



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 2 February 2009 (13.02)
(OR. fr)**

**17454/08
ADD 1**

**PV/CONS 85
AGRI 467
PECHE 358**

ADDENDUM TO DRAFT MINUTES ¹

Subject : **2917th** meeting of the Council of the European Union (**AGRICULTURE and FISHERIES**), held in Brussels on 18 December 2008

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

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

"A" items: (list: 17341 PTS A 68 + ADD 1 + ADD 2 REV 1)

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

- 1. Council Regulation amending Regulations (EC) No 1290/2005 on the financing of the common agricultural policy and (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) in order to set up a School Fruit Scheme**
16321/1/08 REV 1 AGRIORG 128 AGRIFIN 107

The Council adopted the above Regulation; the United Kingdom delegation voted against (Legal basis: Articles 36 and 37 of the Treaty establishing the European Community).

- 1. Commission statement**

"The Commission takes note and accepts the request by several Member States to have the possibility to provide for a compulsory parental contribution to the financing of their school fruit scheme. In its report to the European Parliament and the Council on the application of the School Fruit Scheme, which it will present before 31 August 2012, the Commission will pay attention to the impact of a compulsory parental contribution on the effectiveness of a School Fruit Scheme, as well as its social consequences."

- 3. Council Directive laying down minimum standards for the protection of calves (codified version)**
8713/1/08 REV 1 CODIF 43 AGRILEG 57

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

4. Council Regulation on the export of cultural goods (codified version)
8714/1/08 REV 1 CODIF 44 UD 67 CULT 53

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

5. Council Directive laying down minimum standards for the protection of pigs (codified version)
8719/1/08 REV 1 CODIF 49 AGRILEG 59

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

9. Council Framework Decision on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters
13076/07 COPEN 132
+ COR 1
+ REV 1 (it)
+ REV 3 (fi)
+ REV 4 (de)

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

**2. Declaration by the Council
in relation to Article 6**

"The Council declares that for the purpose of the operation of the EEW, Member States shall consider making declarations under Article 6(2) at least reflecting existing agreements on translations of requests for mutual assistance in criminal matters."

3. **Declaration by Denmark**
in relation to Article 8

"Denmark declares that it interprets Article 8 in the way that the provision does not prejudice the extent to which a Member State, considering the principle of sovereignty, is entitled to provide electronic data stored in the territory of another Member State."

4. **Declaration by the Council**
in relation to Article 10

"The Council declares that upon the entry into force of a future Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, the Council will consider whether that Framework Decision should replace Article 10 of the current Framework Decision establishing the European Evidence Warrant. Article 10 therefore includes only those provisions of the original text submitted by the Commission that repeat existing provisions in Article 23 of the EU 2000 Convention on Mutual Assistance in Criminal Matters."

5. **Declaration by the Council**
in relation to Article 13(3)

"The Council declares that Article 13(3) of the Council Framework Decision on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters is without prejudice to existing or future instruments of the European Union on mutual recognition of judicial decisions in criminal matters and cannot be invoked to interpret such instruments."

6. **Declaration by the Council**
in relation to the deletion of Article 21 of the original Commission proposal

"Being aware of the growing importance of new information technology, and of the need to equip the courts and law-enforcement authorities with investigative tools which are in keeping with these new developments, the Council undertakes to consider shortly whether an appropriate legal framework should be adopted, taking into account the 2001 Cybercrime Convention, in order to improve judicial cooperation in regard to investigations into transnational information networks."

7. Declaration by Germany

"Where the execution of a European Evidence Warrant under Council Framework Decision 2008/.../JHA of ...^{*} on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters requires search or seizure¹, the Federal Republic of Germany reserves the right under Article 23(4) of that Framework Decision to make execution subject to verification of double criminality in the case of the offences relating to terrorism, computer-related crime, racism and xenophobia, sabotage, racketeering and extortion and swindling listed in Article 14(2) of that Framework Decision, unless the issuing authority has stated that the offence in question meets the following criteria under the law of the issuing State:

Terrorism:

- An act which constitutes an offence within the meaning of and as defined in the International Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005, the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 or within the meaning of one of the treaties listed in the annex thereto, or
- an act to be criminalised under the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism², or
- an act to be prohibited under United Nations Security Council Resolution 1624 (2005) of 14 September 2005.

Computer-related crime:

Offences as defined in the Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems³, or in Title 1 of Section I of the European Convention on Cybercrime of 23 November 2001.

* Insert date and number of Framework Decision.

¹ OJ L 350, 30.12.2008, pp. 72-92.

² OJ L 164, 22.6.2002, p. 3.

³ OJ L 69, 16.3.2005, p. 67.

Racism and xenophobia:

Offences as defined in the Council Joint Action 96/443/JHA of 15 July 1996 concerning action to combat racism and xenophobia ¹.

Sabotage:

Acts unlawfully and intentionally causing large-scale damage to a government facility, another public facility, a public transport system or other infrastructure which entails or is likely to entail considerable economic loss.

Racketeering and extortion

Demanding by threats, use of force or by any other form of intimidation goods, promises, revenues or the signing of any document containing or resulting in an obligation, alienation or discharge.

Swindling

Using false names or claiming a false position or using fraudulent means to abuse people's trust or good faith with the aim of appropriating something belonging to another person."

**8. Declaration by the Netherlands
in relation to Article 23(3)**

"On the basis of Article 23(3) of the Framework Decision, the Netherlands declares that it intends to transpose the ground for refusal set out in Article 13(1)(f) into national law."

**9. Declaration by Germany
in relation to Article 23(3)**

"In accordance with Article 23(3) of the Framework Decision, Germany declares that it intends to transpose the ground for refusal set out in Article 13(1)(f) into national law."

¹ OJ L 185, 24.7.1996, p. 5.

**10. Declaration by Sweden
in relation to Article 23(3)**

"Sweden intends to transpose into its national law the grounds for refusal in Article 13(1)(f) of the Framework Decision on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters."

**11. Declaration by the United Kingdom
in relation to Article 23(3)**

"In accordance with Article 23(3) of the Framework Decision, the United Kingdom of Great Britain and Northern Ireland hereby declares that it intends to transpose the ground for refusal set out in Article 13(1)(f)(ii) into national law."

**12. Declaration by Austria
in relation to Article 11(5)**

"In accordance with Article 11(5) of the Council Framework Decision on the European Evidence Warrant for the purposes of obtaining objects, documents and data for use in proceedings in criminal matters, the Republic of Austria declares that validation of the European Evidence Warrant by a judge, a court, an investigating magistrate or a public prosecutor is required in all cases where the issuing authority is not a judge, a court, an investigating magistrate or a public prosecutor and where the measures necessary to execute the EEW would have to be ordered or supervised by a judge or a public prosecutor in a similar domestic case under Austrian law."

**13. Declaration by France
in relation to Article 11(5)**

"Article 11(5) of the draft Framework Decision on the European evidence warrant allows any Member State to make a declaration that, as an executing State, it will require "validation" of the evidence warrant by a judicial authority in the issuing State if the warrant is issued by an authority which is not a judge, a court or a public prosecutor.

The French authorities wish to make use of the option of making such a declaration under Article 11(5). The declaration reads as follows:

"In accordance with Article 11(5) of the Framework Decision, France declares that it will require validation of the European evidence warrant by a judge, a court, an investigating magistrate or a public prosecutor in all cases where the issuing authority is not a judge, a court, an investigating magistrate or a public prosecutor and where French law would require the measures necessary for execution of the European evidence warrant to be ordered or supervised by such an authority in a similar domestic case."

- 17. Council Regulation establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock**
16542/08 PECHE 33
+ REV 1 (en)

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

- 18. Council Regulation establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004**
16292/1/08 REV 1 PECHE 328

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

- 14. Council and Commission statement on the long-term plan for cod in the Celtic sea**

"The Council and Commission note that the cod stock in the Celtic Sea is below safe biological limits. In this context, the Council and the Commission undertake to continue to deploy all efforts towards establishing a long-term plan for this stock on the basis of the Commission's original Proposal for amending the cod recovery plan (7676/08 PECHE 63 – COM (2008) 162 final)."

- 15. Council and Commission statement on Article 8**

"Taking into account that the North Sea cod stock is jointly managed with Norway, the procedure for setting TACs for this stock still has to be negotiated with Norway."

**16. Commission statement
on Article 11**

"The Commission, in close cooperation with Member States concerned, will follow the development of quota and effort use in order to assess if overall effort allocation is sufficient to use the allocated quota and if necessary to address any problems arising from this assessment."

**17. Commission statement
concerning closed areas in the Irish and Celtic Seas**

"The Commission confirms its view that the closed period for fishing in ICES zones VII f and g as set out in Annex III point 6.2 of the proposed TAC and quota Regulation for 2009, subject to the derogations therein, should be maintained as should be the technical conservation measures for the Irish Sea foreseen in Annex III, point 8.1 of the same proposed Regulation, subject to the derogations therein."

20. Council Regulation amending Regulation (EC) No 2505/96 opening and providing for the administration of autonomous Community tariff quotas for certain agricultural and industrial products

16479/5/08 REV 5 TDC 20

The Council adopted the above Regulation (Legal basis: Article 26 of the Treaty establishing the European Community).

21. Council Regulation amending Regulation (EC) No 1255/96 temporarily suspending the autonomous common customs tariff duties on certain industrial, agricultural and fishery products

16785/08 TDC 22
+ COR 1 (lt)
+ REV 1 (en)
+ REV 2 (pl)

The Council adopted the above Regulation; the Polish delegation voted against (Legal basis: Article 26 of the Treaty establishing the European Community).

**18. Statement by Poland
on the tariff suspension period for LCD modules**

"Generally, the Polish delegation supports tariff suspensions as a useful and important measure for Community producers importing raw materials as well as semi-processed components from third countries if these materials and components are not manufactured in the EU.

However, the Polish delegation votes against the present regulation, because of the 5-year tariff suspension period for LDC modules contained therein.

Two companies located in Poland are particularly affected by this proposal.

The Polish delegation shares their view that such a long period of tariff suspension for imports of LDC modules is very harmful to the European producers of such modules, especially those located in Poland.

The Polish delegation reserves the right to come back to this issue in the future."

43. – **Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting**
– **Council Regulation amending Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency**
16361/08 GAF 21 FIN 516 UEM 208 EUROPOL 79 DROIPEN 95
+ COR 1 (fi)
16362/08 GAF 22 FIN 517 UEM 209 EUROPOL 80 DROIPEN 96

The Council adopted the above Regulations (Legal basis: Article 123(4), third sentence, and Article 308 of the Treaty establishing the European Community).

44. – **Council Regulation amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins**
– **Council Regulation amending Regulation (EC) No 2183/2004 extending to the non-participating Member States the application of Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins**
16365/08 GAF 23 UEM 210 ECOFIN 572
16366/08 GAF 24 UEM 211 ECOFIN 573

The Council adopted the above Regulations (Legal basis: Article 123(4), third sentence, and Article 308 of the Treaty establishing the European Community).

50. **Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations**
15736/08 JUSTCIV 245
+ COR 1 (el)
+ COR 2 (en)
+ REV 1 (sv, cs, lt)
+ REV 2 (nl)
+ REV 3 (sl)
+ REV 4 (da)
+ REV 5 (pt)

The Council adopted the above Regulation (Legal basis: Articles 61(c) and 67(2) of the Treaty establishing the European Community).

52. **Council Regulation amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund, in respect of certain revenue-generating projects**
13874/08 FSTR 21 FC 6 REGIO 26 SOC 566
+ COR 1 (mt)
+ COR 2 (pl)
+ COR 3
+ COR 4 (it)
+ COR 5 (fi)
+ COR 6 (fr)

The Council adopted the above Regulation (Legal basis: Article 161, third paragraph, of the Treaty establishing the European Community).

57. Directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts

PE-CONS 3701/1/08 REV 1 CONSOM 154 JUSTCIV 227 CODEC 1412

The Council approved the amendment set out in the European Parliament's opinion and adopted the proposed act thus amended; the Austrian, Czech, German, Luxembourg and Maltese delegations abstained. (Legal basis: Article 95 of the Treaty establishing the European Community).

19. Statement by Hungary

"Hungary expresses its gratitude towards the present and previous presidencies for their efforts in order to conclude the new Directive on timeshare within the possible shortest time. Hungary supports the review of the timeshare directive in general. However, Hungary regrets the fact that there are some legal and horizontal issues left which have not been discussed thoroughly enough and relating to which reassuring answers are still missing.

Hungary has consequently raised the question on the relationship of the present sectoral Directive and the future horizontal instrument on consumer contracts. In the meantime the Commission has adopted its Proposal for a Directive of the European Parliament and of the Council on consumer rights [COM(2008) 614 final] and the negotiations have just started in the Council, even before the adoption of the present sectoral Directive on timeshare.

Hungary is convinced that the setting up of the content of the horizontal instrument on consumer contracts should come before the review of the sectoral rules in this field. Following this approach Hungary suggests that in order to avoid parallelism and even inconsistency between the two legal instruments, in the course of the negotiations of the Proposal for the horizontal Directive the provisions of the present Directive concerning general contract law aspects (such as the exercise and effects of the right of withdrawal) should be reviewed and where appropriate be transferred into the horizontal instrument whilst the present Directive should contain references to the horizontal Directive in these respects.

The new approach towards a full harmonisation in the field of consumer protection is a defensible one in order to reach a common level of protection across the European Union. Therefore we think it is important to avoid any provision which could jeopardise this goal."

