



**COUNCIL OF  
THE EUROPEAN UNION**

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ADD 1**

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SOC 799  
SAN 344  
CONSOM 224**

**ADDENDUM to DRAFT MINUTES <sup>1</sup>**

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Subject: **2916th** meeting of the Council of the European Union (**EMPLOYMENT, SOCIAL POLICY, HEALTH and CONSUMER AFFAIRS**), held in Brussels on 16 and 17 December 2008

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<sup>1</sup> The information from the Council minutes which is set out in this addendum 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: 16975/08 PTS A 66)**

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

#### **3. Council Decision on the equivalence of Forest Reproductive Material produced in third countries**

16152/08 AGRI 402 SEMENCES 18 AGRILEG 211 FORETS 71  
+ COR 1 (fi) + COR 2 (fi) + COR 3 (sk) + COR 4 (fr)  
+ COR 5 (de) + COR 6 (da) + COR 7 (sl) + COR 8 (it)  
+ COR 9 (el) + COR 10 (es) + COR 11 (nl) + COR 12 (lv)  
+ COR 13 (pl) + COR 14 (sv) + COR 15 (fi) + COR 16 (bg)  
+ COR 17 (et) + COR 18 (hu) + COR 19 (fr) + COR 20 (cs)

The Council adopted the above Decision. (Legal basis: Article 19(1) and (2) of Directive 1999/105/EC).

#### **4. Council Regulation amending Council Regulation (EC) No 219/2007 on the establishment of a joint undertaking to develop the new generation European air traffic management system (SESAR)**

14103/08 AVIATION 226  
+ COR 1

The Council adopted the above Regulation. (Legal basis: Articles 171 and 172 of the Treaty establishing the European Community).

##### **1. Statement by Germany**

"Germany observes with concern the process of progressive inclusion of decentralised Community bodies into the scope of the Protocol of the Communities concerning the Immunities and Privileges of 8 April 1965 and regrets that through the proposed adaptation of the Regulation establishing the SESAR Joint Undertaking a further step is being taken in this direction.

Germany recalls the need for conducting a general exchange of views concerning the appropriateness of granting privileges and immunities in the united Europe, in particular with regard to decentralised Community bodies, joint undertakings or other institutions of the Community. Germany has already asked for such a general exchange of views on several occasions, together with other Member States. The Commission has given its agreement to the holding of such a debate within an appropriate time span, in connection with the establishment of the European Border Protection Agency in March 2004.

Germany also maintains the view that the application of the EC Staff Regulations to all persons employed by Community establishments should be handled restrictively. Therefore, Germany asks the Commission to carry out a re-evaluation in principle of the increasingly extensive, and in part no longer functional, application of the EC Staff Regulations, including possible alternative approaches."

6. (a) **Council Directive amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions**
- (b) **Council Regulation amending Regulation 1798/2003/EC on administrative cooperation in the field of value added tax, in order to combat tax evasion connected with intra-Community transactions**

16242/08 FISC 171

+ COR 1 (de) + COR 2 (fi) + COR 3 (sv) + COR 4 (es)

+ REV 1 (hu) + REV 1 COR 1 (hu)

+ REV 2 (mt)

16243/08 FISC 172

+ COR 1 (es)

+ REV 1 (hu) + REV 1 COR 1 (hu)

The Council adopted the above Directive and Regulation. (Legal basis: Article 93 of the Treaty establishing the European Community).

2. **Council statement**

**Re the Directive and the Regulation as a whole:**

"The Council notes that Member States commit themselves to making effectively use of the new possibilities offered by the speeding-up of the submission of recapitulative statements by the taxable persons resulting from Article 1, point 3, of the Directive and of the improved exchange of information between Member States resulting from Article 1, point 3, of the Regulation to further intensify their fight against VAT fraud connected with intra-Community transactions."

7. **Council Directive concerning the general arrangements for excise duty and repealing Directive 92/12/EEC**

15787/08 FISC 155

+ COR 1 (es) + COR 2 (da) + COR 3 (it)

+ COR 5 (lv)

+ REV 1 (pt)

+ REV 2 (hu) + REV 2 COR 1 (hu)

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

3. **Statement by the Council and the Commission**

**Re Article 5(3):**

"The Council and the Commission state that, in accordance with Article 5(3), this Directive and the Directives referred to in Article 1 do not apply to Gibraltar."

4. **Declaration by the Republic of Slovenia**

**Re Article 14(4):**

"The Republic of Slovenia welcomes the modernisation of the system of supervision of excise goods moving between Member States under duty suspension arrangements introduced by the new Directive. The Republic of Slovenia considers that the proposed new solutions and the introduction of an electronic control system will contribute significantly to combating tax fraud in the area of excise duty and therefore supports the timely adoption of the Directive which will enable the enforcement of the new solutions in practice in accordance with the set deadlines.

However, the Republic of Slovenia regrets to find that the final text of the Proposal for the Directive also contains the possibility of a seven-year transition period for the operation of tax-free shops elsewhere than within an airport or port open to international passenger transport. The Republic of Slovenia considers that such an arrangement derogates from the fundamental guidelines of regulating tax-free sales of goods to travellers in tax-free shops, supported by the European Union so far, and consequently means different treatment of individual Member States. According to the Republic of Slovenia there are no objective reasons for such different treatment, however, taking into account all the advantages brought about by the proposed Directive, Slovenia is willing to support the Proposal for the Directive as a whole, despite its principal objection to the provision of the fourth paragraph of Article 13 of the Directive."

**5. Statement by the Council and the Commission**  
**Re Article 14(5)(b):**

"The Council and the Commission recognize that a travel whose final destination is situated in a third territory or a third country may include a stopover in an airport or port situated on the territory of another Member State as long as it does not exceed the time needed for transport reasons and does not lead to an interruption of the travel. Paragraph 3 allows Member States to take the measures necessary to ensure that this provision is correctly applied."

**6. Statement by the Council and the Commission**  
**Re Articles 21(3), 24(1) and 26(1):**

"The Council and the Commission state that the competent authorities of the Member State of dispatch and of the Member State of destination may check excise goods before the beginning of a movement or after the end of a movement, provided that these checks are not systematic but are based on a risk analysis, are part of a strategy which also provides for checks on movements taking place entirely within the Member State's territory and do not undermine the principle of free movement of goods within the internal market."

**7. Statement by the Commission**  
**Re Article 32(1):**

"The Commission states that excise goods sent as a gift by a private individual established in a Member State to a private individual located in another Member State are not subject to payment of the excise duty in the Member State of destination. In order to determine that it is a gift, at least the following elements should be taken into account:

- the gifts must be intended for the personal needs of the private person;
- the gifts must not be subject of payment of any kind, direct or indirect, by the recipient;
- the gift must be of an occasional nature."

**14. Council Decision on the European Judicial Network**  
14914/08 COPEN 199 EUROJUST 87 EJM 65  
+ REV 1 (hu)

The Council adopted the above Decision. (Legal basis: Articles 31 and 34(2)(c) of the Treaty on European Union).

**8. Statement by the Commission**

"It is understood that the implementation of Article 9 (2) is without prejudice to regular budgetary procedures."

**9. Statement by the Commission**

"The Commission notes that Article 28 of the Financial Regulation provides that any proposal or initiative submitted to the legislative authority by the Commission or by a Member State in conformity with the relevant provisions to the EC Treaty or the Treaty on European Union, which may have an impact on the budget, must be accompanied by a financial statement. Only such a financial statement quantifying the expenditure would enable the Commission to pronounce itself in full knowledge on the possibility to finance additional expenditure not covered by Joint Action 98/428/JHA on the creation of a European Judicial Network."



**15. Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime**

14927/08 COPEN 200 EUROJUST 88 EJM 66

+ COR 1 (hu)

+ REV 1 (fi)

The Council adopted the above Decision. (Legal basis: Articles 31(2) and 34(2)(c) of the Treaty on European Union).

**10. Statement by the Council and the Commission**

"It is understood that the implementation of Article 12(6) as referred to in Article 1 point 10 of this Decision, is without prejudice to regular budgetary procedures."

**11. Statement by the Commission**

"The Commission notes that Article 28 of the Financial Regulation provides that any proposal or initiative submitted to the legislative authority by the Commission or by a Member State in conformity with the relevant provisions to the EC Treaty or the Treaty on European Union, which may have an impact on the budget, must be accompanied by a financial statement. Only such financial statement quantifying the expenditure would enable the Commission to pronounce itself in full knowledge on the possibility to finance additional expenditure not covered by the present Eurojust decision."

**12. Statement by the Secretary-General of the Council/High Representative for the Common Foreign and Security Policy**

"Notwithstanding Article 25a(1)(b) of Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, as amended by the present Council Decision on the strengthening of Eurojust, costs for travel of participants (two per Member State) in the annual plenary meeting of the European Judicial Network to be held at the premises of the Council in Brussels and for interpretation at that meeting will, for a transitional period up till the end of 2009, be eligible to be covered under Decision 31/2008 of the Secretary General of the Council/High Representative for the Common Foreign and Security Policy concerning reimbursement of travel expenses of delegates of Council members and Decision 111/07 of the Secretary General of the Council/High Representative for the Common Foreign and Security Policy concerning interpreting for the European Council, the Council and its preparatory bodies."

**17. Regulation of the European Parliament and of the Council on the type-approval of motor vehicles with regard to the protection of pedestrians and other vulnerable road users, amending Directive 2007/46/EC and repealing Directives 2003/102/EC and 2005/66/EC**

PE-CONS 3651/08 ENT 154 DROIPEN 58 CODEC 884  
+ COR 1 (fi)

The Council approved the amendment contained in the European Parliament's opinion and adopted the proposed act thus amended. (Legal basis: Article 95 of the Treaty establishing the European Community).

**18. Directive of the European Parliament and of the Council on textile names (Recast)**

PE-CONS 3650/08 TEXT 11 MI 226 ECO 81 CODEC 877

The Council adopted the above Directive in accordance with the second indent of Article 251(2) of the Treaty establishing the European Community. (Legal basis: Article 95 of the Treaty establishing the European Community).

**19. Proposal for a Regulation of the European Parliament and of the Council on type-approval of hydrogen powered motor vehicles and amending Directive 2007/46/EC**

PE-CONS 3674/08 ENT 220 ENV 558 CODEC 1107

The Council approved the amendment contained in the European Parliament's opinion and adopted the proposed act thus amended. (Legal basis: Article 95 of the Treaty establishing the European Community).

**20. Regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89**

PE-CONS 3675/08 AVIATION 180 CODEC 1108

The Council approved the amendment contained in the European Parliament's opinion and adopted the proposed act thus amended. (Legal basis: Articles 71 and 80(2) of the Treaty establishing the European Community).

**21. Decision of the European Parliament and of the Council establishing the Erasmus Mundus 2009-2013 action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries**

PE-CONS 3702/08 EDUC 247 RELEX 799 CODEC 1413

The Council approved the amendment contained in the European Parliament's opinion and adopted the proposed act thus amended. (Legal basis: Article 149(4) of the Treaty establishing the European Community).

**22. Regulation of the European Parliament and of the Council establishing a facility for rapid response to soaring food prices in developing countries**

PE-CONS 3709/08 DEVG 256 RELEX 982 ACP 247 BUDGET 50  
AGRI 422 ALIM 24 PROBA 54 CODEC 1495

The Council approved the amendment contained in the European Parliament's opinion and adopted the proposed act thus amended. (Legal basis: Article 179(1) of the Treaty establishing the European Community).

**13. Joint statement by the European Parliament, the Council and the Commission  
Re Article 3(1)**

"The Parliament, the Council and the Commission agree that the submission by the Commission, as soon as possible and before 1 May 2009, of the overall plan which will provide information concerning the list of target countries and the allocation of financial resources between the different eligible entities, in accordance with the appropriate balance mentioned in Article 4(2) of the Regulation, is not a prerequisite for adoption of the initial measures implementing the financing facility as provided for in Article 1 of the Regulation. They also agree that the overall plan will provide for the possibility of adapting implementation to new circumstances, if necessary."

14. **Joint statement by the European Parliament, the Council and the Commission**  
**Re Article 13**

"The Parliament, the Council and the Commission declare that the decision-making procedure for the adoption of the implementing measures must be as simple and as fast as possible, for the period up to 30 April 2009.

The Council accepts that the period for despatching the documents to be submitted for the Committee's opinion should be limited to ten working days.

The Parliament accepts that the period allowed for exercising its right of scrutiny of the measures submitted to the Committee will end five working days after the date of receipt by the Register of Comitology of the Committee's opinion on the draft measures.

The Council and the Commission accept that the Parliament's response will take the form of a letter from the Chairman of the Committee on Development to the Member of the Commission responsible, and shall be brought to the attention of all Members of Parliament."

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