Council by 30 June 1999 at the latest, and the Council and the Commission agree to carry out, with the aid of a group comprising representatives of interest groups and Member States' national experts, an in-depth examination of the implications of applying summer-time arrangements, including the institutional aspects of coordination of times between the Member States of the European Union."

STATEMENT 173/97

Re the Directive as a whole

"The United Kingdom states that, while it has no difficulties with the substance of the proposed eighth summer-time Directive, on subsidiarity grounds it considers that Member States' summer-time arrangements would be best addressed in a Recommendation."

STATEMENT 174/97

Statement by the Commission

Article 23a(1)
(Contact Committee)

"The Commission undertakes, on its own responsibility, to inform the European Parliament's competent committee of the outcome of meetings of the Contact Committee. It will provide that information in good time and in an appropriate manner."

STATEMENT 175/97

Statement by the French delegation

"The French delegation emphasizes the importance it attaches to preventing relocation operations, whereby broadcasters could attempt to avoid application of the rules which would be applicable to them in the Member State to which their activities are exclusively or principally directed.

It notes that the current common position confirms the possibility for the Member State concerned to take measures against such broadcasters, in accordance with the case law of the Court of Justice.

It feels that, in view of its importance, this question should continue to be closely examined between now and final adoption of the Directive, in particular in the forthcoming discussions between the Council and the European Parliament, in order to provide every guarantee in support of the prevention of such practices."

STATEMENT 176/97

Statement by the French delegation

Re Article 1(a)

"The French delegation emphasizes the urgent need to establish a Community legal framework applicable to audiovisual programmes supplied on individual demand against payment. That framework should be based on the relevant provisions of this Directive, which governs all forms of communication to the public of audiovisual programmes."

STATEMENT 177/97

Statement by the French delegation

"The French delegation feels that there is an urgent need, owing to the exclusion of new services from the scope of this Directive, to establish a common legal framework for such services. It would like the Commission to prepare, between now and the end of the first half of 1997, proposals for measures to adopt all existing Community rules to this new type of service. Those proposals should in particular relate to advertising and teleshopping, the protection of minors and cultural content."

STATEMENT 178/97

Statement by the French delegation

"The French delegation considers that the Contact Committee, whose task is to facilitate the actual implementation of all the provisions of this Directive, will in particular have the role of ensuring that the rule of the competence of the country of transmission laid down in Article 2 of the Directive is not circumvented and of preventing any relocation at variance with the objective of the new provisions of Article 2."

STATEMENT 179/97

Statement by the German delegation

"In the context of a revised Directive concerning the pursuit of television broadcasting activities, Germany does not see any need to vote for a new Community mechanism for European works (Guarantee Fund) (recital no 26). This recital is entirely without prejudice to the Federal Republic of Germany's subsequent position."

STATEMENT 180/97

Statement by the Belgian delegation

"The Belgian delegation stresses the importance it attaches to extension of the competence of the State of reception to instances of serious infringements of the major provisions of the Directive and to greater precision in the criteria governing applicability in order to prevent relocations.

It regrets that the new audiovisual services, such as video on demand, do not come within the scope of the Directive. This failing maintains a legal vacuum conducive to unjustified discrimination or certain abuses. It will also have the consequence that the new audiovisual services will be "regulated" in other fora, in common with any service, without account being taken of their cultural characteristics.

It deplores the fact that self-promotional channels are authorized to broadcast other forms of advertising, as it fears a deflection of advertising revenue to the detriment of other channels.

Lastly, the Belgian delegation notes with regret that the principle of respect for philosophical beliefs (making it possible to defend secularism) is not deemed worthy of protection by the same token as religious and political beliefs in Articles 12 and 22a."

STATEMENT 181/97

"The Council and the Commission confirm that the provisions relating to the intervals set for the milking of lactating cows in Chapter IA7b of the Annex to Directive 91/628/EEC continue to apply during their stay at staging points, taking account of the definitions of "staging point" and "journey" in Article 2(2)(c) and (g) of the aforementioned Directive."

STATEMENT 182/97

"The Council requests the Commission to examine the possibility of special measures with regard to the staging points for breeding animals, taking account of their high health status, and to report back as soon as possible."

STATEMENT 183/97

"The Commission states that the second subparagraph of Article 6(1) does not mean that Directive 85/73/EEC (as amended by Directive 96/43/EC), and in particular Annex C thereto, cannot be interpreted to mean that Member States do not charge fees for controls of live animals at destination but at the place of origin."

STATEMENT 184/97

Statement by the Council and the Commission

"The Member States represented in the Council ask the Commission to forward to them as quickly as possible the list of enzymes, micro-organisms and their preparations whose dossiers submitted under Directive 93/113/EC have been ruled inadmissible by the Standing Committee for Animal Nutrition within the meaning of Directive 70/524/EEC concerning additives in feedingstuffs.

The Commission takes note of this request."

STATEMENT 185/97

Statement by the Council and the Commission

"The Member States represented in the Council for their part undertake to take the measures necessary to guarantee that the enzymes, micro-organisms and their preparations whose dossiers are ruled inadmissible are withdrawn from circulation in their territory within six months from the date on which the Commission forwards the lists; they will inform the other Member States and the Commission of the authorizations they have withdrawn."

STATEMENT 186/97

Statement by the Commission representative

"At the request of the Danish delegation, the Commission is giving an assurance that this amendment does not outlaw current practice whereby Member States use accountancy data concerning national holdings participating in the network for purposes of economic or statistical analysis."

STATEMENT 187/97

"The Greek delegation agrees to the principle and the various measures contained in the proposal for a Council Regulation to improve the production and marketing of honey.

It considers, however, that the proposal does not take account of a number of important questions such as, in particular, other products from the hive, diseases such as nosemosis, *Acarapis woodii* infestation and the various types of foulbrood, and the possibility of co-financing studies concerning the structure of beekeeping-based industries.

Given that the above questions are beekeepers' essential demands, the Greek delegation states that it will pursue its efforts to ensure that they are taken into account and calls on the Commission to re-examine its position and ensure that those questions are settled."

STATEMENT 188/97

Re Article 2:

"The Commission is prepared to work together with the Member States in preparing the study of the production and marketing structures in the beekeeping sector in order to have harmonized studies at Community level."

STATEMENT 189/97

"The Spanish delegation wishes to record its concern at the Regulation's lack of precision with regard to verification of market prices for honey and other apiculture products and to emphasize in particular the absence of measures for controlling import prices, as it considers that price surveillance is essential for drawing up the report, containing detailed information on the volume and prices of imports, which the Commission is to submit to the Council and the European Parliament every three years pursuant to Article 6."

STATEMENT 190/97

Re Articles 2, 3 and 4

"The Council and the Commission emphasize that maximum residue levels may be established in accordance with the following procedures:

- (1) "full" maximum residue levels established in accordance with the provisions of Article 4(1) of Directives 86/362/EEC and 86/363/EEC or Article 3 of Directive 90/642/EEC;
- (2) provisional maximum residue levels established throughout the Community in accordance with the provisions of Article 4(1)(f) of Directive 91/414/EEC concerning the placing of plant protection products on the market;
- (3) temporary maximum residue levels established in accordance with the provisions of Article 5a(3)(c) of Directives 86/362/EEC and 86/363/EEC or Article 5b(3)(c) of Directive 90/642/EEC.

Because of their nature, temporary maximum residue levels, as provided for under (3), are intended to be used where there are as yet no harmonized maximum residue levels and where it has proved impossible to resolve any trade problems through the procedure for setting national import tolerances on a voluntary basis. Where trade problems have occurred and where the procedure under (3) has led to the establishment of temporary maximum residue levels, the Commission will consider including the active substance concerned in its next priority programme for the review of active substances in the framework of Directive 91/414/EEC.

In order to increase transparency, the Commission intends to include the provisional maximum residue levels established throughout the Community and the temporary maximum residue levels in the same Annex as the "full" maximum residue levels. This Annex will be laid out in such a way as to indicate clearly by which procedure a maximum residue level has been established."

STATEMENT 191/97

Re Articles 2 and 3

"The Council and the Commission agree that, for the purposes of Article 5a(1), a country which divides up products from a country of origin into batches while retaining indications of their origin is not to be regarded as the Member State of origin for those products."

STATEMENT 192/97

Re Article 4

"The Council and the Commission agree that, for the purposes of Article 5b(1), a country which divides up products from a country of origin into batches while retaining indications of their origin is not to be regarded as the Member State of origin for those products."

STATEMENT 193/97

Re the Directive

"The Council and the Commission would refer to the statement re Article 1(4) made when Directive 90/642/EEC was adopted (see 10001/90, page 4)."

STATEMENT 194/97

Re the Directive

"The Italian and Spanish delegations take the view that the products covered by Directives 91/321/EEC and 96/5/EC form only part of the diet of infants and young children and hence, as a matter of principle, that preventive action should cover all products, including those coming under this Directive.

The Italian and Spanish delegations therefore consider that, as part of the initiatives which it intends to take in this area, the Commission should give general consideration to the problems of young children's diet as regards residues of substances which might prove harmful to their health and should submit proposals taking account of such problems in an appropriate and consistent manner."

STATEMENT 195/97

Re the Directive

"The Federal Republic of Germany points out that this draft Directive, based on Article 43 of the EC Treaty, may establish rules only for the products listed in Annex II to the EC Treaty. However, foods intended for infants and young children are not included in that Annex. A conciliation procedure for such products based on Article 43 of the EC Treaty cannot therefore be envisaged. On the contrary, it is Article 100a which must be used as the legal basis in the present case. The Federal Republic of Germany therefore attaches importance to establishing that this draft Directive does not affect the current legal situation of foods intended for infants and young children."

STATEMENT 196/97

Re the Directive

"The Commission will submit to the Standing Committee on Foodstuffs as soon as possible, and by 1 January 1999 at the latest, appropriate proposals concerning foods intended for infants and young children as provided for in Article 6 of Commission Directive 91/321/EEC on infant formulae and follow-on formulae and in Article 6 of Commission Directive 96/5/EC on processed cereal-based foods and baby-foods for infants and young children."

STATEMENT 197/97

Statement by the Commission on MAGP IV

"Before 31 December 1999 the Commission will present the Council with an analysis of trends in stocks and of the financial resources needed to accompany fleet restructuring measures after 1 January 2000."

STATEMENT 198/97

Statement by the Commission on achieving the objectives of MAGP III

"The Commission is preparing its annual communication to the Council and the European Parliament on the results of the third series of Multi-Annual Guidance Programmes (MAGP III), which ended on 31 December 1996.

For those Member States which have not fulfilled their obligations within the specified periods, the Commission would, in accordance with the Council Legal Service's analysis of 12 March 1997, point out that the objectives of MAGP III must be fully complied with under the rules laid down in the programmes.

Moreover, the Commission reserves the right to initiate the appropriate procedures in the case of Member States which fail to meet the objectives defined in the preceding Multi-Annual Guidance Programmes."

STATEMENT 199/97

Statement by the Commission on Annex 2

"Footnote number 1 of Annex 2 is intended to protect the most endangered stocks by adopting a pilot rate of 30% to be applied to the critical stocks.

The rate applies when the catches of stocks in danger of collapse exceed 5%.

The required reductions in fishing effort are thus the product of the pilot rate of 30% and the relative weight of critical stocks in the catches.

Example: the catches in a fishery are composed of:

- 10% of stocks in danger of collapse (DR)
- 30% of overexploited stocks (OF)
- 60% of non-critical stocks (others)

In this case, the catches of DR stocks are greater than 5% (footnote 1) and the pilot rate is therefore 30%. The required reduction in fishing effort for this fishery is therefore calculated as follows:

$$\begin{aligned} \text{ERT} &= \text{RR} \times \text{W} \\ \text{ERT} &= 30\% \times [10\% + 30\%] = 12\%." \end{aligned}$$

STATEMENT 200/97

Statement by the Danish delegation

"Overcapacity is the most serious problem facing the Common Fisheries Policy. The consequences of overcapacity are inter alia:

- economic pressure on fishermen to increase their fishing in order to ensure economic viability;
- pressure on attractive fish stocks, leading to overfishing and depletion of stocks;
- discards aimed at enhancing quota and catch values;
- difficulties in controlling and monitoring fisheries;
- defective catch data.

The multiannual guidance programmes are an instrument essential for the reduction and elimination of overcapacity in Community fisheries.

It is regrettable that because of the following major deficiencies the adoption by the Council of MAGP IV does not ensure structural adjustment:

MAGP IV does not guarantee the necessary adjustment of capacities. The possibility of applying the adjustment of fishing effort means that there is no certainty of the structural adjustment of fishing fleets. Overcapacity can be maintained, and will continue to exert pressure to exploit central fish stocks.

Recourse to fishing effort as a means of adjustment will make it difficult to follow and compare developments in the Member States. This increases uncertainty as to whether the objectives of the programme are being uniformly implemented in all Member States.

The Council has not laid down measures to be applied when a Member State fails to meet the objectives. There is therefore insufficient certainty that all Member States will endeavour to ensure that objectives are achieved.

The Council has taken no position on the backlog resulting from non-compliance with MAGP III. Member States which did not carry out the adjustment thereby acquire an immediate advantage.

The Danish view is that obligations under MAGP III continue to be legally binding and must be fully met in the form of capacity adjustments.

As a result of the shortcomings of MAGP IV it is uncertain whether the desired effect on the future development of stocks will be achieved. It is to be expected that the Council will before long be obliged to review the guidance programmes again.

Denmark nonetheless considers it essential that fleet guidance programmes be part of the Common Fisheries Policy. Denmark is accordingly voting in favour of the compromise despite the major shortcomings."

STATEMENT 201/97

Statement by the Irish delegation

"The Irish delegation states that in Ireland's view this decision is without prejudice to the fishing effort limitations established in Council Regulation No 1275/94, Council Regulation No 685/95 and Council Regulation No 2027/95."

STATEMENT 202/97

- "1. The United Kingdom delegation is voting against the adoption of a Council Decision setting objectives and detailed rules for further reductions in fishing fleets during the period from 1 January 1997 to 31 December 2001.
2. Although the United Kingdom recognizes the need for action to bring Member States' fleets into better balance with available fish stocks, measures agreed by the Council have to be fair, workable and transparent in their effects. The United Kingdom considers that the rates of reduction are excessive in relation to what has proved practical and affordable in recent years and that the present text is not sufficiently clear on a number of key points, including the arrangements applying where Member States opt to introduce effort controls, the treatment of vessels using passive gear and the conditions in relation to distant water vessels. The United Kingdom would also wish to see more scope for exempting small coastal vessels and a different basis for calculating the weighted average of reductions in mixed fisheries.
3. The United Kingdom also draws attention to the difficulties of implementation arising from the fact that a significant part of its fleet making use of United Kingdom quotas brings little or no benefit to United Kingdom fishing communities. This problem should be resolved very quickly as the United Kingdom has proposed."

STATEMENT 203/97

- "1. Sweden notes the statement by the Commission concerning the reduction of the Baltic cod fishery effort, to the effect that an effort limitation programme could, in the Commission's view, be implemented by reducing the time at sea.
2. Accordingly, a reduction of one day (24hrs) at sea per week on an annual basis is equivalent to a 14% reduction in capacity.
3. It is understood that the point of departure for calculating the fishing effort reduction shall be the level of fishing effort necessary to fully exploit existing quotas."

STATEMENT 204/97

Statement by the Council and the Commission

"The Council and the Commission note that in some Member States, rules relating to medical exposures and the qualifications of persons involved in radiological practices may be adopted by governmental or recognized non-governmental bodies. The Council and the Commission recall that, according to the Treaty, the Member States are bound as to the results to be achieved by a directive, while they may choose the form and methods to comply with its provisions."

STATEMENT 205/97

Statement by the United Kingdom

"The United Kingdom states that Article 3(1) is intended to be consistent with the requirements of Article 6(1) of Council Directive 96/29/EURATOM (the basic safety standards Directive). The particular wording of Article 3(1) is only appropriate to medical exposures and does not affect the interpretation of the principle requirement in Article 6(1) of the basic safety standards Directive."

STATEMENT 206/97

Statement by Germany

"Germany states that Article 3(1)(a) is not obligatory for individual regulations of "new types of practices involving medical exposures", which shall be justified by statutes, ordinances or general administrative provisions."

STATEMENT 207/97

Re: the entire Article 1

"The Commission states that it considers that derogations not limited in time are contrary to the principles of Community law."

STATEMENT 208/97

Re: Article 1, point 3, third indent; point 5, third indent; point 6, second indent; point 7, fifth indent; point 12, fourth indent; point 15, fifth indent

"The Commission declares its intention to keep these derogations under review in the light of the results of its examination of the treatment of waste oil."

STATEMENT 209/97

Re: Article 1, point 7, sixth indent

"The Commission states that this derogation will be the subject of an examination under Articles 92 and 93 of the Treaty."

STATEMENT 210/97

Re: Article 1, point 7, sixth indent

"The Irish delegation states that, in accordance with the provisions of Article 93 of the Treaty, the Commission was notified of an excise concession in 1983."

STATEMENT 211/97

Re: the entire Article 2

"The Council and the Commission state that they will give favourable consideration to extension of the derogations contained in Article 2 if certain Member States continue to be entitled to similar derogations in Article 1."

STATEMENT 212/97

Re: Article 2, point 1, first indent; point 7; point 8, first indent; point 9, second indent; point 11

"The Commission declares its intention to keep these derogations under review in the light of the results of its examination of the treatment of waste oil."

STATEMENT 213/97

Re: Article 2, point 1, second indent; point 5, first indent; point 8, second indent; point 10, second indent

"The Commission states that these derogations should continue only as long as is necessary pending the implementation of the energy taxation proposals."

STATEMENT 214/97

Re: the entire Article 3

"The Commission states that the derogations referred to in this list will be studied to establish their compatibility with the provisions of the Treaty. The temporary authorization which has been granted does not indicate that any final decision has been taken as to their future and does not prejudice the result of the study relating to Articles 92 and 93."

STATEMENT 215/97

Re: the entire Article 3

"The Council and the Commission state that if the examination of any derogations in Article 3 by the Commission services is satisfactorily concluded, they will give favourable consideration to an extension of those derogations if certain Member States continue to be entitled to similar derogations contained in Articles 1 or 2."

STATEMENT 216/97

Re: Article 3, point 3

"The Netherlands delegation states that its request for a differentiated rate for diesel oil has a specific background. The Netherlands considers it necessary to increase the rate of excise duty on diesel oil for passenger cars in the context of environmental and mobility policy. In view of international conditions, the Netherlands feels that it is undesirable at present to increase the excise duty on diesel oil for heavy goods vehicles to the same extent. The Netherlands undertakes, however, not to use the derogation to reduce the rate of excise duty on diesel oil for heavy goods vehicles."

STATEMENT 217/97

Re Article 1

"The Commission states that the operation of the thresholds laid down in Article 1 will be considered in each of its annual reports on competition policy."

STATEMENT 218/97

Re Article 1

"The Commission states that it will request Member States to inform it, if possible, of cases notified under national legislation on the control of concentrations solely because the two-thirds rule applies, thus enabling it to report on the effects of that rule as requested by the European Parliament and the Economic and Social Committee."

STATEMENT 219/97

Re Article 1(4)

"The Council agrees that the drafting of the report provided for in Article 1(4) will necessitate in particular the collection by the Commission from Member States, to the extent permitted by their national legislation, of information relating to concentrations notified in several States. In this context it will be particularly helpful if every six months Member States send the Commission a list of concentrations notified in accordance with their national law. It would also be advisable for them to include in their national notification forms the obligation for notifying parties to indicate the other Member States in which the concentration must also be notified in order to be able to give this information to the Commission."

STATEMENT 220/97

Re Article 1(4)

"The Commission states that it considers the close and regular collaboration of Member States, to the extent permitted by their national legislation and in the manner indicated by the Council above, to be fundamental to the preparation of a useful report. It will supplement this information by approaching undertakings directly, relying where appropriate on Article 11 of the Regulation."

STATEMENT 221/97

Re Article 2(4)

"The Commission states that it does not normally intend to use its powers to revoke an exemption given pursuant to Article 85(3) of the Treaty under this Regulation.

It will do so only in exceptional cases where, in particular, the coordination of the competitive behaviour of the parent companies affords them the possibility of eliminating competition in respect of a substantial part of the products or services in question. In exercising its power to revoke an exemption, the Commission shall, in line with the principle of proportionality, take into account the time lapsed since the exemption was granted, the effect of a revocation on the investment made by the parties and the nature of the joint venture as an on-going concern.

The Commission will also take into account any modifications proposed by the parties that would eliminate the competition problem at hand.

The Commission emphasizes that in all circumstances the powers available to it under Article 86 of the Treaty remain fully applicable should an abuse be detected following an exemption granted in the context of Article 85(3) of the Treaty."

STATEMENT 222/97

Re Article 3(2)

"The Commission states that this Regulation does not apply to consortia in the liner trades sector."

STATEMENT 223/97

Re Article 3(2)

"The United Kingdom delegation states that its agreement to the extension of the scope of this Regulation to cover cooperative joint ventures does not prejudice its position on any future proposals to extend Regulations implementing Articles 85 and 86 of the Treaty to aviation services outside the Community."

STATEMENT 224/97

Re Article 22(1)

- "(1) The Commission states that it will continue its efforts to decentralize the application of Articles 85 and 86 of the Treaty and to improve the worksharing between the Commission and the Member States in this field.
- (2) With respect to full-function joint ventures below the thresholds of the merger Regulation, the Commission underlines that it is normally for the competition authorities of the Member States to deal with such joint ventures since they are defined in Article 3(2) of the merger Regulation as concentrations without a Community dimension. The residual power to apply Regulation No 17 or other implementing regulations to joint ventures below the thresholds is limited to those joint ventures which may have an appreciable effect on trade between Member States. Where a national authority intends to prohibit a case on the grounds of the creation of a dominant position by the joint venture itself, whether on the basis of the national rules on merger control or on restrictive practices, there is no scope for an exemption to be granted by the Commission under Article 85(3). The application of Regulation No 17 could be relevant only where a projected prohibition decision would be based on a restriction of competition resulting from the coordination of the parent companies outside the joint venture ("spill-over effect"). In this respect, the Commission states that it will leave the assessment of such operations to the Member States as far as possible. In this context, reference is made to the notice on cooperation between national competition authorities and the Commission.
- (3) The Commission states that it will continue with determination the efforts which it has already undertaken, in terms of procedure and internal organization, to ensure that full-function joint ventures which do not fall under this Regulation are examined within deadlines and by methods which are as close as possible to those provided for in this Regulation. It will not, however, be possible to achieve identical treatment, in particular as a result of the procedural rules in force and the limited resources available to the Commission in this area. The Commission will every year send the competent authorities of the Member States a report on the duration of and the methods used for the examination of full-function joint ventures which do not fall within the scope of this Regulation, whilst endeavouring to make clear the progress made in the area of convergence during the preceding year."

STATEMENT 225/97

Re Article 23, second subparagraph

"The Commission states that the time limit for the submission of commitments intended to form the basis for a decision based on Article 6(1)(b) will be no more than three weeks from the date of receipt of the notification."