ADDENDUM to DRAFT MINUTES

Subject: 2887th meeting of the Council of the European Union (JUSTICE and HOME AFFAIRS), held in Brussels on 24 and 25 July 2008

1 The information from the Council minutes which is contained in this addendum is not confidential and may therefore be released to the public.
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"A" items: (list: 11870/08 PTS A 39)

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

1. Council Regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas as regards the numbering of visas
   11562/08 VISA 239 COMIX 554
   + COR 1 (pl)
   + COR 2 (fi)
   + COR 3

   The Council adopted the above Regulation. (Legal basis: Article 62(2)(b)(iii) of the Treaty establishing the European Community).

2. Council Decision amending Council Decision 2000/265/EC of 27 March 2000 on the establishment of a financial regulation governing the budgetary aspects of the management by the Deputy Secretary-General of the Council of contracts concluded in his name, on behalf of certain Member States, relating to the installation and the functioning of the communication infrastructure for the Schengen environment, "SISNET"
   11182/08 SIRIS 105 SCHENGEN 22 COMIX 527

   The Council adopted the above Decision. (Legal basis: Article 2(1), second subparagraph, first sentence, of the Protocol integrating the Schengen acquis into the framework of the European Union, annexed to the Treaty on European Union and the Treaty establishing the European Community).
3. Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings

9675/07 COPEN 67
+ REV 1 (de)
+ REV 2 (da)
+ REV 3 (nl)

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

1. Council statement

"The scope of the Framework Decision is limited to convictions handed down by criminal courts. However, in some Member States a decision imposing a criminal sanction can be passed by a judicial authority other than a criminal court or by an administrative authority. In general, such decisions may in these Member States be taken into account in new criminal proceedings. The Council agrees that the question of taking into account decisions passed by judicial authorities other than a court or by administrative authorities should be further considered."

4. Council Regulation amending the lists of insolvency proceedings and winding-up proceedings in Annexes A and B to Regulation (EC) No 1346/2000 on insolvency proceedings and codifying Annexes A, B and C to that Regulation

11223/08 JUSTCIV 130


2. **Statement by Ireland**

"Suggestions that the allocation of additional quota for 2008 is predicated on acceptance by the relevant Member States of the proposed new management measures for cod in the Celtic Sea is not acceptable to Ireland.

The proposed new management measures for cod are under consideration by the Member States. The measures will be for further consideration at Community level in the autumn.

While no final conclusions have been drawn yet, Ireland has frequently expressed its view that a one-size-fits-all approach to management regimes is not appropriate.

The proposed increase in the TAC for 2008 is supported by the scientific evidence and stands on its own merits."

3. **Statement by the United Kingdom**

"The United Kingdom welcomes the in-year increase in the 2008 Area VIIb-k cod TAC. However, the United Kingdom takes the view that this reflects a real-time response to the current situation in the Celtic Sea and has no wider implications for management arrangements in this area. The United Kingdom remains opposed to the inclusion of the Celtic Sea in the Cod Recovery Plan."
29. **Council Regulation instituting a temporary specific action aiming to promote the restructuring of the European Community fishing fleets affected by the economic crisis**

11795/08 PECHE 197

+ COR 1 (lv)
+ REV 1 (fr,el,cs,mt,pl,sk,sl,bg,ro)
+ REV 3 (da)

The Council adopted the above Regulation, with the Austrian, Bulgarian, Czech, German, Estonian and Lithuanian delegations abstaining and the Danish and Swedish delegations voting against. (Legal basis: Articles 36 and 37 of the Treaty establishing the European Community).

4. **Commission statement**

on the implementation, monitoring, verification and reporting of emergency measures to tackle the fuel crisis

"The Commission is fully committed to keeping a close watch on the implementation of the emergency measures provided for in the proposal for a Council Regulation instituting a temporary specific action aiming to promote the restructuring of the European Union fishing fleets affected by the economic crisis."

The Commission will set up appropriate machinery to support and supervise implementation of the measures, to ensure audit, monitoring and full verification of the process and to ensure that regular reports are prepared on the process itself and on its results, and to maintain ongoing dialogue with all the stakeholders. The Commission will seek full cooperation in this regard with the Member States and the industry.

The Commission will ensure that the necessary staff, resources and powers are made available for this very important exercise, both within the Commission and/or through recourse to support and advice from outside experts, in particular technical and financial auditors. In particular, the Commission will set up an in-house task force to supervise the whole process of implementation.

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In the light of the findings of its report to the European Parliament and to the Council provided for in Article 20b of the Council Regulation, the Commission will make appropriate proposals for amendment of that Regulation, should the need arise.

5. **Commission statement on engine replacement**

"The Commission proposes to lay down new mechanisms for the certification of engine power to avoid increasing fishing effort when implementing Article 16(4) of the proposal for a Council Regulation instituting a temporary specific action aiming to promote the restructuring of the European Community fishing fleets affected by the economic crisis\(^1\).

These mechanisms will be adopted in accordance with the procedure laid down in Article 30 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy. As regards engine power, these arrangements could include a requirement for Member States to check that the power of a vessel tallies with all the data available to their administrative authorities on the technical characteristics of vessels; in particular:

(a) VMS data;
(b) the electronic logbook;
(c) the Engine International Air Pollution Prevention Certificate (EIAPPCC) issued in accordance with the provisions of Annex VI to MARPOL Convention 73/78;
(d) a class certificate issued by a ship inspection and survey organisation approved on the basis of Council Directive 94/57/EC;
(e) certification on sea trials;
(f) the Commission's Fleet Register;
(g) any other document mentioning the power of the vessel or other technical characteristics.

These arrangements might also specify that if, following a check, there were indications that the power of the vessel exceeded that stated on the fishing licence, the Member States would make a physical inspection of the power of the vessel."

6. **Commission statement**  
**on aid for research and innovation on energy efficiency in the fisheries sector**

"The Commission considers that research and innovation on energy efficiency are a priority and should receive appropriate support from the EU institutions in terms of finance, coordination and dissemination of results.

The Commission will ensure that the results of research projects going on throughout the EU in this sector are disseminated as broadly as possible after their conclusion. The Commission will also encourage other research programmes and studies, amongst other things by improving cooperation between the fisheries sector and other industrial sectors facing energy challenges.

The Commission will seek to involve national researchers in the scrutiny of possible research activities through national or regional networks such as ERA-NET. The Commission will propose a more strategic approach in this sector in its planned communication on a marine and maritime research strategy for Europe."

7. **Commission statement**  
**on support for aquaculture**

"The Commission states that, pursuant to Council Regulation (EC) No 1198/2006 on the European Fisheries Fund\(^1\), production in the aquaculture sector is eligible for aid under priority axes 2, 3 and 4 of the abovementioned Regulation. This covers a series of possibilities for providing finance, in particular under Article 29 (aid for productive investments), Article 30 (aqua-environmental measures), Article 37 (aid for collective actions), Article 41 (aid for pilot projects) and Article 44 (eligible measures for sustainable development of fisheries areas)."

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The Commission considers that measures with the same objectives as Articles 8, 9 and 10 of the proposed Council Regulation instituting a temporary specific action aiming to promote the restructuring of the European Community fishing fleets affected by the economic crisis are eligible for aid under the above provisions. This covers energy audits for groups of fish farms, collective investment in the purchase of production, processing or marketing equipment which consumes less fuel, and pilot projects experimenting with technical improvements designed to reduce fuel consumption in fish farming. The European Fisheries Fund can also help finance socio-economic measures for workers in the aquaculture sector, by way of promoting sustainable development of fisheries areas.

The Commission also points out that it is currently working on an initiative for a revised strategy to improve the performance of the aquaculture sector in the EU. This initiative is one of the priorities of the Commission's work programme and should be finalised at the end of 2008. The Commission will ensure that the difficulties experienced by fish farmers as a result of the high cost of energy will be taken into account when drawing up the strategy.

In addition, in its communication designed to support the adaptation of European Union fishing fleets to the economic consequences of high fuel prices (COM(2008) 453 final), the Commission highlighted its intention to adopt various measures designed to support the value of fish. The Commission will ensure that aquaculture products are covered by these measures.

8. **Commission Explanatory Memorandum on the application of State aid rules (Article 4)**

"Article 36 of the EC Treaty provides that the Council may determine the extent to which the rules on competition shall apply to the production of and trade in agriculture products (and thus fishery products) and, in particular, authorise the granting of aid for the protection of enterprises handicapped by structural or natural conditions or within the framework of economic development programmes.

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On this basis, Council Regulation (EC) No 1198/2006 on the European Fisheries Fund (EFF) specifies that, as a general rule, competition rules on State aid included in Articles 87, 88 and 89 of the EC Treaty apply to enterprises in the fisheries sector.\(^1\) However, these rules shall not apply to financial contributions from Member States to operations co-financed by the EFF and provided as part of an operational programme.\(^2\) The same rules shall also apply in the framework of the proposed Council Regulation instituting a temporary specific action under the European Fisheries Fund aiming to promote the restructuring of the European Union fishing fleets affected by the economic crisis\(^3\) (hereinafter "the legislative proposal").

The wording of Article 4(1) of the legislative proposal has been aligned to the recently proposed Council Regulation amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)\(^4\).

It follows from the above that measures in the fisheries sector involving State aid granted by Member States solely from national funds with no financing from Community financial instruments must, in principle, be notified to and assessed by the Commission in accordance with Articles 87, 88 and 89 of the EC Treaty on State aid.

In view of the urgency and the temporary nature of the measures under the legislative proposal, Article 4 seeks to accomplish that all measures involving State aid granted by Member States with no financing from Community financial instruments, which are fully consistent with the conditions of this legislative proposal, be exempted from the application of the rules on State aid set out in Articles 87, 88 and 89 of the EC Treaty.

In order to limit possible distortions of competition and adverse effects on the internal market, this exemption shall be subject to enhanced reporting obligations and the limitations foreseen in Articles 4(2) and 4(3) of this legislative proposal, i.e. it should apply only to projects with eligible expenses of less than EUR 2 million or a total amount of aid of less than EUR 1 million.

Measures involving State aid granted by Member States with no financing from Community financial instruments and exceeding these limits, but still consistent with all other conditions of this legislative proposal, shall be fully subject to the competition rules on State aid set out in Articles 87, 88 and 89 of the EC Treaty. This means that such measures would have to be notified to the Commission in line with Article 88(3) of the EC Treaty and assessed by the Commission on a case-by-case basis taking into account, in particular, the justification and indispensability of such aid demonstrated by the Member State concerned."

9. **Commission statement on financial implications**

"The proposal currently and in the future will not increase the funds available for the EFF for 2007-13.

In order to make full use of the derogations provided for in the Regulation, Member States must reprogramme their Operational Programmes under the EFF, within the limits of the commitment appropriations currently available for the EFF for the period 2007–13 and contribute by means of national cofinancing."

10. **Commission statement**

"The Commission declares that the extent of the crisis will require an unprecedented restructuring effort. The implementation of the package will therefore involve a large amount of public financial support. The financial requirement only for permanent and temporary cessation of fisheries activities, in relation to fleet segments that are badly hit by the crisis, is estimated to be in excess of EUR1.6 billion. With the additional support for investment to reduce energy consumption, market and socio-economic measures, collective actions and pilot projects, which are all included in the temporary specific action to promote the restructuring of the fishing fleets affected by the economic crisis, the total financial requirement is estimated to be in the region of EUR 2.0 billion. The current programming of EFF axis 1 for these measures is estimated to cover around EUR 600 million, with an estimated additional EUR 250 million coming from national co-financing."
The Commission further estimates that EUR 550 million will have to come from reprogramming of EFF Operational Programmes. The remaining amount is estimated at up to EUR 600 million. Part of that amount could be financed through the unallocated margin under Heading 2 of the Financial Framework ceilings for the years 2009 and 2010, with the bulk coming in 2009. This shall not prejudge actual CAP expenditure levels. Any additional amount would be conditional on CAP expenditure levels in these years being well below the corresponding sub-ceilings, and will be subject to full analysis and justification.

Before any additional funds can be mobilized, the Commission will first ensure that Member States have made available the significant resources highlighted above through OP reprogramming and national funds. For implementation purposes, the Commission will examine the possibility of establishing an *ad hoc* financial instrument. This instrument would have a limited duration aligned with the fuel crisis measures under the EFF. Resources under this new *ad hoc* facility would be allocated to Member States using specific criteria.

In particular, in order to benefit from this additional support, Member States should previously have made a substantial contribution of their EFF allocation to the measures needed to tackle the crisis, by way of reprogramming the funds of their operational programmes in favour of Axis 1, or they should have set up ambitious Fleet Adaptation Schemes involving a significant share of the national fleet.

11. **Statement by the United Kingdom delegation**

"The United Kingdom notes that the decision to agree this Regulation occurs before there is any budgetary decision, or even a formal proposal by the Commission to the budget authority, as to the release of EUR 600 million of the funds indicated in the Commission's Communication as being required. The United Kingdom notes that such agreement is without prejudice to the decision of the budget authority on any possible future proposal by the Commission for the provision of additional funds to support the objectives of this Regulation.

Germany and Hungary associate themselves with the statement of the United Kingdom."