

7209/04 (Presse 76)

PROVISIONAL VERSION

2574th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 30 March 2004

President : **Mr Michael McDOWELL, T.D.**

Minister for Justice, Equality and Law Reform of
Ireland

Internet: <http://ue.eu.int/>
E-mail: press.office@consilium.eu.int

For further information call 32 2 285 95 48 – 32 2 285 63 19

7209/04 (Presse 76)

CONTENTS¹

PARTICIPANTS..... 5

ITEMS DEBATED

APPLICATION OF THE MUTUAL RECOGNITION PRINCIPLE TO CONFISCATION
ORDERS 7

COMPENSATION TO CRIME VICTIMS 9

EUROPEAN COUNCIL DECLARATION ON TERRORISM..... 10

MINIMUM STANDARDS FOR BEING QUALIFIED AS REFUGEE OR PERSONS IN
NEED OF INTERNATIONAL PROTECTION..... 10

MINIMUM STANDARDS ON PROCEDURES FOR GRANTING AND WITHDRAWING
REFUGEE STATUS..... 12

CONDITIONS OF ADMISSION OF THIRD-COUNTRY NATIONALS FOR THE
PURPOSES OF STUDIES, PUPIL EXCHANGE, UNREMUNERATED TRAINING OR
VOLUNTARY SERVICE 13

ADMISSION OF THIRD-COUNTRY NATIONALS TO CARRY OUT SCIENTIFIC
RESEARCH IN THE EUROPEAN COMMUNITY 14

OTHER BUSINESS 15

– Euro 2004 in Portugal..... 15

MIXED COMMITTEE..... 16

– Obligation of carriers to communicate passenger data..... 16

– European Agency for the management of operational cooperation at the external borders..... 17

– European Council Declaration on terrorism..... 17

ITEMS APPROVED WITHOUT DEBATE

¹

- *Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.*
- *The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.*
- *Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the above mentioned Council Internet site or may be obtained from the Press Office.*

JUSTICE AND HOME AFFAIRS

- Drugs	I
- Customs cooperation	I
- Europol - Agreement with Malta	I
- Europol - Budget 2002	I

EXTERNAL RELATIONS

- International Criminal Tribunal for the former Yugoslavia	I
- United States - Security and customs cooperation - Agreement on sea container transport	II
- EC - Canada	II
- EC - Republic of India	II
- European Economic Area - Participation of the new Member States	II
- Relations with Poland - Regional aid map - Trade in agricultural products	II
- European Economic Area - Illegal and harmful content on the Internet - Consumer policy	III

DEVELOPMENT COOPERATION

- Togo - Opening of consultations	III
- Republic of Guinea - Opening of consultations	IV
- Mozambique - Accession to ACP sugar protocol	IV

ECOFIN

- VAT	IV
- ECB appointment	IV

BUDGET

- Budget No 5	V
---------------------	---

FISHERIES

- Outermost regions*	V
----------------------------	---

TRANSPORT

- Aviation - ICAO : 'Montreal Convention'	VI
- EC/Switzerland Air Transport Community	VI
- ICAO : Letter on enhanced Community participation	VI
- Safety of third-country aircraft - <i>Public deliberation</i>	VI
- Unfair pricing practices - <i>Public deliberation</i>	VII
- Insurance requirements for air carriers and aircraft operators - <i>Public deliberation</i>	VII

TELECOMMUNICATION

- Interoperable Delivery of pan-European eGovernment Services (IDABC) - *Public deliberation* VIII

COMPETITIVENESS

- Takeover Bids* - *Public deliberation*..... VIII

SOCIAL POLICY

- Action programme to counter violence against children and women - *Public deliberation*..... IX

CULTURE, EDUCATION, YOUTH

- Culture, Education and Training, and Youth Community action programmes - *Public deliberation* IX

HEALTH

- European Centre for Disease Prevention and Control* - *Public deliberation* IX

ENVIRONMENT

- Waste electrical and electronic equipment - derogations granted to acceding countries X
- Limits to pollutants emission from non-road combustion engines - *Public deliberation* X
- Environmental liability* - *Public deliberation* X

PARTICIPANTS

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

Belgium:

Ms Laurette ONKELINX
Mr Patrick DEWAELE

Deputy Prime Minister and Minister for Justice
Deputy Prime Minister and Minister for the Interior

Denmark:

Ms Lene ESPERSEN
Mr Bertel HAARDER

Minister for Justice
Minister for Refugees, Immigration and Integration

Germany:

Mr Otto SCHILY
Ms Brigitte ZYPRIES

Federal Minister for the Interior
Federal Minister for Justice

Greece:

Mr Vassilis KASKARELIS

Permanent Representative

Spain:

Mr Gonzalo ROBLES OROZCO

State Secretary, Government Representative for Aliens' Affairs and Immigration

France:

Mr Pierre SELLAL

Permanent Representative

Ireland:

Mr Pat FOLEN

Ministry of Justice

Italy:

Mr Roberto CASTELLI

Minister for Justice

Luxembourg:

Mr Luc FRIEDEN

Minister for Justice, Minister for the Treasury and the Budget

Netherlands:

Mr Thom de BRUIJN

Permanent Representative

Austria:

Mr Dieter BÖHMDORFER
Mr Ernst STRASSER

Minister for Justice
Federal Minister for the Interior

Portugal:

Mr António FIGUEIREDO LOPES
Mr João MOTA DE CAMPOS

Minister for the Interior
State Secretary to the Minister for Justice

Finland:

Mr Johannes KOSKINEN

Minister for Justice

Sweden:

Ms Barbro HOLMBERG
Mr Thomas BODSTRÖM

Minister at the Ministry of Foreign Affairs with responsibility for Migration Policy
Minister for Justice

United Kingdom:

Ms Cathy JAMIESON
Ms Caroline FLINT

Minister for Justice
Parliamentary Under-Secretary of State

* * *

Commission:

Mr António VITORINO

Member

The Governments of the acceding States were represented as follows:

Czech Republic :

Mr Karel CERMÁK

Minister for Justice

Estonia :

Mr Margus LEIVO

Minister for the Interior

Cyprus :

Mr Doros THEODOROU

Minister for Justice and Public Order

Latvia :

Ms Veneta MUIZNIECE

Minister for Justice

Lithuania :

Mr Virgilijus BULOVAS

Minister for the Interior

Hungary :

Mr Péter BÁRÁNDY

Minister for Justice

Malta:

Mr Godwin GRIMA

Permanent Secretary, Ministry of Justice and Home Affairs

Poland :

Mr Pawel DAKOWSKI

Deputy State Secretary, Ministry of the Interior and Administration

Mr Sylwester KRÓLAK

Deputy State Secretary, Ministry of Justice

Slovenia :

Mr Ivan BIZJAK

Minister for Justice

Slovakia :

Mr Vladimír PALKO

Minister for the Interior

Mr. Daniel LIPŠIČ

Deputy Prime Minister and Minister of Justice

ITEMS DEBATED

APPLICATION OF THE MUTUAL RECOGNITION PRINCIPLE TO CONFISCATION ORDERS

The Council reached agreement on both the definition of "property" and the provision on transmission of confiscation orders.

The Council also examined a provision according to which the executing state may refuse the recognition/execution confiscation order when the offences have been committed wholly or partly within the territory of the executing state. A number of delegations and the Commission consider that this provision needed to be limited in order to avoid the risk that criminals could go unpunished as a consequence of its application. The Council also discussed the provision dealing with fundamental rights and fundamental legal principles.

The Council instructed its preparatory bodies to further work on these questions and agreed to discuss the Framework Decision again at the next JHA Council on 29 and 30 April 2004.

It should be noted that the European Council Declaration on combating terrorism, adopted on 25 March 2004, provides that the work on the Framework Decision on confiscation orders should be concluded by June 2004. In order to respect this deadline, it is necessary to reach agreement on the body of the draft as soon as possible, so that certain technical issues, including in particular the certificate attached to the draft, can be finalised.

The purpose of this Framework Decision is to facilitate cooperation between Member States as regards the recognition and execution of orders to confiscate the proceeds of crime. By means of the Framework Decision, a Member State will have to recognise and execute in its territory confiscation orders issued by judicial authorities of another Member State.

This Framework Decision respects the fundamental rights and principles recognised in Article 6 of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as prohibiting refusal to confiscate property for which a confiscation order has been issued when objective grounds exist for believing that the confiscation order was issued for the purpose of prosecuting or punishing a person on account of his or her sex, race, religion, ethnic origin, nationality, language, political opinion or sexual orientation, or that that person's position may be prejudiced for any of these reasons.

This Framework Decision does not prevent any Member State from applying its constitutional rules relating to due process, freedom of association, freedom of the press and freedom of expression in other media.

This Framework Decision does not address the return of property to its rightful owner. However, the Council introduced the following statement: "Consideration shall be given to the possible introduction of an additional instrument dealing with the return of property to its rightful owner."

It should be noted that this Framework Decision is closely linked to the already adopted Framework Decision on the application of the principle of mutual recognition to orders freezing property or evidence. It is also linked to the draft Framework Decision on confiscation of crime-related proceeds, instrumentalities and property on which the JHA Council adopted a general approach in December 2002.

COMPENSATION TO CRIME VICTIMS

The Council reached a general approach, subject to Parliamentary scrutiny reservations from the German and the United Kingdom delegations, on the basis of a Presidency's compromise on a Directive on compensation to crime victims, which the Commission endorsed as the first step. The Council instructed its preparatory bodies to finalise the text of the Directive with a view to its adoption before 1 May 2004, as requested by the European Council on 25 and 26 March 2004.

The objective of the draft Directive is to ensure that citizens can receive fair and appropriate compensation for the losses they have suffered in case they fall victim to a crime within the EU. The proposal also forms part of the response of the EU to the events of 11 September 2001 and 11 March 2004, by ensuring that victims of crime are ensured (...) adequate compensation regardless of where within the EU such acts may take place.

The Directive will contain provisions of access to compensation in cross-border cases and a provision guaranteeing that Member States shall have in place the relevant national provisions to ensure compensation to victims of violent intentional crime committed in their respective territories.

Member States will have to implement the Directive into national legislation by 1 January 2006. All Member States will have to ensure that their national rules provide, by 1 July 2005, for the existence of a scheme on compensation to victims of violent intentional crimes committed in their respective territories.

EUROPEAN COUNCIL DECLARATION ON TERRORISM

The Council discussed the follow-up to the European Council Declaration on terrorism, adopted on 25 March 2004 (<http://ue.eu.int/newsroom/newmain.asp?LANG=1> – European Council -)

Mr Gijs de Vries, recently appointed counter-terrorism coordinator, participated in the debate.

MINIMUM STANDARDS FOR BEING QUALIFIED AS REFUGEE OR PERSONS IN NEED OF INTERNATIONAL PROTECTION

The Council, pending the lifting of a parliamentary scrutiny reservation, reached agreement on the proposal for a Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection.

The Council instructed its preparatory bodies to finalise the text in order to adopt it within the time-limit set out by the Treaty (before 1 May 2004).

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.

The main aim of the proposal is to ensure that minimum level of protection is available in all Member States for those genuinely in need and to reduce disparities between Member States' legislation and practice in these areas.

The proposal lays down rules for determining which applicants for international protection qualify for refugee status and which qualify for subsidiary protection status. It does not extend to cover those third country national or stateless persons present in the territory of Member States who Member States currently allow to remain in their territory for reasons not related to a need for international protection, such as compassionate or humanitarian ones.

This Directive includes provisions of the minimum rights and benefits to be enjoyed by the beneficiaries of refugee and subsidiary protection status.

The proposal does not address the procedural aspects of granting and withdrawing refugee status or subsidiary protection status. The procedures for asylum applicants are laid out in the Proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status.

**MINIMUM STANDARDS ON PROCEDURES FOR GRANTING AND WITHDRAWING
REFUGEE STATUS**

The Council held an orientation debate on the main outstanding issues of this proposal, in particular:

- the safe third country concept,
- exceptional application of the safe third country concept,
- the safe country of origin concept, and
- appeal provisions.

Following the debate, the Council instructed its preparatory bodies to further work on the proposal with a view to reaching an agreement within the time-limit set by the Amsterdam Treaty (1 May 2004).

The objective of the proposal is to establish minimum procedures in Member States for examining applications for asylum.

The European Council on 12 December 2003 took note of the persisting political obstacles that have been delaying the conclusion of these negotiations. It reaffirmed the importance of developing a common European policy on asylum and invited the Justice and Home Affairs Council to complete its work as soon as possible to ensure that the first phase of the establishment of a European asylum system is fully implemented within the deadline set out in Article 63 TEC.

**CONDITIONS OF ADMISSION OF THIRD-COUNTRY NATIONALS FOR THE
PURPOSES OF STUDIES, PUPIL EXCHANGE, UNREMUNERATED TRAINING OR
VOLUNTARY SERVICE**

The Council, pending the lifting of a parliamentary scrutiny reservation, reached political agreement on this draft Council Directive.

Given that the conditions of entry and residence of third-country nationals for the purpose of studies or vocational training currently diverge widely between the Member States, the first objective of this Directive is to establish a harmonised Community legal framework for the conditions for entry and residence of certain categories of third-country nationals (students pupils participating in exchange schemes, unremunerated trainees and volunteers) in the territory of the Member States for a period exceeding three months for those purposes.

It defines the requirements whom the persons concerned are subject to in order to be admitted, and the benefits which are attached to the issue, by the Member States, of a residence permit, which allows them to stay legally on their territories during the relevant period.

ADMISSION OF THIRD-COUNTRY NATIONALS TO CARRY OUT SCIENTIFIC RESEARCH IN THE EUROPEAN COMMUNITY

Commissioner VITORINO briefed the Council on the ‘researchers package’ (7815/04), which the European Commission has recently submitted to the Council.

The Council preparatory bodies will now examine the proposals, with a view to adopt them as soon as possible.

The Communication and related legal instruments - a proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research of researchers and the proposals for two recommendations respectively dealing with the admission of researchers and with the facilitation of the issue by Member States of uniform short-stay visas in the cases where researchers from third-countries travel within the European Union for the purposes of carrying out scientific research – are intended to implement the conclusions of the European Council of Tampere.

The need for promoting and facilitating the admission of researchers from third-countries has also to be seen in the context of the Lisbon process, which aims at making the EU the most dynamic and competitive economy in the world. According to the Commission, one of the measures to be taken in order to achieve such an objective is to attract researchers from third-countries. Providing favorable conditions to researchers from third-countries for being admitted in the Member States of the EU might contribute to make the EU more attractive for this category of highly skilled third-country nationals.

OTHER BUSINESS

– *Euro 2004 in Portugal*

Mr António FIGUEIREDO LOPES, Minister for Justice of Portugal, briefed the Council on the measures which Portugal will put into place during the Euro 2004 (European football championship).

*
* *

Over lunch, Ministers discussed for the first time the filing of the position of the Director of Europol.

MIXED COMMITTEE

In the margins of the Council, the Mixed Committee at Ministerial Level (EU + Iceland and Norway) met in the context of the Schengen arrangements under the chairmanship of Mr Michael McDOWELL, Minister for Justice, Equality and Law Reform of Ireland, to examine the Directive on the obligation of carriers to communicate passenger data, the establishment of the European Agency for the management of operational cooperation at the external borders, and the follow-up to the European Council Declaration on terrorism.

– *Obligation of carriers to communicate passenger data*

The Mixed Committee reached a common approach on the above mentioned draft Directive, with a view to its adoption by the Council before 1 May 2004.

The Directive aims at improving border controls and combating illegal immigration by the transmission of advance passenger data by air carriers to the authorities responsible for carrying out checks on persons at external borders. It lays down obligations for air carriers transporting third-country nationals into the territory of the Member States. In addition, in order to ensure greater effectiveness of this objective, financial penalties are provided for when carriers fail to meet their obligations.

The recent European Council on 25-26 March stated that "work will be taken forward on the proposed Council Directive on the obligation of carriers to communicate passenger data with a view to an early conclusion on this measure".

– ***European Agency for the management of operational cooperation at the external borders***

The Mixed Committee reached political agreement on the draft Regulation establishing the Agency, subject to final agreement by one delegation and pending the lifting of two parliamentary reservations.

The Agency will be established in view of an integrated management of the external borders of the Member States of the European Union.

An urgent adoption of the Regulation, by May 2004, was requested by the European Council on 25-26 March 2004, in the framework of the Declaration on combating terrorism.

The seat of the Agency shall be decided by the Council by unanimity.

– ***European Council Declaration on terrorism***

The Presidency briefed the Mixed Committee on the content of the European Council Declaration on terrorism, adopted on 25 March 2004.

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

Drugs

The Council adopted a Recommendation regarding guidelines for taking samples of seized drugs (7292/04).

Customs cooperation

The Council took note of the strategy for customs cooperation in the third pillar and the work plan for the strategy (7336/04).

Europol - Agreement with Malta

The Council authorised the Director of Europol to conclude a draft agreement between Europol and Malta.

Europol - Budget 2002

The Council gave discharge to the Director of Europol in respect to the implementation of the budget for the period 1 January 2002 - 31 December 2002.

EXTERNAL RELATIONS

International Criminal Tribunal for the former Yugoslavia

The Council adopted a Common Position renewing, for a further 12 months, measures aimed at helping the International Criminal Tribunal for the former Yugoslavia by banning the movement of persons involved in the evasion of justice, and updating the list of persons subject to the travel ban (7502/04).

The measures, adopted in April 2003 under Common Position 2003/280/CFSP, are aimed at preventing the entry into the EU of those engaged in helping persons to evade justice for crimes for which ICTY has indicted them, or who are otherwise deemed to be obstructing ICTY's work. Persons indicted are still at large and there is evidence that they are still being assisted in their efforts to evade justice.

The Common Position, implemented by the Member States, is also aimed at encouraging third countries to adopt similar measures. The list of persons subject to the travel ban was extended in June 2003 under Decision 2003/484/CFSP.

United States - Security and customs cooperation - Agreement on sea container transport

The Council adopted a Decision authorising the signature of an Agreement with the United States on extension of an existing Agreement on customs cooperation in order to include cooperation on security as regards the transport of sea containers.

The Agreement is part of an initiative aimed at extending customs cooperation to all modes of international transport and all kinds of goods - in order to deter and prevent attempts to conceal terrorist weapons in shipments - starting with sea containers. It will enable the United States to extend its Container Security Initiative to all EU ports meeting the relevant requirements.

Implementation measures will include the development of standards for risk management techniques, information required to identify high-risk shipments as well as industry partnership programmes.

EC - Canada

The Council adopted a Decision determining the position to be taken by the Community for a decision by the EC - Canada Joint Customs Cooperation Committee with a view to adopting its rules of procedure.

EC - Republic of India

The Council adopted a decision concerning the conclusion of the Agreement between the EC and the Republic of India on customs cooperation and mutual administrative assistance in customs matters.

European Economic Area - Participation of the new Member States

The Council adopted a Decision authorising the signature of letters of agreement with Iceland, Liechtenstein and Norway allowing for provisional application of a package of agreements on extension of the European Economic Area to include the EU's ten new Member States as from their accession on 1 May (6568/04).

The letters of agreement will enable EEA enlargement provisions to apply provisionally, in view of the fact that the formal Agreement on EEA enlargement and four related bilateral agreements are not likely to be ratified by all parties in time for them to enter into force on 1 May. The formal agreements were signed in Luxembourg on 14 October.

Relations with Poland - Regional aid map - Trade in agricultural products

The Council approved draft Decisions, to be adopted by the EU-Poland Association Committee, on a regional aid map for the assessment of public aid granted by Poland and on strengthened arrangements for trade between the EU and Poland in processed agricultural products (*UE-PL 1406/03 + UE-PL 1408/03*).

Under the draft Decision on the regional aid map, which will expire on the date of Poland's accession to the European Union, maximum aid intensities applicable in Poland will be limited to, in net grant equivalent:

- 50% of costs in the regions of Dolnoslaskie, Kujawsko-Pomorskie, Lubelskie, Lubuskie, Łódzkie, Malopolskie, Mazowieckie, Opolskie, Podkarpackie, Podlaskie, Pomorskie, Slaskie, Swietokrzyskie Warminsko-Mazurskie, Wielkopolskie and Zachodniopomorski;
- 40% in the regions of Wroclaw, Krakow and Gdansk-Gdynia-Sopot;
- 30% in the regions of Poznan and Warszawa.

These maximum aid intensities may be raised by 15% in the case of aid granted to small and medium-sized enterprises. They constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources.

The draft Decision on processed agricultural products is aimed at amending customs duties and increasing or abolishing tariff quotas provided for under the EU–Poland Association Agreement. It is intended to replace transitional measures implemented by both parties with effect from 1 February 2003.

The Commission has negotiated with various Accession States reciprocal improvements in access to the markets for processed agricultural products.

European Economic Area - Illegal and harmful content on the Internet - Consumer policy

The Council approved draft Decisions aimed at enabling the European Economic Area states that are members of the European Free Trade Association to participate in two EU programmes, namely:

- Community action plan on combating illegal and harmful content on the Internet (6796/04);
- General framework for the financing of Community actions in support of consumer policy for the 2004-07 period (7019/04).

The two draft Decisions will be forwarded to the EEA Joint Committee for adoption.

DEVELOPMENT COOPERATION

Togo - Opening of consultations

The Council approved, by qualified majority, the text of a letter to be sent to the Government of Togo inviting it to consultations under the Partnership Agreement between the Community and the African, Caribbean and Pacific group of countries, as requested by Koffi Sama, Prime Minister of Togo.

The consultations, scheduled for 14 April, are intended to enable examination of the situation as regards human rights and fundamental freedoms, including media freedoms, and to ascertain Togo's intentions regarding engagement in dialogue with opposition parties and representatives of civil society and initiation of a democratic process at all levels. The aim is to help the Community decide whether its 1998 decision to discontinue cooperation should remain in force or whether new measures should be taken under the ACP-EC Agreement, and thus to resolve the current impasse between the parties.

Republic of Guinea - Opening of consultations

The Council approved the text of a letter inviting the Republic of Guinea to consultations under the Partnership Agreement between the Community and the African, Caribbean and Pacific group of countries, on account of the deterioration in the democratic environment there, in particular at the presidential elections on 21 December.

The consultations, scheduled for 15 April, are intended to enable a thorough examination of the situation in Guinea and, where necessary, that steps be taken to remedy the non-respect of the EC-ACP Agreement as regards democracy and fundamental freedoms.

Mozambique - Accession to ACP sugar protocol

The Council adopted a Decision authorising the signature of an Agreement with 19 members of the African, Caribbean and Pacific group of countries on the accession of Mozambique to the protocol on ACP sugar annexed to the ACP-EC Partnership Agreement (6621/04).

The existing ACP members of the protocol are: Barbados, Belize, the Republic of Congo, Fiji, Guyana, Côte d'Ivoire, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Suriname, Saint Christopher and Nevis, Swaziland, Tanzania, Trinidad and Tobago, Uganda, Zambia and Zimbabwe.

ECOFIN**VAT**

The Council authorised Germany to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (6881/04).

ECB appointment

The Council decided to recommend Mr José Manuel GONZÁLEZ-PÁRAMO as member of the Executive Board of the European Central Bank for a term of office of eight years with effect from 1 June 2004 (6315/04).

This Recommendation shall be submitted for a decision to the Heads of State or Government of the Member States of the European Community whose currency is the euro, after consulting the European Parliament and the Governing Council of the European Central Bank.

BUDGET

Budget No 5

The Council, by written procedure on 26 March 2004, agreed on both the mobilisation of the European Union Solidarity Fund and the establishment of draft amending budget No 5 for the financial year 2004 (7310/04 + 6729/04).

FISHERIES

Outermost regions*

The Council unanimously adopted a Regulation on the management of fishing fleets registered in the outermost regions (7529/04 + 7520/04 ADD 1).

The aim of the proposal was to give more favourable treatment for the fleets of the outermost regions, as compared with the continental fleets, given their structural, social and economic position. This specific treatment would involve derogation to the general rules on the fleet entry/exit scheme and the fleet modernisation aid implemented by the last CFP reform agreed.

The proposal for outermost regions takes as a reference level, for any given capacity increase, the objectives fixed by the multiannual guidance programmes IV (MAGP IV) for the French overseas departments, the Azores and Madeira for each fleet segment. Specific reference levels should be determined for vessel segments registered in the Canary Islands, for which no specific objectives were fixed in the MAGP IV framework.

As regards fleet renewal and modernisation the Commission's proposal required that the final date for committing public aid for renewal be 31 December 2005 and the vessel benefiting from aid should enter into the fleet register by 31 December 2006 the latest.

The changes introduced in the initial proposal include now a new deadline for the entry of new capacity into the fleet register, which shall be 31 December 2007.

Two statements from the Commission are attached to the Regulation: one deals with the change of legal basis agreed by the Council as the Regulation now includes Article 37 (general provisions on agriculture and fisheries) and 299(2) of the Treaty (provisions on outermost regions). The other statement entered by the Commission, at the request of the Spanish delegation, is a commitment of implementing the rules taking into account the specific concerns of the Canary Islands as regards the fleet segmentation to types of fishing and to the state of targeted stocks.

TRANSPORT

Aviation - ICAO : 'Montreal Convention'

The Council approved the text of the “Declaration of Competence” of the Community and authorised the Presidency to deposit this declaration with ICAO (International Civil Aviation Organisation) in Montreal, together with the Community instrument for ratification of the 'Montreal Convention' for the unification of certain rules for international carriage by air (7535/04).

In respect of matters covered by the Convention, the EC Member States have transferred competence to the Community for liability for damage sustained in case of death or injury of passenger, for liability for damage caused by delay and in the case of destruction, loss, damage or delay in the carriage of baggage. This includes requirements on passenger information and a minimum insurance requirement. Hence, in this field, it is for the Community to adopt the relevant rules and regulations (which the Member States enforce) and within its competence to enter into external undertakings with third States or competent organisations.

EC/Switzerland Air Transport Community

The Council adopted two Decisions on a Community Position regarding the Community/Switzerland Air Transport Committee with a view both to adopting its rules of procedure and to amending the Agreement between the EC and the Swiss Confederation on Air Transport taking into account new Community legislation relevant to the implementation of the Agreement since its signature (7579/04 + 6597/04 + 6967/04).

ICAO : Letter on enhanced Community participation

The Council approved the draft letter to be addressed to the President of the ICAO (International Civil Aviation Organisation) Council on enhanced participation of the Community in the work of ICAO. With a view to exploring with ICAO the possibilities for such enhanced participation, it is proposed that the Community, represented by the Commission, may:

- have a permanent invitation to the meetings of ICAO including the ICAO Council and the Air Navigation Commission;
- receive all of the documents pertaining to these meetings;
- express views at the meetings under terms and conditions to be negotiated with ICAO and subject to agreement of internal Community rules relating to the adoption and presentation of Community positions; and
- open a representation in or close to the ICAO buildings in Montreal.

Safety of third-country aircraft - *Public deliberation*

The Council adopted, in accordance with a joint text approved by the Conciliation Committee, a Directive on the safety of third-country aircraft using Community airports (3616/04).

This Directive introduces a harmonised approach to the effective enforcement of international safety standards within the Community by harmonising the rules and procedures for ramp inspections of third-country aircraft landing at airports located in the Member States.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years after the day of its publication in the Official Journal of the EU.

Unfair pricing practices - *Public deliberation*

The Council adopted the Regulation concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not EC members. The act has been adopted in the form of the common position amended by the European Parliament.

The legislative proposal should be seen in the context of the difficulties facing the international aviation sector in recent times following 11 September 2001 terrorist attacks and the global economic slow-down. In the Commission's view the reactions of certain third country governments in granting financial aid to companies in the sector, together with "hidden" subsidies provided to state-controlled carriers, have contributed to a situation whereby Community carriers may no longer be able to compete internationally on a level-playing field. As a reaction to this situation, the Commission decided to make a proposal, based on an approach taken in 1986 in the maritime sector and widely used in trade in goods, to allow for specific measures to be taken against third country carriers on a per carrier basis.

Whilst accepting the basic rationale behind the Commission's proposal, the Council made a number of changes to the substance of the text when it approved a Common Position on 17 December 2003. Expressing satisfaction for the fact that the Council's had taken on board most of the EP amendments in first reading, the EP adopted on 11 March 2004 a single amendment to the Common Position (7024/04).

Insurance requirements for air carriers and aircraft operators - *Public deliberation*

The Council approving the outcome of the European Parliament's second reading on a Regulation on insurance requirements for air carriers and aircraft operators adopted the Regulation in the form of the Common Position thus amended (7032/04).

The Regulation aims at introducing minimum insurance requirements for air carriers and aircraft operators flying within, into, out of, or over the territory of a Member State in respect of their liability for passengers, baggage, cargo and third parties.

In taking its position, the Council endeavoured to incorporate the EP's amendments to the greatest extent possible. On 11 March 2004, the EP adopted in second reading a single amendment to the Common Position.

TELECOMMUNICATION

Interoperable Delivery of pan-European eGovernment Services (IDABC) - *Public deliberation*

The Council approved the amendments proposed by the European Parliament at second reading with a view to the adoption of a Decision on interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC) (7061/1/04).

The Decision adopted in the form of the Common Position thus amended will be submitted for signature to the Presidents both of the EP and the Council, upon which the Decision shall enter into force on the 20th day of its publication in the Official Journal and shall apply from 1 January 2005.

As a follow-up program to the current IDA II program, the objective of the IDABC program is to identify as well as support and promote the development and establishment of pan-European eGovernment Services and the underlying interoperable telematic networks. The new program will act in support of the implementation of acts of Community legislation with the delivery of services from public administration to public administration as its core business, extending to citizens and businesses the benefits resulting from the cooperation between public administrations across Europe. It is in full complementarity with the other eGovernment related programs.

COMPETITIVENESS

Takeover Bids* - *Public deliberation*

The Council, by confirming its approval of the amendments proposed by the European Parliament at first reading, adopted a Directive on takeover bids (*PE-CONS 3607/04 + 7088/04 ADD 1*).

The Directive aims at establishing minimum guidelines for the conduct of takeover bids for the securities of companies governed by the laws of Member States, where all or some of those securities are admitted to trading on a regulated market. Ensuring by the same token an adequate level of protection for holders of securities throughout the Community, it provides for a framework consisting of certain common principles and a limited number of general requirements which Member States are to implement through more detailed rules in accordance with their national systems and their cultural context.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive no later than two years after its entry into force.

SOCIAL POLICY

Action programme to counter violence against children and women - *Public deliberation*

The Council adopted a European Parliament and Council Decision establishing a Community action programme to prevent and counter violence against children, young people and women and to protect victims and groups at risk (DAPHNE II programme), for the 2004-2008 period, accepting all the amendments adopted by the European Parliament at second reading (13816/1/03 + 6997/04).

The DAPHNE II programme will aim to prevent and combat all forms of violence, occurring in the public or the private domain, against children, young people and women by taking preventive measures and by providing support for victims and groups at risk, including in particular the prevention of future exposure to violence. It will further aim to assist and encourage organisations active in this field.

CULTURE, EDUCATION, YOUTH

Culture, Education and Training, and Youth Community action programmes - *Public deliberation*

The Council adopted three European Parliament and Council Decisions establishing action programmes aimed at providing financial support to organisations active at European level in the fields of culture, education and training, and youth, during 2004-2006 period, accepting all the amendments adopted by the European Parliament at second reading (15331/1/03, 15334/03, 15327/03 + 7004/04).

The Decisions lay down the conditions for eligibility, define the types of grants to be awarded, describe the activities to be supported, indicate the criteria for assessing requests and provide for verification and audits of expenses funded by the programmes. The decisions further establish the financial framework for the implementation of the programmes and provide for a system of evaluation of the achievement of the programmes' objectives.

HEALTH

European Centre for Disease Prevention and Control* - *Public deliberation*

The Council adopted a European Parliament and Council Regulation establishing an independent European agency for disease prevention and control, following agreement at first reading with the European Parliament (PE-CONS 3624/04 + 7511/04 ADD 1).

The mission of the European Centre for Disease Prevention and Control will be to identify, assess and communicate current and emerging threats to human health from communicable diseases so as to enhance Community's and Member States' capacities to protect human health. In the case of outbreaks of other illness of unknown origin, the Centre will act on its own initiative until the source of the outbreak is known. It will further support the networking activities of competent bodies recognised by the Member States.

ENVIRONMENT

Waste electrical and electronic equipment - derogations granted to acceding countries

The Council adopted a Decision granting certain temporary derogations from Directive 2002/96/EC on waste electrical and electronic equipment to the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovenia and Slovakia (6735/04).

The Decision allow the acceding countries to extend time-limits provided for by the Directive for ensuring a rate of separate collection of waste electrical and electronic equipment and to attain minimum targets for waste recovery and recycling.

Limits to pollutants emission from non-road combustion engines - *Public deliberation*

The Council adopted a European Parliament and Council Directive on measures against the emission of gaseous and particulate pollutants from internal combustion engines installed in non-road mobile machinery, following agreement with the European Parliament at first reading (*PE-CONS 3686/03*).

As advanced technology to reduce emissions is already available to the non-road sector, this Directive extends the Directive 97/68/EC, on emission limit values for compression ignition engines, to cover non-road mobile machinery such as railway and inland waterway engines.

Environmental liability* - *Public deliberation*

The Council adopted, by qualified majority, a Directive on environmental liability concerning the prevention and remedying of environmental damage, following agreement with the European Parliament under the conciliation procedure (*PE-CONS 3622/04 + 7281/04 ADD 1*).

The Irish, German and Austrian delegations voted against.

The Directive establishes a legal framework aimed at enabling the prevention of the environmental damages and the restoration of damaged environmental assets. Based in the “polluter pays” principle, the Directive is aimed at making operators financially responsible for the necessary preventive and remedial measures as to induce them to minimise the risks of environmental damage.

For further details, see 5910/1/04.