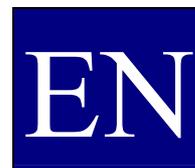




**COUNCIL OF
THE EUROPEAN UNION**



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

Rue de la Loi 175 B - 1048 BRUSSELS Tel.: +32 (0)2 285 6700 / 6319 Fax: +32 (0)2 285 8026
press.office@consilium.eu.int <http://ue.eu.int/Newsroom>

9081/04 (Presse 140)

1
EN

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 incoming Presidencies.

Community patent - file to be submitted to the President of the European Council.

Software patentability - political agreement on a common position.

Consumer protection co-operation - 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.

CONTENTS¹

PARTICIPANTS..... 5

ITEMS DEBATED

COMPETITIVENESS AND INNOVATION / BETTER REGULATION - *Council conclusions* -
Public debate 7

REACH 12

ITER..... 13

THIRD COUNTRY RESEARCHERS IN THE EUROPEAN COMMUNITY 13

REGULATION ON CONSUMER PROTECTION COOPERATION 14

UNFAIR COMMERCIAL PRACTICES DIRECTIVE - Public deliberation 14

SALES PROMOTIONS IN THE INTERNAL MARKET - Public deliberation..... 15

RECOGNITION OF PROFESSIONAL QUALIFICATIONS - Public deliberation..... 15

PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS - Public deliberation..... 16

COMMUNITY PATENT 17

COMMUNITY CUSTOMS CODE - Public deliberation 17

ANY OTHER BUSINESS..... 17

– Services in the internal market 17

– European consumer day..... 18

– Conference on Competitiveness and Sustainability on European Tourism 18

– Consumer problems caused by modem hijackers..... 18

– The future of European RTD policy..... 18

¹

- 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 are 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 of 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

Mr Hansjörg GEIGER

Mr Wolf-Dieter DUDENHAUSEN

Minister for the Environment

Secretary of State

Secretary of State

Secretary of State

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 of Development

Deputy Minister of National Economy and Finance

Spain:

Mr Alberto NAVARRO

State Secretary

France:

Mr Patrick DEVEDJIAN

Mr François d'AUBERT

Ms Claudie HAIGNERE

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

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

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

Ireland:

Mr Michael AHERN

Minister Trade/Employment

Italy:

Mr Antonio MARZANO

Mr Rocco BUTTIGLIONE

Ms Letizia MORATTI

Minister for Production Activities

Minister without portfolio, Minister for Community policies

Minister for Education, the Universities and Research

Cyprus:

Mr Yiorgos LILLIKAS

Minister for Commerce, Industry and Tourism

Latvia:

Mr Juris LUJANS

Minister for Economy

Lithuania:

Mr Rimantas VAITKUS

Mr Nerijus EIDUKEVIČIUS

Deputy Minister for Education and Science

Deputy Minister for the Economy

Luxembourg:

Mr Henri GRETHEN

Minister for Economic Affairs, Minister for Transport

Hungary:

Mr Péter GOTTFRIED

Head of State Secretariat for Integration and External
Economic Relations, Ministry of Foreign Affairs

Malta:

Mr Censu GALEA

Minister for Competitiveness and Communications

Netherlands:

Mr Laurens Jan BRINKHORST

Minister for Economic Affairs

Austria:

Mr Martin BARTENSTEIN

Federal Minister for Economy

Poland:

Mr Krzysztof KRYSTOWSKI

Under-Secretary of State

Mr Jarosław PIETRAS

State Secretary, Office of the Committee for European
Integration

Portugal:

Ms Rosário VENTURA

State Secretary for Industry, Trade and Services

Ms Maria da Graça CARVALHO

Minister for Science and Higher Education

Mr Carlos COSTAS NEVES

State Secretary for European Affairs

Slovenia:

Ms Renata VITEZ

State Secretary for Foreign Economic Relations

Mr Zoran STANČIČ

State Secretary for Science

Mr Matjaž LOGAR

State Secretary for the Domestic Market

Slovakia:

Mr László POMOTHY

State Secretary at the Ministry of the Economy

Mr Martin FRONC

Minister for Education

Finland:

Mr Mauri PEKKARINEN

Minister for Trade and Industry

Sweden:

Ms Lena SOMMESTAD

Minister for Environment

Ms Ann-Christin NYKVIST

Minister for Agriculture

Mr Leif PAGROTSKY

Minister for Industry, Employment and Communications

United Kingdom:

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 FIGEE

Member

Mr Pavel TELIČKA

Member

Mr Frederik BOLKESTEIN

Member

Mr David BYRNE

Member
.....

ITEMS DEBATED

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

The Council had 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. Pursuant to that, the Council adopted the respective conclusions set out below, and underlined that in accordance with these conclusions, further examination and analysis of the communications will take place under the next Presidency, together with work on Better Regulation and Impact Assessment.

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", doc. 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 science and biotechnology - a strategy for Europe - second progress report and future orientations", doc. 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", doc.8923/04 RC 11 COMPET 58 - COM(2004) 293 final.
- State Aid Scoreboard : spring 2004 update, doc.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 Inter Institutional 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 maximize the benefits of the consultation procedure;
- develop a method to assess administrative burdens on business in co-operation 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 of introductory remarks from Commissioners LIIKANEN and WALLSTRÖM on the Commission proposal for a future EU chemical regulatory framework. A number of key issues were discussed during the following policy debate, the purpose of which was to give political guidance for incoming Presidencies.

On the basis of the main items identified during the Working Party's "high level" reading of the proposal so far, Ministers intervened on issues such as:

- the balance between competitiveness and protection of 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", taking into account the issues raised by other Member States and the Commission in the Ad-hoc Group. The Council instructed its preparatory bodies to work further on prioritisation and data requirements regarding the registration of substances.

Concerning the "Duty of Care" principle, which lays the basic responsibility for safe handling of substances on industry, the Council discussed how to appropriately reflect it in the Regulation. The Council asked the Ad-hoc Group to examine in greater detail the impact on the competitiveness of SMEs and a possibly wider role of the Agency with a view to ensuring optimum harmonisation, simplification of the administrative process and to using scarce resources as efficiently as possible.

The Competitiveness Council will return to its debate on REACH following the consideration by the Environment Council of this dossier in June.

ITER

The Council has taken note of information provided by Commissioner BUSQUIN on the state of play of the ITER (International Thermonuclear Experimental Reactor) project and invited the Commission to report to the Council on the ongoing international negotiations on the file at its session in September.

THIRD COUNTRY RESEARCHERS IN THE EUROPEAN COMMUNITY

The Council had an exchange of views on the Commission proposals on the admission of third-country nationals to carry out scientific research in the EC. 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 the European competitiveness in general.

It noted its relevance for Europe's performance within the Lisbon process, in which context the Commission has argued that 700 000 additional researchers are needed in Europe by 2010, and for the Barcelona 3 % GDP target spent of EU budget.

Further work on the proposals was required, in particular in relation to the role and responsibilities of the host organisation and to the need to assure a fast procedure for entry of third-country researchers and their families into the Community.

REGULATION ON CONSUMER PROTECTION COOPERATION

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

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

UNFAIR COMMERCIAL PRACTICES DIRECTIVE - Public deliberation

The Council reached by qualified majority political agreement on its common position on the draft Directive concerning unfair business-to-consumer commercial practices in the Internal Market. Once the "Unfair Commercial Practices Directive" agreed upon, 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",
- understanding of the other provisions of the Directive ensuring 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 after four years after the transposition of the Directive accompanied, if necessary, by appropriate proposals on which the European Parliament and the Council should act within the following two years.

SALES PROMOTIONS IN THE INTERNAL MARKET - Public deliberation

In the light of interventions today, the Council decided to instruct its preparatory bodies to further examining 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 sessions.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS - Public deliberation

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

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

In this context Member States may require that, where the service provider crosses internal market borders for the first time in order to provide services, he shall inform the competent authorities in the host Member State in a written declaration including information concerning insurance cover or other means of personal or collective protection with regard to professional liability. Such a declaration shall be renewed once a year if the service provider intends to provide temporary or occasional services in that Member State during that year. The service provider may supply the declaration by any means.

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,
- any means of proof that the service provider has practised the activity concerned for at least two years during the previous ten years,

PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS - Public deliberation

The Council reached political agreement by 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 this text has been formally adopted by the Council, it will be submitted to the European Parliament for second reading.

The agreed text concerns:

- provisions, in accordance with the practice developed within the European Patent Organisation, with regard to exclusions from patentability:
 1. a computer program as such can not constitute a patentable invention.
 2. a computer-implemented invention shall not be regarded as making a technical contribution merely because it involves the use of a computer, network or other programmable apparatus. Accordingly, inventions involving computer programs, whether expressed as source code, object code or any other form, which implement business, mathematical or other methods and do not produce any technical effects beyond the normal physical interactions between a program and the computer, network or other programmable apparatus in which it is run shall not be patentable.

- a definition of technical contribution :
 1. "technical contribution" means a contribution to the state of the art in a field of technology which is new and not obvious to a person skilled in the art. The technical contribution shall be assessed by consideration of the difference between the state of the art and the scope of the patent claim considered as a whole, which must comprise technical features, irrespective of whether or not these are accompanied by non-technical features.

COMMUNITY PATENT

The Council noted that the necessary unanimity could not be found in support of the Presidency's compromise proposal for a Council Regulation on the Community patent. In these circumstances, the Presidency stated its intention of referring this matter to the President of the European Council.

COMMUNITY CUSTOMS CODE - Public deliberation

The Council reached political agreement by 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 Council Regulation establishing the Community Customs Code. Being formally adopted, this 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. In this context, the main feature agreed upon regards the concept of an Authorised Economic Operator (AEO). It benefits from facilitated customs controls relating to safety and security and/or from simplifications provided for under customs rules. Only its status will be recognised throughout the Community while the granting of the customs simplifications will be left to each Member States on described 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 is 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 the European Consumer Day 2004.

– *Conference on Competitiveness and Sustainability on European Tourism*

The Council took note of 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 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 modem 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 also in other Member States.

– *The future of European RTD policy*

The Council took note of the information from the Commission.

