



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 2 June 2005**

---

**Interinstitutional File:  
2004/0250 (COD)**

---

**9588/05  
ADD 2**

**DRS 17  
CODEC 445  
OC 366**

**ADDENDUM 2 TO THE "A" ITEM NOTE**

---

from: General Secretariat

to: Council

---

No prev. doc. : 9563/05 DRS 16 CODEC 442 + ADD 1

No. Cion prop. : 14119/04 DRS 36 CODEC 1191 - COM(2004) 725 final

---

Subject : Proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC concerning the annual accounts of certain types of companies and consolidated accounts

- Draft statements for the Council's Minutes

COMMON GUIDELINES

Consultation deadline: 06.06.2005 (for reasons of urgency, the consultation deadline is shorter than 7 working days)

---

Delegations will find below the statements to be entered into the Council's Minutes as agreed upon at the meeting of the Permanent Representatives Committee (Part 2) on 1 June 2005.

## 1. Statements concerning small and medium-sized companies

### a) Commission Statement :

"The Commission notes the invitation of the Council of November 2004 to consider the thresholds in the Fourth Company Law Directive (78/660/EEC) defining small and medium-sized companies and agrees that it is a priority to pursue this matter. It will also examine the need for simplifying and updating accounting provisions for small and medium-sized companies."

### b) Council Statement :

"The Council,

- RECALLS the conclusions and the list of priorities on Better Regulation and Simplification of legislation agreed by the Competitiveness Council in November 2004, in which the Council expressed the importance, in particular as regards SME's, of the Commission's Rolling Programme for simplification of Community legislation, inter alia as a key component of the efforts to enhance competitiveness by reducing where necessary the regulatory burden on economic operators;
- STRESSES, in this context, the positive contribution of impact assessments to improving the quality of Community legislation and the importance of considering, as a possible solution and subject to a Regulatory Impact Analysis, raising the thresholds defining small and medium sized-enterprises (in addition to the standard periodical review for inflation correction) as set out in the Fourth Company Law Directive, thus exempting more companies from the tight requirements of this Directive;
- AGREES with the priority set out in the Commission's Statement to change the thresholds in the Fourth Company Law Directive with a clear aim to reduce the administrative costs of companies."

## 2. Commission statement re Article 50c :

"As outlined in its Communication to the Council and the European Parliament "Modernising Company Law and Enhancing Corporate Governance in the European Union - A Plan to Move Forward of 21 May 2003 (COM (2003) 284 final)" and in its Communication to the Council and the European Parliament on preventing and combating corporate and financial malpractice of 27 September 2004 (COM(2004)611 final) the Commission intends to analyse key aspects of directors' liability (disqualification of directors and wrongful trading)".

## 3. Council statement re Article 60a :

"In the opinion of the Council, when the word "penalties" is used in the English version of legal instruments of the European Community, this word is used in a neutral sense and does not relate specifically to criminal law sanctions, but could also include administrative and financial sanctions, as well as other types of sanctions. When Member States are obliged under a Community act to introduce "penalties", it is up to them to choose the appropriate type of sanction in conformity with the case law of the ECJ.

In the Community language Data Base, the following translations are made of the word "penalties" in some other languages:

in Czech, "*sankce*", in Spanish, "*sanciones*", in Danish, "*sanktioner*", in German, "*Sanktionen*", in Estonian, "*sanktsioonid*", in French, "*sanctions*", in Greek, "*κρώσεις*", in Hungarian, "*jogkövetkezmények*", in Italian, "*sanzioni*", in Latvian, "*sankcijas*", in Lithuanian, "*sankcijos*", in Maltese, "*penali*", in Dutch, "*sancties*", in Polish, "*sankcje*", in Portuguese, "*sanções*", in Slovenian, "*kazni*", in Slovak, "*sankcie*", in Finnish, "*seuraamukset*" and in Swedish, "*sanktioner*".

If, in revised English versions of legal instruments where the word "sanctions" has previously been used, this word is replaced with the word "penalties", this does not constitute a substantive difference."