



**COUNCIL OF
THE EUROPEAN UNION**



9081/04 (Presse 140)

PROVISIONAL VERSION

PRESS RELEASE

2583rd Council Meeting

Competitiveness (Internal Market, Industry and Research)

Brussels, 17 and 18 May 2004

President **Ms Mary HARNEY**
An Tánaiste (Deputy Prime Minister) and Minister for
Enterprise, Trade and Employment of Ireland

P R E S S

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Main results of the Council

Competitiveness and innovation / Better regulation - Council conclusions.

REACH - Policy debate on Registration, "Duty of Care" and the European Chemicals Agency in order to provide political guidance for work ahead.

Community patent - no agreement, file to be referred to the President of the European Council.

Software patentability - political agreement on a common position.

Consumer protection cooperation - confirmation of first reading agreement.

Unfair Commercial Practices Directive- political agreement on a common position.

Recognition of professional qualifications - political agreement on a common position.

Sales promotions - further examination of the proposal by the Council.

Community Customs Code - political agreement on a common position.

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- 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.

OTHER ITEMS APPROVED

none reported

PARTICIPANTS

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

Belgium:

Ms Patricia CEYSENS

Ms Fientje MOERMAN

Mr Bernd GENTGES

Flemish Minister for Economic Affairs, Foreign Policy and E-government

Minister for Economic Affairs, Energy, Trade and Scientific Policy

Minister for Education and Training, Culture and Tourism (German-speaking Community)

Czech Republic:

Mr Miroslav SOMOL

Mr Petr KOLAR

Deputy Minister for Industry and Trade

Deputy Minister for Education and Research

Denmark:

Mr Jeppe TRANHOLM MIKKELSEN

Mr Michael DITHMER

Deputy Permanent Representative

State Secretary

Germany:

Mr Jürgen TRITTIN

Mr Georg Wilhelm ADAMOWITSCH

Minister for the Environment

State Secretary, Federal Ministry of Economic Affairs and Labour

State Secretary, Federal Ministry of Labour

State Secretary

Mr Hansjörg GEIGER

Mr Wolf-Dieter DUDENHAUSEN

Estonia:

Mr Meelis ATONEN

Mr Toivo MAIMETS

Minister for Economic Affairs and Communications

Minister for Education and Science

Greece:

Mr Dimitrios SIOUFAS

Mr Christos FOLIAS

Minister for Development

State Secretary for Economic Affairs and Finance

Spain:

Mr Alberto NAVARRO

State Secretary

France:

Mr Patrick DEVEDJIAN

Minister with responsibility for Industry, attached to the Ministre d'Etat, Minister for Economic Affairs, Finance and Industry

Mr François d'AUBERT

Minister with responsibility for Research, attached to the Minister for National Education, Higher Education and Research

Ms Claudie HAIGNERE

Minster with responsibility for European Affairs, attached to the Minister for Foreign Affairs

Ireland:

Mr Michael AHERN

Minister of State at the Department of Enterprise, Trade and Employment (with special responsibility for Trade and Commerce)

Italy:

Mr Antonio MARZANO

Mr Rocco BUTTIGLIONE

Minister for Production Activities

Minister without portfolio, Minister for Community policies

Ms Letizia MORATTI

Minister for Education, the Universities and Research

Cyprus:

Mr Yiorgos LILLIKAS

Minister for Commerce, Industry and Tourism

Latvia:

Mr Juris LUJANS

Minister for Economic Affairs

Lithuania:

Mr Rimantas VAITKUS

Deputy Minister for Education and Science

Mr Nerijus EIDUKEVIČIUS	Deputy Minister for the Economy
<u>Luxembourg:</u> Mr Henri GRETHEN	Minister for Economic Affairs, Minister for Transport
<u>Hungary:</u> Mr Péter GOTTFRIED	Head of State Secretariat for Integration and External Economic Relations, Ministry of Foreign Affairs
<u>Malta:</u> Mr Censu GALEA	Minister for Competitiveness and Communications
<u>Netherlands:</u> Mr Laurens Jan BRINKHORST	Minister for Economic Affairs
<u>Austria:</u> Mr Martin BARTENSTEIN	Federal Minister for Economic Affairs and Labour
<u>Poland:</u> Mr Krzysztof KRYSZTOWSKI Mr Jarosław PIETRAS	Under-Secretary of State State Secretary, Office of the Committee for European Integration
<u>Portugal:</u> Ms Rosário VENTURA Ms Maria da Graça CARVALHO Mr Carlos COSTAS NEVES	State Secretary for Industry, Trade and Services Minister for Science and Higher Education State Secretary for European Affairs
<u>Slovenia:</u> Ms Renata VITEZ Mr Zoran STANČIČ Mr Matjaž LOGAR	State Secretary for Foreign Economic Relations State Secretary for Science State Secretary for the Domestic Market
<u>Slovakia:</u> Mr László POMOTHY Mr Martin FRONC	State Secretary at the Ministry of the Economy Minister for Education
<u>Finland:</u> Mr Mauri PEKKARINEN	Minister for Trade and Industry
<u>Sweden:</u> Ms Lena SOMMESTAD Ms Ann-Christin NYKVIST Mr Leif PAGROTSKY	Minister for the Environment Minister for Agriculture Minister for Industry, Employment and Communications
<u>United Kingdom:</u> Ms Jacqui SMITH	Minister of State for Industry and the Regions and Deputy Minister for Women and Equality

Commission:

Mr Philippe BUSQUIN	Member
Mr Mario MONTI	Member
Mr Erkki LIIKANEN	Member
Mr Ján FIGEL	Member
Mr Pavel TELIČKA	Member
Mr Frederik BOLKESTEIN	Member
Mr David BYRNE	Member
Ms Margot WALLSTRÖM	Member

ITEMS DEBATED

**COMPETITIVENESS AND INNOVATION / BETTER REGULATION -
Council conclusions - Public debate**

The Council held a public debate on issues summarised by Commissioners LIIKANEN , MONTI and BUSQUIN on the basis of the recent Commission communications covering aspects of competitiveness and innovation and on approaches to better regulation, including impact assessment of new Community legislation. Pursuant to the debate, the Council adopted the conclusions set out below.

COMPETITIVENESS AND INNOVATION:

"THE COUNCIL OF THE EUROPEAN UNION,

1. IN THE LIGHT OF recent analyses and policy recommendations provided by the Commission¹ and of subsequent comment²;
2. NOTES the Commission's view that there is no evidence, at this stage, that a general process of deindustrialisation has been taking place in the European Union but that this gives no grounds for complacency; also notes the Commission's view that weak productivity growth, insufficient innovation and investment in R&D, in a context of intensifying international competition and delocalisation are challenging trends which, if sustained, could severely undermine the competitiveness of industry with serious consequences for the EU;

¹ Commission Communication on Fostering structural change : "An industrial policy for an enlarged Europe", 8875/04 COMPET 57 IND 53 MNI 136 ECO 92 - COM(2004) 274 final.
- Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee : "Life sciences and biotechnology - a strategy for Europe - second progress report and future orientations", 8440/04 RECH 70 ENV 230 CONSOM 33 SAN 63 DEVGEN 87 MI 123 IND 47 AGRI 97 SOC 187 RELEX 140 EDUC 88 - COM(2004) 250 final.
- Commission Communication on "A Pro-active Competition Policy for a competitive Europe", 8923/04 RC 11 COMPET 58 - COM(2004) 293 final.
- State Aid Scoreboard : spring 2004 update, 8922/04 RC 10 COMPET 59 ECO 96 - COM(2004) 256 final.

² Presidency summary of proceedings from the informal ministerial meeting in Ireland, 25-27 April 2004.

3. ACKNOWLEDGES the opportunities for industry created by enlargement to strengthen its value-chain across the entire EU;
4. RECOGNISES the need to solve the problems of weak growth and persistent unemployment in the European Union; and that a better operating environment for business will help to stimulate and encourage economic activity leading to economic growth, enabling European firms to become global players, creating jobs and prosperity of European Union citizens; and that an open European trade policy shall not prevent the EU from using existing mechanisms to maintain a level playing field;
5. CONSIDERS that actions which boost competitiveness and innovation, entrepreneurship and small firms and increased investment in research in a barrier-free internal market, and which facilitate and encourage necessary structural change are now imperative;
6. STRESSES the continued need for an integrated policy approach and supporting structure to give priority to the implementation of the competitiveness agenda in order to achieve the Lisbon objectives of sustainable growth during the second phase of the process;
7. VALUES the expected benefits of the pro-active approach to competition policy enforcement, which will see both Commission and Member States work together to implement and enforce competition rules to ensure a level playing field for all economic operators in the European Union and encourage more competition in the Internal Market;
8. CONSIDERS that life sciences and biotechnology are important for the development of a knowledge-based economy and as key enabling technologies for future industrial development and innovation, and recognises the importance of effective governance, the need for strengthened collaboration between Member States and the Commission, continuous dialogue between the relevant stakeholders, and the need for full commitment of all to proactively support evolving actions under the EU Life Sciences and Biotechnology Strategy, as set out in the Commission's progress report;

CALLS ON THE COMMISSION AND MEMBER STATES WITHIN THEIR RESPECTIVE COMPETENCIES TO

9. Improve the coherence between policies having an impact on enterprise competitiveness and exploit the synergies between policies, thereby better directing legislation and future policies;
10. Take into account the diverse characteristics of individual sectors, to anticipate and facilitate potential structural changes and to identify the best policy mix to strengthen sectoral competitiveness, without prejudice to the horizontal nature of industrial policy;
11. Avoid and remove unnecessary regulation and administrative burdens, and exploit e-government and one stop shops, having regard to the cumulative impact of legislation;

12. While remaining focussed on the objective of reducing the overall level of state aid, continue efforts to simplify and modernise the state aid framework in order to contribute to the objective of reorienting aid towards horizontal objectives, in particular innovation as well as research and development;
13. Implement by the due date and enforce effectively legislation, which is necessary to create a legally predictable operating environment for business;
14. Implement the legislative framework for GMOs and pharmaceuticals now in place and to implement intellectual property legislation where this has not yet been done;
15. Identify and take appropriate action in those sectors of the economy, including services, where the absence of effective competition is hampering innovation and curbing business competitiveness;
16. Put in place policies and measures, which could include public-private partnerships, to encourage innovation, to stimulate private investment in research, to strengthen excellence in public research, to increase the supply of skilled human resources, and to stimulate and enable enterprises to network with universities, in order to fully exploit the economic benefits of knowledge;

COMMITTS ITSELF TO

17. Promoting appropriate regulation which stimulates economic activity and does not hamper it; examining existing regulation in the light of the principles of better lawmaking, within a clear timetable; and considering, where appropriate, alternatives to regulation;
18. Ensuring that the important internal market legislative decisions aimed at improving the protection of intellectual property rights, implementing an effective internal market in services and developing a single European Union capital market are adopted without delay so that the strengths of the European Union in innovative and technology-based enterprises can be fully exploited;
19. To further examine the analysis and policy recommendations provided by the Commission in order to decide what further steps need to be taken, and to set out priorities on these at its meeting in September."

BETTER REGULATION:

"The Council of the European Union

- recalling the Interinstitutional Agreement on Better Lawmaking;
- strongly endorses the work of the Commission in implementing its Better Regulation Action Plan, and in particular, welcomes the commitments made by the Commission to further develop this programme;
- acknowledges that better regulation is a joint responsibility of the European Institutions and the Member States; concerns all policy areas; must take account of the economic, social and environmental aspects of sustainable development; and requires sustained effort over the long-term;

COMMITTS itself to

- consider priority areas for simplification in September, with a view to agreement before end 2004, drawing on all policy areas and building on work already under way in Member States and at EU level, in particular the Commission's rolling programme for up-date and simplification; and to examine options for future priorities;
- consider in September how to further improve the use of the impact assessments provided by the Commission across all policy areas as an aid in its decision making process;
 - consider in September how the Council, in line with the Conclusions of the Spring European Council, will contribute to enhancing the competitiveness dimension of the integrated impact assessment process, on the basis of inputs from Member States;
- develop, in the context of the Interinstitutional Agreement on Better Lawmaking, a proposed approach in relation to impact assessments which may be carried out on substantive Council amendments to be piloted during 2004; and to suggest an informal exchange of experience in this area between the Institutions with a view to the possible development at a later stage of a common methodology on impact assessment;

INVITES THE COMMISSION to

- take account of the Council's views in relation to priority areas and time scales for simplification;
- continue its efforts to further refine its integrated impact assessment procedure, including quantification, alternative policy options, and where possible considering indirect effects, and with a particular emphasis on enhancing the competitiveness dimension;

- make information relevant to impact assessments available to the public in the context of consultation in order to maximise the benefits of the consultation procedure;
- develop a method to assess administrative burdens on business in cooperation with the Council, taking into account experience at Member State level, and to report progress to the Council before the European Council in November;
- examine possible use of the results of the research project on ex-post evaluation of Community legislation and its burdens on business, and the results of the current study involving Member States and the Commission, on the cumulative burden of legislation in the automotive sector for the process of identifying areas of legislation for simplification;
- continue its work in consultation with Member States on developing indicators of regulatory quality and to report on progress to the Council in September;

INVITES MEMBER STATES AND COMMISSION to

- continue to exchange best practices on better regulation between national authorities, in particular on impact assessments, inter alia within the Directors of Better Regulation Network;
- take the necessary action to ensure that the European Business Test Panel is effective as one of the means of consulting business on EU policy and legislation."

REACH

The Council took note of the Presidency's report on work in progress on the REACH proposal in its Ad hoc Working Party on Chemicals, as well as introductory remarks from Commissioners LIIKANEN and WALLSTRÖM on the Commission proposal for a future EU regulatory framework for chemicals. A number of key issues were discussed during the ensuing policy debate, the purpose of which was to give political guidance for work under the subsequent Presidencies.

On the basis of the main items identified during the Working Party's first reading of the proposal, Ministers intervened on issues such as:

- the balance between competitiveness and protection of the environment and human health,
- the REACH-Registration mechanism for substances,
- the introduction of an explicit "Duty of Care" requirement,
- the role of the European Chemicals Agency.

As regards Registration, the Council invited the UK to bring forward for debate, as soon as possible, its alternative proposal "One substance - One registration". The Council instructed its preparatory bodies to continue work on prioritisation and data requirements in relation to the registration of substances.

Concerning the "Duty of Care", which would mean that the basic responsibility for safe handling of substances lay with industry, the Council stressed the importance of this principle and discussed how it should best be reflected in the Regulation.

The Council asked the Ad hoc Working Party to examine in greater detail the impact of REACH on the competitiveness of SMEs, as well as the role of the Agency, with a view to ensuring optimum harmonisation, simplification of the administrative process and efficient use of scarce resources.

The Competitiveness Council will return to the REACH proposal following consideration by the Environment Council of this dossier at its meeting in June 2004.

ITER

The Council took note of information provided by Commissioner BUSQUIN on the state of play of the ITER (International Thermonuclear Experimental Reactor) project and asked the Commission to keep the Council informed on the ongoing international negotiations.

THIRD-COUNTRY RESEARCHERS IN THE EUROPEAN UNION

The Council held an exchange of views on the Commission proposals on the admission of third country nationals to carry out scientific research in the EU. Delegations intervened on the proposed Directive and two Recommendations in order to provide key messages from the competitiveness point of view, to be taken into account in the detailed examination of the proposals by the Justice and Home Affairs Council.

The Council warmly welcomed the objectives of the proposals, which will contribute significantly to the creation of the European Research Area and to European competitiveness in general.

It noted their relevance for Europe's performance within the Lisbon process, in which context the Commission maintains that 700 000 additional researchers are needed in Europe by 2010, and achieving the Barcelona target for investment in research of 3 % GDP.

In this context, further work on the proposals is required, in particular in relation to the role and responsibilities of the host organisation and the need for a fast procedure for entry of third-country researchers and their immediate families into the Union.

REGULATION ON CONSUMER PROTECTION COOPERATION

The Council took note of information from the Presidency on the agreement at first reading on the Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws ("Regulation on consumer protection cooperation").

Stressing the importance of the Regulation for internal market and consumer protection reasons, the Council confirmed the agreement by a qualified majority reached with the European Parliament at the end of April and noted that the necessary procedures are in course to allow both Institutions to adopt the text as soon as possible.

UNFAIR COMMERCIAL PRACTICES DIRECTIVE - Public deliberation

The Council reached political agreement by a qualified majority on its common position on the draft Directive concerning unfair business-to-consumer commercial practices in the internal market. Once this "Unfair Commercial Practices Directive", which was agreed, on the basis of an amended Presidency compromise package, has been formally adopted, it will be submitted to the European Parliament for second reading.

The key features of the agreed text were:

- deletion of the "country of origin clause" on the understanding that other provisions of the Directive ensure maximum harmonisation,
- possibility for the Member States to apply national provisions more prescriptive or restrictive than the Directive, which implements minimum harmonisation clauses for six years from the transposition of the Directive,

- revision clause ensuring that the situation will be re-examined and, as appropriate, revised on the basis of a Commission report to be submitted four years after transposition of the Directive accompanied, if necessary, by appropriate proposals on which the European Parliament and the Council should act within two years.

SALES PROMOTIONS IN THE INTERNAL MARKET - Public deliberation

In the light of today's interventions, the Council decided to instruct its preparatory bodies to further examine the proposal for a Regulation concerning sales promotions in the internal market in order to agree on a common position at one of its future meetings.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS - Public deliberation

The Council reached political agreement by a qualified majority, with the German and Greek delegations voting against, on the proposal for a Directive on the recognition of professional qualifications. Once the text has been formally adopted it will be submitted to the European Parliament for second reading.

Discussions focused on the issue of cross-border provision of services on a temporary and occasional basis, and in particular on the requirements for the declaration to be made in advance by a service provider who moves from one Member State to another.

In this context Member States may require that the first time a service provider moves between Member States in order to provide services, he shall inform the competent authorities in the host Member State in a written declaration, which must include details of insurance cover or other means of personal or collective protection with regard to professional liability. That declaration must be renewed once a year if the service provider intends to provide temporary or occasional services in that Member State during that year.

Moreover, for the first provision of services, Member States may require that the declaration is also accompanied by the following documents:

- proof of the nationality of the service provider,
- an attestation certifying that the holder is legally established in a Member State for the purpose of practising the activities concerned,
- evidence of professional qualifications,
- where appropriate, any means of proof that the service provider has practised the activity concerned for at least two years during the previous ten years.

The proposed Directive also consolidates and simplifies existing legislation concerning the recognition of professional qualifications, as well as simplifying the structures for managing the system set up under earlier Directives.

PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS - Public deliberation

The Council reached political agreement by a qualified majority with the Austrian, Italian and Belgian delegations abstaining and Spain voting against, on a common position concerning the proposal for a Directive on the patentability of computer-implemented inventions. Once the text has been formally adopted by the Council, it will be submitted to the European Parliament for second reading.

The agreed text contains provisions, in accordance with the practice developed within the European Patent Organisation, for patentability of computer-implemented inventions stipulating, inter alia, that a computer program as such cannot constitute a patentable invention. For a computer-implemented invention to be patentable it must be susceptible of industrial application and involve an inventive step.

COMMUNITY PATENT

The Council did not reach agreement by unanimity, as required, on the Presidency's compromise proposal for a Council Regulation on the Community patent. Germany, France, Spain and Portugal voted against and Italy abstained. Noting that all conceivable compromise solutions for the only outstanding issue, which concerns the translation of patent claims, had been tried, the Presidency stated its intention to refer this matter to the President of the European Council.

COMMUNITY CUSTOMS CODE - Public deliberation

The Council reached political agreement by a qualified majority, with the Greek, Italian, Maltese, Portuguese and Swedish delegations voting against, on the draft common position on the proposal for a Regulation amending the Council Regulation establishing the Community Customs Code. Once formally adopted, the text will be submitted to the European Parliament for second reading.

The proposal forwarded by the Commission aims to improve security at the external borders, while facilitating trade through simplified procedures and the use of information technology. The main feature of the agreement regards the concept of an Authorised Economic Operator (AEO), the status of which confers benefits in the form of facilitated customs controls relating to safety and security and/or simplifications provided for under customs rules. The status of AEO will be recognised throughout the Community, while the granting of customs simplifications will be left to each Member State to decide on the basis of precise criteria.

ANY OTHER BUSINESS

– *Services in the internal market*

The Presidency submitted a note on the state of play regarding the ongoing examination of the proposed framework Directive on Services in the internal market, highlighting the complexity and sensitivity of some of the issues involved. The examination of this file in the competent Working Party is still at an early stage and therefore no debate was foreseen in Council at this time.

– *European Consumer Day*

The Council took note of a report from a Conference which was held in Dublin on 15 March 2004 in the context of European Consumer Day 2004.

– *Conference on Competitiveness and Sustainability of European Tourism*

The Council took note of written information from the Presidency in respect of the conference held in Ireland on 5 April 2004, which brought together Directors-General from Member States and accession countries and representatives of the tourism industry. The key issue debated by the conference and the conclusions reached are set out in the Presidency note.

The conference made a further contribution on the ongoing work by the Commission and Member States in response to the Council Resolution of 21 May 2002 on the Future of European Tourism, followed up in November 2003 by a Commission Communication and staff working paper on "Basic Orientations for the Sustainability of European Tourism". These papers have not yet been examined by the Council.

– *Consumer problems caused by modem hijackers*

The Council took note of information from the Swedish delegation concerning problems related to dial-up modems for Internet connections which can be hijacked by someone who disconnects the computer from the regular line and reconnects it to another line. The Swedish delegation wishes the Commission to look into this issue which might be a problem in other Member States also.

– *The future of European RTD policy*

The Council took note of information from the Commission concerning its preliminary views on future developments in RTD policy, in particular in relation to the next framework programme. It noted the Commission's intention to submit a communication to the Council on the subject in the near future.
