

8694/04 (Presse 129)

**PROVISIONAL VERSION**

2579th Council meeting

**- JUSTICE AND HOME AFFAIRS -**

Brussels, 29 April 2004

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## **PARTICIPANTS**

The Governments of the Member States and the European Commission were represented as follows:

**Belgium:**

Mr Patrick DEWAELE Minister of Interior

**Denmark:**

Mr Bertel HAARDER Minister for Refugees, Immigration and Integration

**Germany:**

Mr Otto SCHILY Federal Minister for the Interior

**Greece:**

Mr MARKOYANNAKIS Secretary of State

**Spain:**

Mr Juan Fernando LÓPEZ AGUILAR Minister for Justice

Mr José Antonio ALONSO SUAREZ Minister of Interior

**France:**

Mr Dominique VILLEPIN Minister of Interior

Mr Dominique PERBEN Minister for Justice

**Ireland:**

Mr Pat FOLEN Ministry of Justice

**Italy:**

Mr Roberto CASTELLI Minister for Justice

Mr Giuseppe PISANU Minister of Interior

**Luxembourg:**

Mr Luc FRIEDEN Minister for Justice, Minister for the Treasury and the Budget

**Netherlands:**

Mr Jan DONNER Minister for Justice

**Austria:**

Mr Ernst STRASSER Federal Minister for the Interior

**Portugal:**

Mr Nuno DE MAGALHAES State Secretary

Mr João MOTA DE CAMPOS State Secretary to the Minister for Justice

**Finland:**

Mr Johannes KOSKINEN Minister for Justice

Mr Kari RAJAMÄKI Minister of Interior

**Sweden:**

Ms Barbro HOLMBERG Minister at the Ministry of Foreign Affairs with responsibility for Migration Policy

Mr Dan ELIASSON Secretary of State

**United Kingdom:**

Ms Caroline FLINT Parliamentary Under-Secretary of State, Home Office

\* \* \*

**Commission:**

Mr António VITORINO Member

\* \* \*

**Other participants:**

Mr Michael KENNEDY President of Eurojust

Mr Gijs DE VRIES Counter-Terrorism Coordinator

**The Governments of the acceding States** were represented as follows:

**Czech Republic :**  
Mr Karel ČERMÁK

Minister for Justice

**Estonia :**  
Mr Margus LEIVO

Minister for the Interior

**Cyprus :**  
Mr Doros THEODOROU

Minister for Justice and Public Order

**Latvia :**  
Mr Eriks JEKABSONS

Minister of Interior

**Lithuania :**  
Mr Virgilijus BULOVAS  
Mr Vytautas MARKEVICIUS

Minister for the Interior  
Minister for Justice

**Hungary :**  
Ms Monika LAMPERTH

Minister of Home Affairs

**Malta:**  
Mr Carmelo MIFSUD BONNICI

Parliamentary Secretary for Justice and Home Affairs

**Poland :**  
Mr Pawel DAKOWSKI  
Mr Sylwester KRÓLAK

Deputy State Secretary, Ministry of the Interior and Administration  
Deputy State Secretary, Ministry of Justice

**Slovenia :**  
Mr Ciril STOKELJ

Ambassador

**Slovakia :**  
Mr Vladimír PALKO

Minister for the Interior

**ITEMS DEBATED**

**DRAFT FRAMEWORK DECISION ON THE APPLICATION OF THE PRINCIPLE OF MUTUAL RECOGNITION TO CONFISCATION ORDERS**

The Council, subject to parliamentary scrutiny reservations by some delegations, agreed on a general approach to the body of the draft Framework Decision on the application of the principle of mutual recognition to confiscation orders. Further technical work will be made on the certificate annexed to the draft.

The Council is expected to reach a full agreement on the entire draft in June 2004, once the certificate annexed to it has been finalised by the Council preparatory bodies and the text has been revised by the legal-linguistic Working Party.

The aim of this Framework Decision is to improve, in accordance with the principle of mutual recognition, enforcement in one Member State of a confiscation order, *inter alia* for the purpose of restitution to a victim of a criminal offence, issued in another Member State. With a view to achieving this aim, it reduces the grounds for not recognising a foreign confiscation order. In other words, it obliges a Member State to recognise and execute in its territory confiscation orders issued by a court competent in criminal matters of another Member State.

In order to be effective against the organised crime, any attempt to prevent and combat such crime must focus on tracing, freezing, seizing and confiscating the proceeds from crime. Effective control of economic crime also requires the mutual recognition of orders to confiscate the proceeds from crime.

**REPORT OF EUROJUST FOR 2003**

In the presence of Mr Michael G. KENNEDY, President of Eurojust, the Council held an exchange of views on issues relating to the 2003 Eurojust annual report and adopted conclusions on it.

During the discussion, it was noted that Eurojust had already carried out a number of important coordination meetings in serious cases, including terrorism, and that there had been a 50% increase in its case referrals last year.

It should be noted that Eurojust is still a rather young organisation -the provisional Unit was put in place only on 1 March 2001 and the Eurojust Decision was adopted on 28 February 2002. The Unit moved to the The Hague in December 2002 and it was only recently that it was confirmed by the European Council that its permanent seat would remain in The Hague. Eurojust is composed of 15 national members, one seconded from each Member State in accordance with its legal system, being a judge, prosecutor or a police officer or similar competence. Its objectives are :

- to stimulate and improve the coordination, between the competent authorities of the Member States, of investigations and prosecutions in the Member States, taking into account any request emanating from a competent authority of a Member State and any information provided by any body competent by virtue of provisions adopted within the framework of the Treaties;
- to improve cooperation between the competent authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests;
- to support otherwise the competent authorities of the Member States in order to render their investigations and prosecutions more effective.



The Conclusions adopted by the Council read as follows :

"The Council:

1. Welcomes with interest the second Annual Report of Eurojust (calendar year 2003) and takes note of its content, while stressing the importance of further improving judicial co-operation between the Member States, and in particular as regards combating terrorism and other serious crimes perpetrated by organisations operating across borders. The Council reaffirms that the effective combating of crime, and of terrorism in particular, is a necessary and essential component in realising an area of freedom, security and justice.
2. Takes note of the objectives, scope and priorities set out in the Eurojust objectives for 2004, as outlined in the Annual Report.
3. Recalls the Declaration adopted by the European Council on Combating Terrorism on 25 March 2004
  - which urges all Member States to take any measures which remain necessary to implement fully the Eurojust Decision no later than June 2004, and
  - which calls on all Member States to ensure that national correspondents for terrorist matters are designated by all Member States, that Eurojust is used to the maximum extent for the purpose of co-operation in cross-border terrorism cases and that the Europol/Eurojust agreement is adopted by May 2004.
4. Asks Member States to take all necessary measures to ensure that these commitments are met.
5. Asks Eurojust to examine the scope for further measures to improve its capacity to contribute to the fight against Terrorism and to report to the Council by the end of May 2004.
6. Decides to instruct its competent bodies to examine with attention the annual report, and any outstanding matter relating to Eurojust, with a view to further enhancing co-operation and co-ordination between the relevant authorities of the Member States and Eurojust and to rendering judicial co-operation in the Union more efficient.
7. In the context of the work undertaken under paragraph 6, requests the Presidency to report to the Council on its conclusions and recommendations and to suggest to the Council any policy priorities it may wish to make."

**FOLLOW UP TO THE EUROPEAN COUNCIL DECLARATION ON TERRORISM**

Under this item, the Council noted with satisfaction that progress had been done on some elements of the Declaration on Terrorism. For example, the agreement on the Directive on the compensation to crime victims, the adoption of the agreement between Europol and Eurojust, the approval of directive on the obligation of carries to communicate passenger data, as well as the general approach on the Framework Decision on the Application of the principle of mutual recognition to confiscation orders.

The Council also welcomed the work done by the Commission in bringing forward new proposals in line with the European Council Conclusions and took note of comments from delegations on progress achieved in implementing instruments like the European Arrest Warrant (currently implemented by 12 Member States), or the joint investigation teams.

Finally, the Presidency and the Counter-Terrorism Coordinator, Mr DE VRIES, briefed the Council on the way forward until the next European Council on 17 and 18 Juin 2004.

The Council will have a more detailed discussion on this issue at it next meeting on 8 Juin 2004.

**MINIMUM STANDARDS ON PROCEDURES IN MEMBER STATES FOR GRANTING AND WITHDRAWING REFUGEE STATUS**

The Council, subject to parliamentary scrutiny reservations by certain delegations, agreed on a general approach to the proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugees status.

The Council undertook to conduct during the coming months an in-depth assessment of countries which may be included in a minimum common EU list of safe countries to ensure that they fulfil the criteria in the Directive. When conducting the assessment, regard shall be had to a range of information sources, including information from the Member States, the UNHCR, the Council of Europe and other international organisations.

Taken into account the fundamental changes with respect to the text on which the European Parliament was originally consulted, the Council also decided to reconsult the European Parliament.

The adoption of the Directive will take place after the European Parliament has given its new opinion and the Council has had the possibility to examine it.

The purpose of this draft Directive is to set out equivalent procedures for the grant and withdrawal of refugee status in EU states. It includes :

- basic principles and guarantees in relation to the asylum process (e.g. access to the asylum process, right to interview, access to interpretation, access to legal representation and detention);
- procedures at first instance (e.g. provision for an examination procedure, criteria for prioritisation and acceleration of applications, safe third country and safe country of origin principles, border procedures); and
- appeal procedures.

This Directive is particularly important. It is the missing element in the finalisation of a Common EU Asylum System as provided for in the 1999 Tampere European Council Conclusions and in the Amsterdam Treaty. All the other key Asylum instruments have been adopted. The Asylum Qualification Directive on the criteria for awarding refugee and subsidiary protection status in the EU was also adopted at this Council meeting, without debate.

**APPOINTMENT OF DIRECTOR OF EUROPOL**

The Council had an exchange of views on the filling of the Director of Europol post and agreed to return to this issue in June 2004.

**ANY OTHER BUSINESS**

At the request of the Commission, the Council was briefed on the state of play concerning visa reciprocity and on the recently approved Commission proposal requesting the Council a mandate to negotiate with the Russian Federation a visa facilitation agreement.

**ITEMS APPROVED WITHOUT DEBATE**

To be completed shortly.

**JUSTICE AND HOME AFFAIRS**

**Qualification and status of refugees\***

The Council adopted a Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (8043/04 + 8729/04).

The purpose of the proposal is to provide a framework for an international protection regime, based on existing international and Community obligations and current Member States practice, and separated into the two complementary categories of refugee and subsidiary protection in order to maintain the primacy of the Geneva Convention in such a regime.

It should be noted that at its meeting on 30 March 2004, the Council agreed the text of the draft Directive subject to a Parliamentary scrutiny reservation by the Netherlands delegation.

**Residence permit issued to victims of trafficking in human beings**

The Council adopted a Directive on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities (14994/03).

The purpose of this Directive is to strengthen the European Union's legislative framework for combating illegal immigration by granting a residence permit of limited duration for the victims of action to facilitate illegal immigration and of trafficking in human beings. The granting of the residence permit to which a certain number of benefits is attached is subject to conditions designed to encourage these people to cooperate with the competent authorities against those suspected of committing the crimes in question.

**Obligation of carriers to communicate passenger data**

The Council adopted a Council Directive on the obligation of carriers to communicate passenger data (8078/04).

The purpose of this initiative is to improve border controls and combat illegal immigration by the transmission of advance passengers data by carriers to the competent national authorities. At the request of the authorities responsible for carrying out checks on persons at external borders, carriers will be obliged to transmit, by the end of check-in, information concerning the passengers they will carry to an authorised border crossing point through which these persons will enter the territory of a Member State.

This Directive has a particularly important role to play in combating illegal immigration.

### **Joint flights for removals**

The Council adopted a Decision on the organisation of joint flights for removals, from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (6379/04).

The purpose of this initiative is to set rules for the organisation of joint flights for removals, from the territory of two or more Member States, of third-country nationals who are the subjects of individual removal orders. This involves, in particular, the identification of the specific tasks that have to be accomplished by the authorities which the organising and the participating Member States have to appoint to this effect, as well as of the common tasks.

### **Compensation to crime victims\***

The Council adopted a Directive relating to compensation to crime victims (8303/04 + 8472/04 ADD 1) which sets up a system of cooperation to facilitate access to compensation to victims of crimes in cross-border situations.

It should operate on the basis of Member States' schemes on compensation to victims of violent intentional crime, committed in their respective territories. Compensation shall be paid by the competent authority of the Member State on whose territory the crime was committed.

This Directive will ensure that all Member States will have relevant national provisions in place by 1 July 2005 to ensure compensation to victims of violent intentional crime. In addition, the Directive contains rules which will come into effect on 1 January 2006 on access to compensation in cross border cases, which will help victims claim compensation as a result of crime suffered in a Member State other than their own State.

It should be noted that on 30 March 2004 the Justice and Home Affairs Council had agreed a general approach on his draft Directive.

### **Schengen Information System (SIS and SIS II)\***

The Council adopted a Regulation concerning the introduction of some new functions for the SIS, including in the fight against terrorism. (7575/04 + 7853/04).

This Regulation constitutes a development of the SIS for the purpose of its application in relation to provisions of the Schengen acquis relating to the movement of persons.

As regards the new second generation SIS (SIS II) the Council adopted the conclusions on the location, management and financing of the system, as follows :

"The Council Conclusions of 5-6 June 2003 on the functions of the SIS and the SIS II architecture mandated the respective Council Working Groups to prepare conclusions on the location, management and financing of the SIS II as soon as possible and in due time for adoption by the Council at the latest by May 2004.

The Commission Communication to the Council and the European Parliament (doc. 16106/03 SIRIS 111 VISA 205 COMIX 765 – COM (2003) 771 of 11 December 2003) indicated the need, in the Commission's view, for early decisions to be taken on certain matters relating to the location and operational management of SIS II during the development phase so as to meet the overall timetable for development of SIS II.

The Declaration on Combating Terrorism adopted by the European Council on 25 March 2004 also called for decisions on the location, management and financing of SIS II to be taken by May 2004 in order to allow the Commission to take forward its full development.

The Council, accordingly, now agrees on the following conclusions for the purpose of the development phase of SIS II:

1. The central part of SIS II shall be located in Strasbourg and the operational management and responsibility for liaison with the Commission for this site shall be the responsibility of France.
2. The Business Continuity Site shall be located in Salzburg subject to certain arrangements that will be necessary before the site becomes operational. In that event, operational management and responsibility for liaison with the Commission for this site shall be the responsibility of Austria.
3. Appropriate Service Level Agreements shall be put in place between Commission and the Member States hosting the Central System and the Business Continuity Site as soon as practicable but in any event before the commencement of work at either site. These Service Level Agreements will, in particular, specify the conditions governing the relationships between the different parties, access to the sites for relevant bodies and personnel and the local support to be provided by the hosting Member States.
4. Decisions now being taken on the location and management of SIS II during the development phase are without prejudice to subsequent Council conclusions on the longer term management, financing and location of SIS II.
5. The relevant Council Workings Groups are requested to prepare Council Conclusions on the longer term strategic and operational management, financing and location of SIS II by June 2005 following an evaluation at the relevant level of the relative merits of different options, associated costs and any legal issues arising.

**Europol / Eurojust Agreement\***

The Council approved the Agreement between Europol and Eurojust (15829/03) and adopted a Declaration on it (7089/04).

The purpose of the Agreement is to establish and maintain close co-operation between both Europol and Eurojust in order to increase their effectiveness in combating serious forms of international crime which fall in their respective competences and to avoid duplication of work. In particular, this will be achieved through the exchange of operational, strategic, and technical information, as well as the co-ordination of activities.

**Europol\***

The Council adopted four legal instruments relating to the budget of Europol and its staff (7389/04 + 7410/04 + 7411/04 + 7414/04 + 7412/04 + 7415/04).

**Police cooperation - Council conclusions**

The Council took note of a report on the evaluation of the implementation of Council Decision 2002/348/JHA of 25 April 2002 concerning security in connection with football matches with an international dimension (7151/1/04) and approved conclusions on police cooperation to combat football-related violence, as follows :

"THE COUNCIL OF THE EUROPEAN UNION

condemns football-related violence, associated public disorder and its impact on law-abiding citizens. The Council is also conscious that many police officers, while fulfilling their central role in addressing the problem of football related violence, have been exposed to violence and threats of violence.

CONSIDERING:

- A key objective of the European Union is to maintain the Union as an area of freedom, security and justice for all its citizens.
- Football is one of the major sporting activities in Europe, attracting large gatherings of people, and is an international activity involving travel across borders.
- It is essential that spectators can enjoy football occasions in a secure and safe environment without being subjected to violence or the fear of violence.
- The threat of football-related violence can manifest itself at all levels of club or international matches - friendly or competitive.
- There will be a significant focus on major international football competitions in Europe over the next two years: the European Championship Finals in 2004 and the World Cup in 2006.



- Combating football-related violence is a priority in police cooperation among the Member States in the European Union.
- The enlargement of the European Union, through the accession of ten new Member States in 2004, will present new opportunities for increased operational police cooperation in this area.
- Instruments to enhance police co-operation adopted by the Council to date have proven successful and continue to be implemented, but the ever-evolving nature of football-related violence demands that such co-operation be further developed.

ENDORSES the elements set out in the Annex to combat the problem of football-related violence.

NOTES the evaluation conclusions on the implementation of the Council Decision 2002/348/JHA of 25 April 2002 regarding, inter alia, the creation of national football information points, and in particular the need to improve information exchange and the use of categorisation of supporters.

### **European Chiefs of Police task force**

The Council took note of the conclusions of 9th Meeting of European Chiefs of Police Task Force in Dublin on March 2004 (7779/04).

### **Partnership to reduce the harm from organised crime**

The Council adopted a Resolution on a model protocol for the establishment in Member States of partnerships between the public and private sectors to reduce the harm from organised crime (6627/3/04).

RECOGNISES that a continued strategic structured programme of work setting out short, medium and long-term goals - with the opportunity for review in light of any changing circumstances - is the most appropriate way to take this matter forward.

WELCOMES the establishment of contacts between the relevant Council bodies in the field of police cooperation and the Union of European Football Associations and CONSIDERS that consultations with UEFA should be continued in a structured way.

CALLS on the Member States to invite their appropriate domestic bodies to progress matters relating to establishing closer links between all relevant bodies in organising matches, standardising match ticket-sales policies and improving the training and greater involvement of stewards.

ANNEX

1. Review, amend and raise awareness of the football handbook for international police cooperation in connection with football matches  
The handbook is an important tool in the fight against football-related violence. Its effectiveness can be enhanced by ensuring that it is a living document and up-to-date, reflecting clearly defined operational procedures. The review to take place at least every four years and in the light of relevant experience.

2. Regularise meetings of experts  
It is essential to have regular exchanges of best practice from the point of view of all aspects of police operations relating to football matches.
3. Develop consultations between the relevant Council bodies and UEFA  
Building on the contact already established, an added value can be achieved by ensuring the closest of cooperation with UEFA.
4. Identify travel / travel-related restrictions and other relevant measures  
It is useful to establish initially what the practice is in each Member State in terms of travel-related restrictions having regard to their legal and constitutional requirements.
5. Develop the profile of the Annual Situation report  
The situation report establishes an overall and detailed analysis of behaviour at football matches in the Member States. The objective is to enhance its use in a strategic context and produce it speedily with a view to its widespread dissemination.
6. Introduce arrangements for mutual assessments of police operations at football matches  
Such arrangements would operate on a voluntary basis and in close cooperation with experts, with a view to enhancing practical police cooperation.
7. Develop a Web-site.

A study needs to be undertaken of the possibilities for having a readily available reference centre for relevant information to assist police planning and operations.

### **Evaluation of the implementation of the EU acquis**

The Council endorsed the contents of a third Revised Country Report on Romania and two thematic papers relating to the judicial capacity in criminal law in the Acceding States, particularly with a view to the implementation of the European Arrest Warrant and to trafficking in human beings.

### **Schengen - Common Manual\***

The Council adopted Decisions amending the Common Manual in order to include provision for targeted border controls on accompanied minors (6994/04 + 7644/04 ADD 1) and to use a standard forum for refusal of entry (6388/04 + 7645/04 ADD 1).

### **Signs at external borders**

The Council adopted a Decision determining the minimum indications to be used on signs at external border crossing points (16184/1/03).

### **United Nations Convention against Transnational Organised Crime (UNCTOC)\***

The Council adopted a Decision on conclusion of the United Nations Convention against Transnational Organised Crime on behalf of the Community (8763/04).

## **Security of European Council meetings and other comparable events**

The Council adopted a Resolution on security at European Council meetings and other comparable events (13915/03).

## **EXTERNAL RELATIONS**

### **Cyprus**

The Council adopted today a Regulation (8208/04) on a regime under Article 2 of Protocol 10 on Cyprus of the Act of Accession. The Regulation defines the terms under which the provisions of EU law will apply to the line between the areas in which the Government of the Republic of Cyprus exercises effective control and the areas in which it does not ("green line").

At its meeting on 26 April, the Council had mandated its preparatory bodies to expedite discussion on this Regulation, taking due account of its desire to send a signal of encouragement to the Turkish Cypriot community that its future rests in a united Cyprus within the European Union.

The suspension of the "acquis" upon accession, pending a settlement, in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control makes it necessary to provide for the terms under which the relevant provisions of EU law shall apply to the "green line".

Since this line does not constitute an external border of the EU, special rules concerning the crossing of goods, services and persons need to be established. The regulation is intended to facilitate trade and other links between the areas in which the Government of the Republic of Cyprus exercises effective control and the areas in which it does not, whilst ensuring that appropriate standards are maintained.

Regarding persons, the Regulation indicates in particular that, while taking into account the legitimate concerns of the Government of the Republic of Cyprus, it is necessary to enable EU citizens to exercise their rights of free movement within the EU and set the minimum rules for carrying out checks on persons at the line.

Concerning the crossing of goods, the Regulation provides that goods may be introduced in the areas under effective control of the Government of the Republic of Cyprus free of customs duties, on condition that they are wholly obtained in the areas not under its effective control or have undergone in these areas their last, substantial, economically justified processing or working in an undertaking equipped for that purpose. The full implementation of these provisions will be subject to specific rules that take full account of the particular situation in the island of Cyprus, to be adopted by the Commission within two months of the adoption of the Regulation.

The Regulation also provides for review and monitoring mechanisms, including annual reports by the Commission to the Council on its implementation.

## **Pakistan**

The Council approved today the conclusion of a Co-operation Agreement between the European Community and the Islamic Republic of Pakistan, an important step in the enhancement of relations.

Signed in Islamabad in November 2001, the Agreement will enable the EU to better and more closely engage with Pakistan in a structured fashion on issues of mutual interest and concern.

In approving the Agreement, the Council recalled the importance attached by the EU Member States to the conclusion of a re-admission agreement with Pakistan. It noted that technical negotiations are already underway to this end and welcomed Pakistan's readiness to conclude such an agreement.

An EU-Pakistan Joint Commission, meeting normally once a year, will be established to oversee implementation of the Agreement.

## **ECOFIN**

### **Macro-financial assistance to Albania**

The Council adopted a Council Decision providing macro-financial assistance to Albania and repealing Decision 1999/282/EC. (8790/04).

The Community shall make available to Albania a macro-financial assistance in the form of a long-term loan and a straight grant. The loan component shall amount to a maximum principal of EUR 9 million with a maximum maturity of 15 years, the grant component shall amount to a maximum of EUR 16 million.

## **TAXATION**

### **Transitional periods for the taxation applicable to interest and royalty payments**

The Council adopted a Directive amending Directive 2003/49/EC as regards the possibility for certain Member States (Czech Republic, Greece, Spain, Latvia, Lithuania, Poland, Portugal and Slovakia) to apply transitional periods for the application of a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (8667/04).

**Temporary exemptions or reductions of energy products and electricity taxation\***

The Council adopted a Directive allowing Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia to apply temporary exemptions or reductions in the levels of taxation. Those Member States should be permitted, on a temporary basis, to apply additional exemptions from or reduced levels of taxation, where it will not be detrimental to the proper functioning of the internal market and will not result in the distortion of competition. Moreover, consistent with the principles in accordance with which transitional periods were originally granted under Directive 2003/96/EC, any such measures should be designed to bring about a progressive alignment with the applicable Community minimum rates. (8027/04).

The Council also adopted a Directive which allows Cyprus to apply temporary exemptions or reductions in the levels of taxation, namely on gas oil and kerosene as well as on unleaded petrol used as propellant respectively (8242/04).

**RESEARCH**

**European Community / European Space Agency (ESA)**

The Council adopted the Decision on the conclusion of the EC/ESA Framework Agreement. (8755/04; 12858/03) The cooperation under this Framework Agreement aims at:

- (a) securing Europe's independent and cost-effective access to space and the development of other fields of strategic interest necessary for the independent use and application of space technologies in Europe;
- (b) ensuring that the overall European Space Policy takes into particular account the general policies pursued by the European Community;
- (c) supporting Community policies by using space technologies and space infrastructures where appropriate and promoting the use of space systems in support of sustainable development, economic growth and employment;
- (d) optimising the use of expertise and available resources and contributing to the consolidation of the close cooperation between the European Community and ESA, thereby linking the demand and supply of space systems within a strategic partnership;
- (e) achieving greater coherence and synergy of research and development in order to optimise the use of resources available in Europe, including the network of technical centres.

## **European Community / Israel**

The Council adopted the Decision concerning the conclusion of the Agreement on scientific and technical cooperation between the European Community and the State of Israel (8502/03 + 8015/04).

Israel shall be associated, under the terms and conditions established by, or referred to, in this Agreement and its Annexes, in the EC 6th Framework Programme for research, technological development and demonstration activities (2002-2006). The Agreement is concluded for the duration of the EC 6th Framework programme. It shall enter into force on the date on which both Parties have notified each other of the completion of their procedures for that purpose and shall take effect on 16 December 2002.

## **EC - Staff Regulations\***

The Council adopted by qualified majority, with the Danish delegation voting against,

- a Regulation fixing from 1 May 2004 the correction coefficients applying to the pensions of officials and other servants of the European Communities (8091/04 + 8120/04 ADD 1),
- a Regulation fixing from 1 May 2004 the correction coefficients applying to the remuneration of officials and other servants of the European Communities in the new Member States (8092/04 + 8121/04 ADD 1),
- a Community rule laying down the procedure for the transfer of part of an official's emoluments (8514/04),
- a Regulation determining the rates and conditions of the special allowances provided for in Article 56c of the Staff Regulations which may be granted to compensate for particularly arduous working (8447/04 + 8884/04 ADD 1),
- General implementing provisions following the adoption on 22 March 2004 of the Council Regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities (8103/1/04 REV 1; 8104/1/04 REV 1; 8105/1/04 REV 1; 8107/1/04 REV 1; 8108/1/04 REV 1; 8109/1/04 REV 1; 8110/1/04 REV 1; 8111/1/04 REV 1; 8112/1/04 REV 1; 8113/1/04 REV 1; 8114/1/04 REV 1; 8116/1/04 REV 1) ,
- a Regulation amending Regulation No 495/77 determining the categories of officials entitled to, and the conditions for and rates of, allowances for regular standby duty (8449/04 + 8461/04),
- a Regulation amending Regulation No 300/76 determining the categories of officials entitled to allowances for shiftwork, and the rates and conditions thereof ( 8450/04 + 8462/04).

**TRANSPORT**

**Land Transport - Transport Regulations in relation to EU - Enlargement**

The Council adopted

- a Regulation adapting Regulation (EC) No 685/2001 of the European Parliament and of the Council, ("*Transit through Bulgaria and Romania*") (8382/04)
- a Regulation adapting Regulation (EC) No 2888/2000 of the European Parliament and of the Council, ("*Transit through Switzerland*") (8381/04)
- a Regulation adapting Regulation (EC) No 2327/2003 of the European Parliament and of the Council, ("*Transit through Austria*") (8380/04),

with Austria abstaining from the vote as regards the adoption of all three Council Regulations and the United Kingdom abstaining from the vote as regards the adoption of the Council Regulation contained in document 8380/04.

**Aviation - EC accession to Eurocontrol**

The Council adopted the Decision concerning the conclusion by the European Community of the Protocol on the accession of the EC to the European Organisation for the Safety of Air Navigation (Eurocontrol) (5565/1/04).

The purpose of the accession to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation is to assist Eurocontrol, in achieving its objectives as set out in the Convention, notably that of being a single and efficient body for air traffic management policy-making in Europe.

**Civil Aviation Security - *Public deliberation***

The Council adopted a Regulation amending Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation security (*PE-CONS 3637/04*).

Both the Council and the European Parliament approved the Commission proposal presented in September 2003 on technical amendments for the application of Regulation 2320/2002 without suggesting any modification. This Regulation shall enter into force on the twentieth day following that of its publication in the EU Official Journal.

**INTERNAL MARKET**

**European Community - UN Economic Commission for Europe (UN/ECE)**

The Council adopted the EC position on the draft UN/ECE Regulations concerning

- the adoption of uniform prescriptions for the type approval of tyres with respect to tyre rolling noise (5047/04),
- the adoption of uniform technical prescriptions relating to the protection of motor vehicles against unauthorized use (5048/04) as well as
- the adoption of uniform technical prescriptions concerning the burning behaviour of material used in the interior construction of certain categories of motor vehicles. (5049/04)

The Community, represented by the Commission, shall vote in favour of the draft Regulations during the vote at the meeting of the Administrative Committee at a forthcoming meeting of the UN/ECE World Forum for Harmonisation of Vehicle Regulations. They will be incorporated into the Community system for the type-approval of motor vehicles.

The draft Regulations will abolish the technical barriers to trade in motor vehicles between the Contracting Parties as far as these components are concerned, while ensuring a high level of safety and environmental protection.

**AGRICULTURE**

**CAP reform : olive oil, cotton, tobacco, hops\***  
(8915/04+ADD1 + 7653/1/04 + 7654/1/04)

The Council finalised its political agreement reached at its meeting on 21/21 April 2004, and adopted the reform of the « mediterranean products » package on tobacco olive oil cotton and hops. This reform of these sectors is the continuation of the Common Agriculture Policy engaged in June 2003, and based on the decoupling of the aid from the production. Two Regulations are adopted, one of them amending the general support scheme Regulation (EC) n°1782/2003 (« horizontal legislation » ) on the implementation of the Single Farm Payment (SFP), the other amending the Common Market Organisation in the olive oil sector.

The reform extends the decoupling principle - a Single Farm Payment (SFP) per holding based on a period of reference (2000-2002) and independent of production - to the four remaining products, which had not initially been included in the crops eligible for the SFP. This decoupled payment would be linked to compliance with environmental and food safety standards through cross-compliance. Part of the payment granted to producers would however remain coupled and based on production.

The main changes in the adopted Regulations amending the Commission proposals are as follows:

- Entry into force of the Reform: the Reform package for cotton, olive oil tobacco and hops will begin in 2006 instead of 2005 as stated in the Commission proposals. For 2005, the current tobacco regime together with the aids fixed for 2004 will be applied. For olive oil, the current regime will continue to apply for the marketing year 2004/2005.



- Use of land eligible under SFP: it is added the possibility for the MS to allow secondary crops to be cultivated on the eligible hectares during a period of maximum 3 months per year starting each year on 15 August, but this date can be modified for climatic reasons at the request of a MS.
- Cotton: the rate of the decoupling payment has been increased to 65% instead of the 60% initially proposed, the coupled part of the payment being now at 35%. The amount to be transferred to the second pillar is reduced by EUR 81 million instead of the EUR 103 million initially provided for. The base area for Greece is increased to 370 000 hectares instead of 340 000 with a different amount of coupled aid based on the surface area (EUR 594 /hectare for the first 300 000 hectares, EUR 342,85 /hectare for the remaining 70 000 hectares). Where the 370 000 hectares base area is overrun, the aid granted to the 70 000 hectares is reduced proportionately in order to comply with the global envelope for the coupled aid. For Spain the area of aid per eligible hectare is reduced to 70.000 Hectare and the amount of aid per hectare is increased to 1039 EU.
- Olive oil: the decoupling rate will be a minimum of 60%. Member States may decide to increase this rate. A distinction in the reference period for the calculation of the reference amount for each olive farmer has been established and will comprise four marketing years instead of the three marketing years initially proposed (2000/2002). The three-year reference period 2000/2002 is however maintained for the calculation of the national ceiling for olive oil. Member States may withhold for quality measures up to 10% of the olive oil complement in the national ceiling. The national ceilings for France and Portugal will take into account the aid to be granted to new plantings after 1 May 1998 under programmes approved by the Commission. A corresponding amount of EUR 1 million for France and EUR 19 million for Portugal will be added. An additional amount of aid of EUR 20 Million for Spain is added.
- Tobacco: the 3 bands (below 3,5 tonnes, between 3,5 and 10 tonnes, over 10 tonnes) initially proposed to set a different rate of decoupling, from 2005 to 2007, have been abolished. A transitional scheme towards full decoupling has been set up from 2006 to 2010. During this period, the rate of decoupling for tobacco producers will be set at a minimum of 40% of the tobacco reference amount whilst a maximum 60% of this reference amount will be maintained as a coupled payment. This coupled payment will be granted to producers situated in Objective 1 regions or tobacco farmers producing varieties of a certain quality. Other objective criteria may also be taken into account by the Commission. As from 2010, tobacco aid will be fully decoupled with 50% of the reference amount included in the Single Farm Payment (SFP) and 50% transferred to the restructuring envelope. The aid for tobacco is granted to farmers that received a single payment during the reference period 2000-2002 and to those who acquired tobacco production quotas during the period from 1 January 2002 to December 2005.
- Hops: Member States may grant up to 25% of the aid to farmers producing hops and to producer organisations recognised under the current rules of the common market organisation for hops.

The Spanish delegation abstained and the Danish and Swedish delegations voted against. The Commission entered statements to the minutes as regards the transitional measures for acceding countries producing tobacco, and the implementation of Regulation 1782/2003.

## **Plant variety rights**

The Council unanimously adopted a Regulation amending Regulation (EC) No 2100/94 on Community Plant Variety Rights (7614/04).

Regulations (EC) No 2100/94 on Community Plant Variety Rights was found to be inconsistent with the Biotechnology Patents Directive 98/44/EC on the legal protection of biotechnological inventions. Under Regulation (EC) No 2100/94 a compulsory exploitation right may be granted only on the grounds of 'public interest'. Under Directive 98/44/EC, it can be granted if it would constitute a 'significant technical progress of considerable economic interest', but not a general 'public interest'.

The Regulation adopted aims at resolving this inconsistency. It provides coherence of the system of compulsory cross-licencing provided for by Regulation (EC) No 2100/94 on Community plant variety rights and Directive 98/44/EC on biotechnological inventions. To enable the exploitation of a patented biotechnological invention, the Community Plant Variety Office can grant to the patent holder a compulsory licence for the use of a protected plant variety containing his invention. The holder of the patent can be granted a cross-licence to exploit the plant variety containing his biotechnological invention, if the holder of a plant variety right has been granted a compulsory licence for the use of this patented invention under Directive 98/44/EC.

## **FISHERIES**

### **Financial participation of the Community \***

The Council adopted a Decision on a Community financial contribution towards Member States fisheries control programmes. The current Decision expired at the end of 2003 (8099/04 + 8205/2/04 ADD 1).

The Proposal extends the current Decision for two years as the joint inspection structure may come into force at the beginning of 2006. The Proposal aims, amongst other things, to finance the decisions on control agreed in the reform of the Common Fisheries Policy and to upgrade rapidly the monitoring structures of the ten new Member States. The German and Swedish delegation abstained.

### **Northwest Atlantic Fisheries Organisation \***

The Council adopted a Regulation 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 Organisation (NAFO) (8098/04 + 8207/04 ADD1).

In the framework of the NAFO, the Commission undertook in 1995 to ensure its application to Community fishing vessels and to bear the ensuing costs for the observers. With the adoption of the new framework Regulation for the Common Fisheries Policy, it is now for Member States to, inter alia, control the activities carried out by vessels flying their flag outside Community waters, including being responsible for placing observers on these vessels. This Regulation aims at transferring the administrative and financial burden of the task of observer from the Commission to the Member States. The Community is expected to save EUR 3 000 000 for the year 2004 by doing so.

### **Fishing agreements**

#### **- EEC/Cape Verde**

The Council adopted a Decision on the extension of the fishing protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period 1 July 2004 to 30 June 2005 (one year) (8136/04).

The fishing opportunities expressed in the number of vessels, provided for in the protocol concern France, Spain and Portugal. The financial contribution for the above mentioned period is fixed at EUR 680 000 per year.

#### **- EEC/Mauritius**

The Council adopted a Decision on the fishing protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2003 to 2 December 2007 (four years) (8149/04).

The fishing opportunities expressed in the number of vessels, provided for in the protocol concern France, Italy, Spain, United-Kingdom and Portugal. The financial compensation for the above mentioned period is fixed at EUR 487 500 per year.

#### **- EEC/Madagascar**

The Council adopted a Decision on the fishing protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Democratic republic of Madagascar on fishing off the coast of Madagascar for the period 1 January 2004 to 31 December 2006 (three years) (8154/04).

The fishing opportunities expressed in the number of vessels, provided for in the protocol concern France, Italy, Spain, and Portugal. The financial compensation for the above mentioned period is fixed at EUR 825 000 per year.

### **TACs and quotas\***

The Council adopted a Regulation amending Regulation (EC) No 2287/2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required (“Tacs and quotas 2004” Regulation) (8072/04 + 8622/04 ADD1)

This Regulation, taking into account the consequences of the enlargement on 1 May 2004 and following scientific advice, amends the fishing opportunities for several species (herring, Sprat Sandeel etc...) in the Community waters.

### **ENVIRONMENT**

#### **Protection of the Mediterranean Sea – Protocol to the Barcelona Convention**

The Council adopted a Decision on the conclusion, on behalf of the European Community, of the Protocol to the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution (7719/04).

The Protocol aims to update the legal instruments of the Barcelona Convention, establishing provisions on the cooperation between the Parties in preventing and, in cases of emergency, combating pollution from ships in the Mediterranean Sea. It further promotes the development and implementation of international rules adopted within the framework of the International Maritime Organization.

### **TRANSPARENCY**

#### **Public access to documents**

The Council adopted the reply to the confirmatory application made by Mr Tony LONG (1/04), the Swedish delegation voting against (8310/04) ;

The Council adopted the reply to the confirmatory application made by Mr Holger ANDERS (1/04), the Danish, Dutch, Finnish and Swedish delegations voting against (8318/04).

### **NOMINATIONS**

#### **Advisory Committee of the Euratom Supply Agency**

The Council appointed Mr Raffaele DI SAPIA, Mr Angelo PAPA, Mr Lamberto MATEOCCI and Mr Roberto MUSSAPI as members of the abovementioned Committee for the remainder of term of office, i.e. until 28 March 2005 (8522/04).