



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 26 May 2009 (10.06)
(OR. fr)**

**9459/09
ADD 1**

**PV/CONS 24
ECOFIN 333**

ADDENDUM to DRAFT MINUTES¹

Subject: **2940th meeting of the Council of the European Union (ECONOMIC AND FINANCIAL AFFAIRS) held in Brussels on 5 May 2009**

¹ The information from the Council minutes which is contained in this document is not confidential and may therefore be released to the public.

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Agenda items released to the public concerning the final adoption of Council acts

"A" items (list in 9160/09 PTS A 19 + ADD 1):

When finally adopting the "A" items relating to legislative acts, the Council agreed to enter the following in these minutes:

- 4. Council Decision amending Council Decision 2007/250/EC authorising the United Kingdom to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax**
9043/09 FISC 50 (en)

The Council adopted the above Decision (Legal basis: Article 395(1) of Directive 2006/112/EC).

- 5. Council Directive amending Directive 2006/112/EC as regards reduced rates of value added tax**
8238/3/09 REV 3 FISC 39
+ REV 4 (nl)
+ REV 5 (es)

The Council adopted the above Directive; the Cypriot delegation abstained (Legal basis: Article 93 of the Treaty establishing the European Community).

1. Statement by Cyprus

"Cyprus currently applies an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of pharmaceuticals and foodstuffs for human consumption. The current application of zero VAT rate on these items is based on a derogation, which after renewal, expires on December 31 2010. Though we are in favour of zero VAT rate on these, in good faith and Community spirit, Cyprus refrained from specifically raising the issue of further extension.

Under the terms of the political agreement reached at the 2931st meeting of ECOFIN Council on March 10 2009, on the reduced VAT regime, all other Member States that currently apply zero VAT rate on foodstuffs and pharmaceuticals will have the latitude to continue applying zero rate after the end of 2010 (7448/1/09 REV1 FISC 31). Cyprus will be the only Member State, from those currently having an exemption with deductibility of VAT paid at the preceding stage, to lose this option after 2010.

Cyprus considers that the wording of the proposed Council Directive amending Directive 2006/112/EC as regards reduced rates of value added tax should have better reflected the principles of equality and equal treatment of Member States in similar situations. In this respect, the same derogation should have applied to Member States in similar situations allowing them to benefit from the same special arrangements provided for in Article 111(c).

Cyprus expects that an appropriate way will be found in order to accommodate its legitimate request before the expiration of the said derogation at the end of 2010."

2. Statements by the Commission

Re category 8 in Annex III

"The Commission considers that the term "reception of radio and television broadcasting services" constitutes a meaningless definition for fiscal purposes. In order to be coherent with the VAT system, this category can only mean "supply of radio and television broadcasting services". The Commission will seek to ensure that Member States' use of reduced VAT rates in this field is not made subject to unjustified or discriminatory restrictions which might inter alia flow from particular interpretations of the term "reception"."

Re point 2 (category 10a in Annex III)

"The Commission considers that the exclusion of materials which account for a significant part of the value of the service supplied from the services consisting in renovation and repairing of private dwellings is pointless and susceptible to create useless distinctions and litigations. The experience with labour intensive services has shown that Member States have interpreted this exclusion in very different ways and this is why the Commission had not proposed such exclusion. The Commission considers that when

materials represent less than 50 % of the total value of the service supplied, this cannot be considered as significant. If Member States choose to apply the standard VAT rate to materials which account for more than 50 % of the total value of the service concerned, it must in any event be clear that this is simply a restriction on the application of the reduced rate provided for the transactions specified in category 10a of Annex III. For the purpose of determining the place of supply of such transactions, both the service and the related supply of materials shall in any event be regarded as one single supply of services consisting in renovation or repairing of private dwellings."

12. Council Decision correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields

7761/09 AGRILEG 38

The Council adopted the above Decision (Legal basis: Article 37 of the Treaty establishing the European Community).

13. Regulation of the European Parliament and of the Council amending Regulation (EC) No 1081/2006 on the European Social Fund to extend the types of costs eligible for a contribution from the ESF

PE-CONS 3618/09 FSTR 42 SOC 221 REGIO 17 CADREFIN 19

CODEC 474

+ COR 1 (cs)

+ REV 1 (fi)

+ REV 2 (it)

+ REV 3 (fr)

The Council adopted the above Regulation in accordance with the second indent of Article 251(2) of the EC Treaty (Legal basis: Article 148 of the Treaty establishing the European Community).

14. Regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing

PE-CONS 3619/09 FSTR 47 REGIO 20 CADREFIN 22 CODEC 511

+ COR 1 (cs)

+ REV 1 (fi)

+ REV 2 (it)

+ REV 3 (fr)

The Council approved the amendments set out in the European Parliament's opinion and adopted the proposed act thus amended (Legal basis: Article 162 of the Treaty establishing the European Community).

15. Council Regulation setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items

7815/09 COMER 45 PESC 373 CONOP 14 ECO 37 UD 58 ATO 28

+ COR 1

The Council adopted the above Regulation (Legal basis: Article 133 of the Treaty establishing the European Community).

3. Statement by the Council and the Commission

- "1. The Council and the Commission, noting the consensus on Article 25 of the Regulation, agree to assess the list of items for which a licence is required for intra-Community transfers bearing in mind the principles of Title II, Chapter 9 of the Euratom Treaty (The nuclear common market) and Article 30 of the EC Treaty.

2. The Council and the Commission agree that membership of all Member States in export control regimes is desirable in order to efficiently exercise control of exports, transfer, brokering and transit of dual-use items within the Community, and that it could be useful for the Commission to have access to the e-secure systems of distribution of the documents of the Wassenaar Arrangement and the Missile Technology Control Regime that refer to export controls of dual-use goods. The Presidency will approach the appropriate regime body to explore the possibility of granting access for the Commission services, taking into account the confidentiality requirements within the regimes."

4. **Statement by the Netherlands and Estonia**

"The Netherlands and Estonia would like to congratulate the Czech Presidency on concluding the consultations on the recast dual-use regulation and to thank all delegations for the fruitful exchange of views during the last two years.

From the start of the discussions in 2007 the Netherlands delegation reiterated its concerns regarding entities and/or persons who act as brokers for projects related to weapons of mass destruction. While supporting the consensus on the recast, for the sake of public security, the Netherlands and Estonia continue to consider that tighter brokering legislation is needed to adequately face the threat of WMD-related activities.

The scope of the Council Regulation setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is limited to the entity/person that provides brokering services between two third countries, where the broker is located within the EU. To achieve the objective of preventing the proliferation of WMD, the Netherlands and Estonia may need additional legislation to meet their international obligations.

The Netherlands and Estonia therefore welcome the possibility in the recast Regulation to extend the applicability of the provisions for brokering services on a national level. We intend to use these possibilities, while respecting the legal framework of the Regulation."
