



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 23 July 2001 (24.08)
(OR. fr)**

**10311/01
ADD 1**

LIMITE

**PV/CONS 40
TRANS 103
ECO 193**

ADDENDUM TO THE DRAFT MINUTES¹

Subject: **2364th meeting of the Council (TRANSPORT/TELECOMMUNICATIONS),
held in Luxembourg on 27 and 28 June 2001**

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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Items on the agenda concerning the definitive adoption of Council acts released to the public

"A" Items : (list : 10225/01 PTS A 42 + COR 1 + ADD 1)

When definitively adopting the "A" items concerning legislative acts, the Council agreed to enter the following in the minutes:

Item 2 Council Regulation supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92.

9888/1/01 AGRILEG 146 REV 1

The Council adopted the abovementioned Regulation, with the Danish, Finnish and Swedish delegations voting against and the Austrian delegation abstaining. Legal basis: Article 17(2) of Regulation (EEC) No 2081/92.

1. Statement by the Commission

"On the basis of the information available, the Commission departments believe that the Dutch brand Bavaria formally fulfils the conditions laid down in Article 14(2) of Council Regulation (EEC) No 2081/92. However, the final decision on the application of that Article is a matter for the national courts, in the light of the case-law of the Court of Justice."

Item 13 Council Decision establishing a second phase of the programme of incentives and exchanges, training and cooperation for legal practitioners (Grotius II – Criminal).

8939/01 JAI 34

+ COR 1 (es)

(Legal basis: Articles 31 and 34(2)(c) of the Treaty on European Union).

Item 14 Council Decision establishing a second phase of the programme of incentives, exchanges, training and cooperation for law enforcement authorities (Oisin II)

9080/01 JAI 38

+ COR 1 (es)

+ COR 2

(Legal basis: Articles 30(1), Article 31(a) and 34(2)(c) of the Treaty on European Union).

Item 15 Council Decision establishing a second phase of the programme of incentives, exchanges, training and cooperation for persons responsible for combating trade in human beings and the sexual exploitation of children (Stop II)

9081/01 JAI 39

+ COR 1 (es)

+ COR 2

(Legal basis: Articles 30(1), Article 31 and 34(2)(c) of the Treaty on European Union).

Item 16 Council Decision establishing a programme of incentives and exchanges, training and cooperation for the prevention of crime (Hippokrates)

9082/01 JAI 40

+ COR 1 (es)

+ COR 2

(Legal basis: Articles 30(1), Article 31 and 34(2)(c) of the Treaty on European Union).

The Council adopted the Decisions under items 13, 14, 15 and 16 above together with the following statements:

2. Statement by the Council

"The Council declares that the procedure concerning the arrangements for the exercise of the implementing powers conferred on the Commission, laid down in Article 6 of the Decision was adopted without prejudice to future implementing Decisions under the Treaty on European Union, and those to be established in future for a consolidated framework covering all incentive and exchange programmes under Title VI. The Council invites the Commission to present, before the end of 2001, a proposal covering such a consolidated framework to replace existing programmes when they expire, including provisions on the exercise of implementing powers."

3. Statement by the Council

"The Council declares that the time required under Article 6, paragraph 4 of the Decision should in principle be at least two weeks. The rules of procedure of the Committee mentioned in Article 7 should specify the appropriate time for transmission of draft measures to be taken to implement projects."

Item 17 Council Directive supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985
9352/01 FRONT 41 COMIX 419

The Council adopted the abovementioned Directive. (Legal basis: Article 61 (a) and Article 63 (3)(b) of the Treaty establishing the European Community).

4. Statement by the Council

"For the purpose of applying this Directive, the Council has agreed that using an obvious forgery or obvious usurpation is equivalent to the absence of a travel document.

Each Member State shall determine, in accordance with its procedures, to what extent forgeries or usurpations of travel documents are detectable."

Item 22 Outermost regions

- **Council Regulation amending Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds**
9817/01 FRONT 33

(Legal basis: Articles 161 and 299(2) of the Treaty establishing the European Community).

- **Council Regulation amending, as regards the structural measures, Regulation (EEC) No 3763/91 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments**

9818/01 POSEIDOM 23 FSTR 34 AGRI 120

(Legal basis: Articles 37 and 299(2) of the Treaty establishing the European Community).

- **Council Regulation amending Regulation (EEC) No 1600/92 concerning specific measures for the Azores and Madeira relating to certain agricultural products as regards the structural measures**

9819/01 POSEIDOM 24 FSTR 35 AGRI 121

(Legal basis: Articles 37 and 299(2) of the Treaty establishing the European Community).

- **Council Regulation amending Regulation (EEC) No 1601/92 concerning specific measures for the Canary Islands with regard to certain agricultural products as regards the structural measures**

9820/01 POSEIDOM 30 FSTR 36 AGRI 122

(Legal basis: Articles 37 and 299(2) of the Treaty establishing the European Community).

- **Council Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector**
9821/01 POSEIDOM 24 POSEIMA 25 POSEICAN 31 FSTR 37
PECHE 118
(Legal basis: Articles 37 and 299(2) of the Treaty establishing the European Community).

The Council adopted the abovementioned Regulations.

With regard to the legal basis

5. Statement by the Commission

"The Commission regrets the use of the dual legal basis for the proposals on the outermost regions. It would point out that, in accordance with the case law of the Court of Justice, recourse may be had to a dual legal basis only insofar as the measures under consideration have a two-fold purpose or a two-fold component, both of which are equally essential. According to the Commission, this is not the case with some of these proposals, which are intended merely to adopt certain common policies in favour of the outermost regions.

The Commission accordingly reserves the rights conferred on it by the Treaty."

6. Statement by the Spanish, French and Portuguese delegations

"In accordance with what is expressly enshrined in the Treaty and in the light of the case law of the Court of Justice of the European Communities concerning the legal basis for Community acts, Article 299(2) of the TEC is the necessary, appropriate and sufficient legal basis for the adoption of any acts whose aim and purpose is the approval of specific measures for the outermost regions.

This provision, which is of limited geographical scope and has the precise objective of compensating for the disadvantageous situation of the outermost regions, must be used, taking precedence over any other Treaty provisions, wherever the aim is to adopt specific measures intended to establish the conditions for application of Community law to those regions, including common policies, as is the case here."

With regard to Article 29(4)(b) of Regulation (EC) No 1260/1999

7. Statement by the Commission

"In the second report on economic and social cohesion adopted on 31 January 2001, the Commission identified "zones suffering from serious geographical or natural handicaps", among them the islands, as one of the ten economic, social or territorial priorities for the future cohesion policy.

Many islands already receive regional aid from the Union, since 95% of them are covered by objectives 1 and 2 of the Structural Funds, which ensue from the provisions of Articles 158 to 160 of the Treaty.

Taking account of paragraph 57 of the conclusions of the Nice European Council, the Commission also initiated a study in order to obtain in-depth knowledge of the situation of the islands of the Union. Its results will be available towards the end of 2001. They will be communicated to the other Institutions. Moreover, the Commission will continue the discussion with those responsible in the Member States, including at regional level, on each of the ten priority themes of the second report on cohesion, including that concerning the zones suffering from serious geographical or natural handicaps."

8. Statement by the Italian delegation

"Italy takes note of the Commission statement regarding Article 29(4).

Italy emphasises that while many islands already receive regional aid from the Union under objectives 1 or 2 of the Structural Funds, the islands as such and without distinction have not yet been the subject of a specific measure based on Article 158 TEC and Declaration 30 annexed to the Amsterdam Treaty.

Italy therefore expects the Commission to act on the conclusions of the Nice European Council and to submit as soon as possible proposals for introducing specific measures to deal with the structural handicaps which hamper the economic and social development of the islands of the Union."

With regard to the rules and conditions for structural measures in the fisheries sector

9. Statement by the French delegation

"The fisheries sector is of special importance in the economic development of the outermost regions and in particular the French Overseas Departments, where the structure and non-industrial nature of fleets and the availability of resources give this activity a very specific character.

This specific character justifies the adaptation of the regulatory framework applicable to structural operations in the fisheries and aquaculture sector to ensure the building of vessels and their modernisation under satisfactory safety conditions.

In this connection, the French delegation considers that the adaptations authorised only for vessels of less than 12 metres by the amendment to Regulation (EC) No 2792/99 do not make it possible to meet the specific requirements of Réunion's non-industrial long-liner fishing, consisting of vessels of less than 16 metres.

The French delegation therefore asks the Commission to examine all the measures that could support the dynamism of that fleet, whose activity is essential for the island's economic development."

10. Statement by the Spanish delegation

"As regards the percentages of the financial contribution for Group 2 (renovation and modernisation of fishing fleets) Spain supports the statement by France and considers that the 12-metre limit laid down should be extended to 16-metre vessels so that this measure can cover the majority of the Canary Island artisanal fishing fleet.

The Canary Island artisanal fleet even contains some vessels longer than 16 metres. This can be seen by examining the Spanish register of vessels for the Canary Island ports.

Canary Island artisanal fishing activities involve fishing activities grouped under the heading of small-scale flexible activities, since our vessels can operate in both seasonal and non-seasonal fisheries throughout the Canary Islands.

The insular nature of the Canary Islands, the length of the coastlines and their geographical situation mean that the artisanal vessels vary in size depending on the type of fishing they engage in.

In this connection, it is clear that this amendment is intended to alleviate the negative effects suffered by fishing activities in the outermost regions (remoteness, scarcity of trading centres, higher production costs etc.). Exclusion would therefore mean that some vessels, most of them old (we should not forget that the average age of the Canary Island fleet is high), could not carry out specific projects which would guarantee adequate working conditions, improved security for those working on the vessels, renewal of fishing equipment, use of more appropriate and more environmentally-friendly fishing techniques, and, in short, could guarantee that the Canary Island artisanal fleet would comply with Community and national regulations on public health and safety."

11. Statement by the Portuguese delegation

"Portugal supports the statements by France and Spain concerning the detailed rules and arrangements regarding Community structural assistance in the fisheries sector and considers that, bearing in mind the special characteristics specific to fishing activities in Portugal's outermost regions, the Azores and Madeira, the maximum percentages of the aid proposed for Group 2 (Table 3 in Annex IV to Regulation No 2792/1999) should include fishing vessels of up to 16 metres in length.

This measure would give a clear political signal for the improvement of safety conditions for a considerable proportion of fishing vessels and crews from those outermost regions and would ensure the viability of the diversification of fishing efforts in those regions' traditional fishing grounds.

In this context, Portugal asks the Commission to analyse the situation and to propose, in due time, suitable measures to support the harmonious development of the fisheries sector in the Azores and Madeira, a sector which is fundamental to the economy of Portugal's outermost regions."

- **Council Regulation introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (POSEIDOM)**
9822/01 POSEIDOM 25 FSTR 38 AGRI 123
+ COR 1
(Legal basis: Articles 36, 37 and 299(2) of the Treaty establishing the European Community).
- **Council Regulation introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EC) No 1600/92 (POSEIMA)**
9823/01 POSEIDOM 26 FSTR 39 AGRI 124
+ COR 1 (fr,nl,da,es)
(Legal basis: Articles 36, 37 and 299(2) of the Treaty establishing the European Community).
- **Council Regulation introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EC) No 1601/92 (POSEICAN)**
9824/01 POSEIDOM 32 FSTR 40 AGRI 125
+ COR 1
(Legal basis: Articles 36, 37 and 299(2) of the Treaty establishing the European Community).
- **Council Regulation amending Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal**
9825/01 POSEIDOM 26 POSEIMA 27 POSEICAN 33 FSTR 41 AGRI 126
(Legal basis: Article 37 of the Treaty establishing the European Community).

The Council adopted the abovementioned regulations.

A. **POSEICAN REGULATION**

Concerning the aid for Canary Islands tomatoes

12. **Statement by the Spanish delegation**

"In accordance with Coreper's conclusions of 8 May 2001 concerning the financing of additional measures with financial implications, the budgetary cost of marketing aid for tomatoes, estimated at a maximum of EUR 2,28 million per year, will have to be offset by equivalent savings in the specific supply arrangements (SSA).

In this context, the Spanish delegation states that the forecast supply balances and any amendments to them will in any case comply with the overall SSA financial statement, as amended in accordance with the preceding paragraph."

13. Statement by the Council

"The Council considers that the annual aid of EUR 2,28 million for tomatoes produced on the Canary Islands should be financed within the POSEICAN package and should strictly follow the principle of budget neutrality for the POSEI package, as agreed by Coreper at its meeting on 8 May 2001.

The Council notes that on 27 June 2001 the Spanish delegation submitted a list of equivalent savings in the total amount available for the supply arrangements."

14. Statement by the Italian delegation

"Italy expresses concern about the planned aid for tomato production in the Canary Islands (aid granted to buyers rather than producers), which could lead to problems of competition on Community markets to the detriment of Italian production.

Italy nevertheless agrees to such aid, interpreting the measure as renewed attention paid by the Council and the Commission to the difficult situation of Community fruit and vegetable producers in marginal areas of the Union."

Concerning re-dispatching and re-exportation of products covered by the SSA

15. Statement by the Spanish delegation

"As regards re-dispatching and re-exportation of products covered by the SSA, Spain continues to consider that the possibilities for repayment of the aid or the payment of CCT duties should cover all products, whether for direct consumption or for industrial use, as in the initial Commission proposal and as applied in any Community preferential arrangements.

Spain has repeatedly asked for export refunds to be granted for products processed from SSA raw materials in the context of traditional trade flows. Spain regrets the failure to adopt this principle, which would not involve any cost increase in the financial statement and would have provided new opportunities for the Canary Islands agri-food industry."

B. POSEIMA REGULATION

Concerning the livestock and milk products sector

16. Statement by the Commission

"In connection with the amendments concerning the rules applicable to milk quotas for producers in the Azores, the Commission confirms that these measures are designed in such a way as not to have any effect on the calculation of the additional levy payable by other Portuguese producers or on the payment of that levy."

17. Statement by the Portuguese delegation

"In a spirit of compromise, Portugal can agree to the wording of Article 15(3), provided that the setting of a limit of 4 000 tonnes for Madeira's exemption from the additional levy in the milk and milk products sector can be revised whenever warranted by regional production development requirements, taking account of the principles of equality and parallelism of legal forms and also of the relevant regulations applicable to the other outermost regions."

18. Statement by the Council

"As regards the exemption from the levy in the milk sector for Madeira, the Council requests the Commission to submit, as soon as possible, a proposal for the amendment of Regulation (EEC) No 3950/92 establishing an additional levy in the milk and milk products sector."

19. Statement by the Portuguese delegation

"The production of milk and milk products and cattle farming form the mainstays of agricultural activity in the Azores, which is therefore highly dependent upon that sector. Such dependence, combined with other limitations resulting from an extremely remote location, as well as the lack of viable alternatives for agriculture in the Azores, greatly handicaps economic development.

The specific character of this situation amply justifies the measures to adapt the regulatory framework, as part of the revision of POSEIMA, which have now been approved for the livestock and milk products sector in the Azores.

However, the Portuguese delegation considers that the measures now approved should be accompanied by further measures for gradual conversion in an appropriate manner away from the dairy sector, including through the development of beef production, for which the Azores enjoy very favourable natural conditions.

The Portuguese delegation requests the Commission to consider and, in due course, propose measures to support milk and beef production in the Azores, so as to continue the process of harmonious development of the farming economy of that Portuguese outermost region."

Concerning re-dispatching and re-exportation of products covered by the SSA

20. Statement by the Portuguese delegation

"Portugal reiterates the need for specific treatment for the Azores and Madeira, within the framework of the specific supply arrangements, that takes due account of the economic reality and trade patterns of those two regions.

In this context, Portugal deems insufficient the changes to the specific supply arrangements with regard to the possibility of dispatching processed products made from raw materials covered by those arrangements.

The characteristics of the trade patterns of the Azores and Madeira could in fact prevent those regions from benefiting in practice from the exception to the ban on dispatch of processed products to the rest of the Community that is provided for in the Regulation.

Portugal therefore asks the Commission to submit, in due time, a suitable proposal to resolve this problem."

Item 23 Protection of the euro against counterfeiting

– **Council Regulation laying down measures necessary for the protection of the euro against counterfeiting**

10131/01 FIN 194 UEM 66 EUROPOL 55 DROIPEN 54
+ COR 1

The Council adopted the abovementioned Regulation with the unanimous votes of the representatives of those Member States having the euro as a currency. (Legal basis: Article 123(4), third sentence, of the Treaty establishing the European Community).

- **Council Regulation extending the effects of the Regulation 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**

10132/01 FIN 195 UEM 67 EUROPOL 55 DROIPEN 56
+ COR 1

The Council adopted the abovementioned Regulation. (Legal basis: Article 308 of the Treaty establishing the European Community).

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