

12339/03 (Presse 259)

2525th Council meeting

- COMPETITIVENESS -

- Internal market, industry and research -

Brussels, 22 September 2003

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INTERNAL MARKET

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- The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.
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Lord SAINSBURY of TURVILLE

Parliamentary Under-Secretary of State for Science and
Innovation

* * *

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Mr Frits BOLKESTEIN
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Member
Member
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Mr Matjaž LOGAR

State Secretary

ITEMS DEBATED

FREEDOM OF MOVEMENT AND RESIDENCE

The Council reached a political agreement on the proposal for a Directive on free movement and residence for Union citizens and their family members. The common position on this proposal will be adopted at a forthcoming Council meeting after finalisation of the text and sent to the European Parliament for a second reading under the co-decision procedure. The Austrian delegation expressed its intention to vote against.

The political agreement resolves a number of issues that remained outstanding, in particular:

- ◆ The family members of the Union citizen who will benefit from the provisions of this Directive: for the purposes of this Directive, the definition of "family member" covers registered partners if the legislation of the host Member State treats these as equivalent to married couples. When the host Member State does not recognise registered partners under its national law, partners of EU citizens will not have an automatic right of entry and residence in that Member State. However, the host Member State shall facilitate the entry and residence of the partners with whom the EU citizen has a durable relationship duly attested.
- ◆ The length of the first period of residence without conditions in another Member State: the final agreement provides for maintaining the duration of the period of residence without conditions at three months as provides for in current Community law. The Council agreed, that the Commission should present, not later than two years from the adoption of the Directive, a report on its application together with any necessary proposals, in particular, on the need to extend the period of residence in the host Member State without conditions for EU citizens and their family members.
- ◆ The period of residence necessary for acquiring the right of permanent residence: for the first time, it is recognised that EU citizens and their family members have the right of permanent residence if they have legally resided for a continuous period of 5 years in the host Member State.

- ◆ Protection against expulsion: the Directive provides for reinforced protection against expulsion for Union citizens who have resided for at least ten years in the host Member State or who are minors. Expulsion can only be decided on grounds of public security or public policy and the host Member State will take into account the period of residence in its territory of the person concerned and other aspects such as his/her age, health, economic situation and his/her links with the country.

This draft Directive is aimed at facilitating further the exercise of the right of movement and residence of Union citizens and their family members irrespective of whether they pursue a gainful activity or not. By means of this Directive, Member States agree to simplify the administrative conditions required for residing in their territories and specify under which conditions exceptions to this right can be imposed.

INTERNAL MARKET STRATEGY 2003-2006 – Council conclusions

The Council adopted the following conclusions:

**“Council Conclusions
on the Internal Market Strategy - Priorities 2003 - 2006**

The Council,

Recalling the Conclusions of the Brussels European Council of March 2003, which call for a strong new push to improve the Internal Market in view of enlargement and to boost competitiveness across the Union consistent with the Lisbon objectives, and which identify the Internal Market Strategy (2003-2006) as the basis for future action;

Recognising the Internal Market Strategy's importance as a key component of an integrated strategy for competitiveness and endorsing its general thrust;

Welcomes the benefits which the Internal Market has already delivered over the past ten years; Notes, however, that many obstacles still need to be removed and Europe's communications and transport systems further integrated in order to facilitate the free movement of people, goods and services within the Internal Market;

Underlines that a robust Internal Market is essential for European business to compete successfully on global markets and for our economies to continue to grow and generate the wealth necessary to maintain and enhance the quality of life of our citizens, including through the provision of high quality and safe products;

Agrees on the need to speed up the adoption and implementation of outstanding Internal Market measures which are critical to improving Europe's competitiveness; Calls on the Commission to make further proposals to implement the Strategy, including in the main priority areas for action, accompanied by adequate impact assessments with a clear focus on competitiveness;

Recalls in this context the importance of a balance between the different instruments available for strengthening the Internal Market;

Agrees that, while the Commission will continue to fulfil its role as guardian of the Treaties, in order to derive maximum benefits from the Internal Market in an enlarged Union, Member States will have to share responsibility for its functioning, ensuring timely and effective implementation and enforcement of the rules, solving problems where possible pragmatically, and refraining from adopting national provisions that hinder free movement and distort competition;

Undertakes to review progress on the basis of the Implementation Report to be produced by the Commission in January 2004, and to take swift remedial action in any areas where progress is lagging behind.”

STRENGTHENING THE COMPETITIVENESS IN EUROPE

Following an initiative by the Italian Presidency, the Council held an exchange of views on the need to strengthen the competitiveness and growth of the European economy, stressing the importance of developing a comprehensive strategy in this regard with a well functioning internal market as a key component. The recent initiatives launched by some Member States to enhance growth in Europe, were generally welcomed and Ministers agreed that the Competitiveness Council has a key role to play in taking these initiatives forward.

The Italian Presidency stated its intention to bring these issues to the attention of the European Council at its forthcoming meeting in October.

COMMUNITY PATENT

The Council took note of a progress report on the state of play regarding the draft Regulation creating a Community Patent. The Council confirmed the importance it attaches to concluding work on all aspects of the Community patent system as soon as possible. Therefore, the Council invited the Permanent Representatives Committee to examine pending questions in order to be in a position to reach a political agreement on the draft Regulation and on the necessary modifications of the European Patent Convention at one of its November meetings.

The aim of the proposal for a Council Regulation on the Community Patent is to provide for the creation of a single industrial property right for the whole Community, to be granted by the European Patent Office (EPO) in Munich. It aims at eliminating the distortions of competition created by the territorial nature of national protection rights and ensuring the free movement of goods protected by patents.

Alongside this draft Regulation, amendments will have to be made to the European Patent Convention to enable the European Patent Office to play its part in the Community patent system. There is also a need to introduce jurisdictional arrangements in the draft Regulation and to create, through the future Commission proposals, a judicial panel "Community Patent Court", to decide on legal disputes in respect of Community patents.

CORPORATE GOVERNANCE – Council conclusions

The Council adopted the following conclusions:

“Council conclusions

The Council

1. **WELCOMES** the presentation of an Action Plan of the EU Commission to modernise company law and enhance corporate governance within the European Union, consistently with the Council recommendations based on the conclusions of the June 2002 Seville European Council and of the March 2003 Brussels European Council and on the final report of the High Level Group of Company Law Experts.
2. **ACKNOWLEDGES** the importance of the Action Plan to the creation of a regulatory framework consistent with the completion of the Internal Market and to enhance the competitiveness and efficiency of European businesses.
3. **CONSIDERS** the Action Plan to be an important element of establishing a transparent and sound capital market in the enlarged Union.
4. **EMPHASISES** the need to modernise and simplify the regulatory framework, especially relating to capital maintenance and alteration.
5. **EMPHASISES** the urgent need to design adequate solutions to remove the obstacles to and constraints on mobility and on the crossborder restructuring of European Union businesses, as well as on the crossborder exercise of shareholders' rights, by fostering the use of information and communications technologies.
6. **EMPHASISES** the need to strengthen at the same time corporate governance of companies which publicly raise capital and **SUPPORTS** the adoption of a common approach to this matter that will enhance transparency, strengthen shareholders' rights and modernise the principles governing the board of directors.
7. **HIGHLIGHTS** at the same time the need to ensure that any solutions proposed take fully into account the governance models and differences in ownership structures that exist in different Member States.
8. **WELCOMES** the proposed balance between the use of legislative instruments, in the form of framework Directives, where appropriate, and non-legislative instruments, in compliance with the principles of subsidiarity and proportionality.

9. **ENDORSES** the Commission's recognition of the importance of expert and public consultation as an integral part of the development of EU level company law and corporate governance and **TAKES NOTE** of the Commission's intention to set up an open informal discussion forum on systems of corporate governance within the European Union, fully respecting the role and the prerogatives of the Community's institutions.
10. **DEEMS** it necessary to reflect further on the real need to introduce new legal forms of enterprises at EU level in addition to the instruments already lying before the Parliament and the Council.”

PEDESTRIAN PROTECTION

The Council reached a political agreement on the proposal for a Directive on the protection of pedestrians and other vulnerable road users which aims at reducing deaths and injuries of pedestrians involved in collision with cars and light vehicles. The Directive will be formally adopted at a forthcoming Council meeting after finalisation of the text.

Following contacts with the European Parliament, it has been possible to reach an agreement at first reading and therefore to adopt this Directive rapidly.

The main modifications to the Commission's proposal agreed by the Council are as follows:

- ◆ This new directive should be one element of a broader package of measures by industry and the Member States, based on exchanges of best practice, to deal with pre-crash, in-crash and post-crash safety of pedestrians and other vulnerable road users.
- ◆ By 1 July 2004, the Commission should examine the feasibility of extending the scope of the Directive to vehicles with a permissible mass of up to 3.5 tonnes.
- ◆ The Commission shall report to the Council and Parliament before 1 April 2006, and every two years thereafter, on the results of its monitoring of the progress made by industry in the area of pedestrian protection.

In February 2003, the Commission presented this proposal introducing changes for the construction, in particular of the front parts of motor vehicles. According to this proposal, the frontal parts of motor vehicles will have to be constructed in such a way that, when impacted, certain limit values are not exceeded. The proposal lays down the tests to be passed by new vehicle types and new vehicles in a two-stage, medium-term and long-term, process.

CONTRACT LAW – Council Resolution

The Council adopted the following resolution:

**“Council Resolution on
« A more coherent European Contract Law »**

THE COUNCIL OF THE EUROPEAN UNION

I - RECALLING THAT:

1. As a follow-up to its Communication of July 2001 on European Contract law, the Commission adopted a Communication entitled: “A more coherent European Contract Law – An Action Plan”.
2. The European Parliament adopted a resolution on this Communication on 2 September 2003.
3. Taking into account the contributions received after July 2001, this Action Plan, on which views from all interested parties are being sought, suggests a long-term strategy based on a mix of non-regulatory and regulatory proposals.
4. In addition to appropriate sector-specific interventions, the Action Plan includes proposals aimed at increasing the coherence of the Community *acquis* in the area of contract law, at promoting the elaboration of general contract terms intended to be applied throughout the European Union and at further examining whether the diversity of contract law in the European Union may also require non-sector-specific solutions.

II - CONSIDERING THAT:

1. Community law rules, in particular in the area of contract law, should be consistent and ensure proper transposition into national law. In this context, the Common Frame of Reference suggested by the Commission could contribute to improving the quality and consistency of both existing and future Community legislation in this area. This Common Frame of Reference would not be a legally binding instrument.
2. It is essential to ensure a smooth and efficient functioning of cross-border transactions in the internal market. In this context, it would be useful to take appropriate and proportionate measures to facilitate the conclusion of cross-border contracts, to decrease transaction costs, and to allow all economic operators and consumers to make full use of the advantages offered by the internal market. Any measure, including the Common Frame of Reference, should correspond to the realities of the internal market and, therefore, to the practical needs of economic operators and consumers. Member States should be actively involved in their preparation and elaboration.

3. The coherence between the follow-up to the Action Plan and to the Green Paper on the conversion of the Rome Convention of 1980 on the law applicable to contractual obligations into a Community instrument and its modernisation should be guaranteed. The need for coherence with existing relevant international conventions aiming at the harmonisation of private law, in particular the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980, should also be taken into account.

III - WELCOMES:

1. The Commission Action Plan on "A more coherent European contract law".
2. The Commission's intention to elaborate a Common Frame of Reference, prepared on the basis of a research project under the Sixth Framework Programme for research and technological development¹, taking due account of all the different legal traditions of Member States .

The Commission's intention to inscribe the proposals included in the Action Plan *inter alia* within the objective of developing an area of freedom, security and justice and to ensure that they are complementary with the follow-up to the Green Paper on the conversion of the Rome Convention of 1980² on the law applicable to contractual obligations into a Community instrument and its modernisation³.

IV - UNDERLINES THAT:

1. In order to achieve greater transparency, coherence and simplification of contract law, it also appears particularly useful to further improve, consolidate and codify, the existing EC legislation in the area of contract law;
2. The elaboration of EU-wide general contract terms can be useful; however, such general terms should be developed by the contractual parties themselves and respect mandatory Community law and national provisions, including the provisions regarding the protection and information of consumers. At this stage and in this context, it seems particularly useful to gather information on existing and future initiatives through the web-site envisaged by the Commission. It should nevertheless be understood that publication on this web-site should not be interpreted as a form of approval of such initiatives.

¹ *Decision 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (OJ L 232, 29.8.2002, p. 1).*

² *Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980 (80/934/EEC; OJ L 266, 9.10.1980, p. 1; consolidated version: OJ C 27, 26.1.1998, p. 34).*

3. Further reflection is necessary on the need for non-sector specific measures, for example an optional instrument in the area of European contract law: the Commission should pursue this reflection, in close collaboration with Member States and taking due account of the principle of contractual freedom.

V - CALLS UPON THE COMMISSION TO:

Establish appropriate mechanisms both at political and expert level, including a discussion forum, in order to allow all Member States, the Council and the European Parliament, as well as researchers, legal practitioners and other stakeholders, to actively participate in the elaboration of the Common Frame of Reference. These mechanisms should ensure, through adequate consultation schemes, that the elaboration of the Common Frame of Reference takes into due account the principle of subsidiarity, the practical needs of economic operators and consumers and the established structures and legal cultures in Member States. Furthermore, the research project referred to in III.2 above should be carried out in a way to reflect all legal traditions of Member States.

VI - CALLS UPON THE MEMBER STATES TO:

Actively participate to the work of the Commission on the proposed follow-up measures and encourage the contributions of national stakeholders to the ongoing discussions at Community level.

VII - INVITES THE COMMISSION TO:

Regularly inform the Council and report to it at least every 12 months on the results of the ongoing discussion process and on the progress made in the area of European contract law.”

CHEMICALS LEGISLATION

The Council took note of a presentation by Commissioner Erkki Liikanen on the result of Commission's Internet consultation on draft legislation aiming at overhauling and modernising the existing EU regulatory system for chemicals and welcomed the Commission's intention to present its final proposal shortly.

In the debate following the Commission's presentation, several delegations stressed the need for a balanced approach taking into account competitiveness, environmental and health aspects as equally important. The need for impact assessment regarding costs for industry, not least SME's, associated with the forthcoming proposal was generally underlined.

In May 2003 the Commission launched an eight-week Internet consultation on the draft legislation on chemicals, which aims at replacing the over 40 different directives and regulations under current legislation. The purpose of the Internet consultation was to test the workability of the proposals with stakeholders. The Commission has received some 6.400 replies, mainly from industry and environmental organisations.

The proposal that the Commission intends to adopt develops a new system called REACH (Registration, Evaluation and Authorisation of Chemicals) for assessing the risks arising from the manufacture, import or use of chemicals. Special reduced registration requirements have been foreseen for polymers and intermediates. For the phasing-in of the new system, deadlines will be established for registration of substances that are already being manufactured.

The Commission is in favour of the establishment of an independent Agency which will be responsible for supporting the Commission with technical expertise and by running the IT infrastructure.

PHARMACEUTICAL INDUSTRY – Council conclusions

The Council adopted the following conclusions:

**“Council conclusions
on
reinforcing the competitiveness of the European-based pharmaceutical industry**

THE COUNCIL:

1. **RECOGNISING** that the European-based pharmaceutical industry plays a vital role in both the industrial and health sectors, as well as in the science base;
2. **WELCOMES** the response given by the Commission to the report of the "G10 High Level Group on innovation and the provision of medicines" in its Communication on "A stronger European-based pharmaceutical Industry for the benefit of the patient";
3. **REAFFIRMS** the need for a balance between competitiveness and public health policies, while fully respecting the Community and national competencies involved;
4. **UNDERLINES** the need to reinforce the competitiveness of the European-based pharmaceutical industry vis-à-vis its competitors, particularly by enhancing Europe's attractiveness as a location for innovative high tech industry and for maintaining a high quality science base; this should be accompanied by measures to facilitate the development of competitive generic and non-prescription sectors in the EU;
5. **RECOGNISES** that establishing the framework for a sustainable improvement of the competitiveness of the pharmaceutical industry requires action to be taken at both national and EU levels;
6. **NOTES** that the industrial landscape in the European pharmaceutical sector is made up of complementary relations between big and small/medium enterprises spread over all the regions in Europe and **UNDERLINES** that this interrelationship should be developed and enhanced;
7. **HIGHLIGHTS** the importance of stimulating new and more integrated forms of co-operation, including public-private partnerships, in Europe among governments, academia, scientific institutions, pharmaceutical and biotechnology companies to improve and speed up the transfer of scientific knowledge and the availability of innovative medicines;

8. **WELCOMES** :

- the benchmarking exercises proposed by the Commission on both health and competitiveness issues as a guide to policy-making over time, and **UNDERLINES** in this context that new developments, such as the enlargement of the European Union, should be duly taken into account in the collection of data;
- the concept behind the European Virtual Institutes of Health, outlined by the Commission, in order to promote clinical, pharmacological and pharmaceutical research, including research on medicines with smaller markets, through linking centres of fundamental and clinical research into a European network of excellence;

9. **INVITES** Member States to :

- actively participate in the implementation of the key actions set out in the Commission's communication, in particular benchmarking, by providing appropriate information on legislative and non-legislative measures that could have an impact on the pharmaceutical sector;
- consider the Commission's suggested implementing actions for:
 - (a) competition concerning authorised medicines that are neither purchased nor reimbursed by the State;
 - (b) the rapid launch of medicines on the market after granting a marketing authorisation;

10. **INVITES** the Commission to:

- organise an EU-wide reflection together with all interested Member States and stakeholders on different approaches to pricing and reimbursement for pharmaceutical products, exploring the scope of more competitive and dynamic market mechanisms, aimed at ensuring the equitable and rapid access of patients throughout the EU to medicines, in order to improve the integration of the European market in this field, while respecting Member States' competencies and the differences in their health care systems, including the assessment of their added therapeutic value;
- report regularly to the Council, on the state of competitiveness of the pharmaceutical sector on the basis of the results of the benchmarking exercises on competitiveness and public health and of information supplied by Member States.”

BIOTECHNOLOGY: PROGRESS IN IMPLEMENTING THE STRATEGY AND ROAD MAP – Council conclusions

The Council adopted the following conclusions:

**“Council conclusions on
"Life sciences and Biotechnology – a Strategy for Europe"”**

THE COUNCIL:

1. **RECALLING** that the European biotechnology strategy aims at facilitating the comprehensive and responsible development of biotechnology applications as an important step towards a competitive knowledge-based economy;
2. **RECOGNISING** the important role that biotechnology, as an enabling technology, plays in many different fields, and thus its significance for the overall competitiveness of European industry;
3. **WELCOMES** the Commission's first progress report “Communication from the Commission to the European Parliament, to the Council and to the European Economic and Social Committee Life Sciences and Biotechnology – A strategy for Europe – Progress report and Future Orientations” on the implementation of the European biotechnology strategy and agrees with the broad lines of its analysis; in this context **RECALLS** the importance of an integrated approach addressing all the complex and multifaceted societal and economic issues involved;
4. **STRESSES** the need for significant efforts to be made to move from the conceptual and planning stage to the implementation of the biotechnology strategy and of the roadmap contained in the Council Conclusions of 26 November 2002¹ in order to contribute effectively to the achievement of the EU competitiveness objectives set by the Lisbon European Council;
5. **UNDERLINES** the need to encourage overall coherence in policy making and to envisage, at EU level, the development of appropriate means for closer cooperation among Member States together with the Commission, in implementing the biotechnology strategy;
6. **ENCOURAGES** Member States and the Commission to step up their co-operation and to regularly exchange information on progress made in order to advance in the priority areas for future action already identified and, in particular, to improve conditions for access to finance for biotechnology companies and to complete and implement the general regulatory framework;

¹ See OJ C 39 of 18.02.2003, p. 9.

7. **AWAITS** with interest the results of the Conference on life sciences and biotechnology to be held in Rome on 21-22 November, as a source of possible further input in the process of implementing the Action Plan and the Road-map;
8. **INVITES** the Commission to assess the progress achieved in this area in its next report.”

STEM CELL RESEARCH

Ministers heard over lunch a presentation by Commissioner Philippe Busquin of the European Commission proposal on EU funding of human embryonic stem cell research. The Presidency reported to the Council in the afternoon.

The Council agreed to return to this issue at its meeting on 27 November 2003 and to take a decision in the light of the European Parliament's opinion which is expected to be adopted at the November plenary session (17-20 November).

The Commission presented on 9 July 2003 a draft Decision stipulating that the funding provided by the 6th Research Framework Programme for the derivation of new stem cells will only be made available if proposals successfully pass a rigorous scientific peer review and an ethical review. For this purpose, the draft Decision suggests the following criteria:

- ◆ The EU will not fund human embryonic stem cell research in a Member State where such research is forbidden;
- ◆ Human embryonic stem cells can only be derived from supernumerary embryos that are donated for research by parents and that were created before 27 June 2002, the date of the adoption of the Sixth Framework Programme. These embryos are destined to be destroyed at some point in time;
- ◆ Potential research project partners applying for European Union funding must seek ethical advice at national or local level in the Member States where the research will take place, even in countries where obtaining such ethical advice is not mandatory;
- ◆ Research will be funded only when it is demonstrated that it meets particularly important research objectives;
- ◆ Research will be funded only when there is no adequate alternative available. In particular, it must be demonstrated that one cannot use existing embryonic or adult stem cell lines;
- ◆ Supernumerary embryos will be used only if informed consent has been given by the donor(s);
- ◆ Embryo donor(s) will not be permitted to make any financial gain;

- ◆ Data and privacy protection of donors must be guaranteed;
- ◆ Traceability of stem cells will be required;
- ◆ Research consortia will be required to engage in making available new human embryonic stem cells to other researchers.

INVESTMENT IN RESEARCH IN EUROPE – Council Resolution**“Council resolution on investing in research for European Growth and Competitiveness**

The Council adopted the following resolution:

THE COUNCIL, RECALLING

the conclusions of the Lisbon 2000, Barcelona 2002 and Brussels 2003 European Councils, which respectively;

- set a strategic goal for the European Union to become the most competitive knowledge-based society by 2010;
- agreed that overall spending on R&D in the Union should be increased with the aim of approaching 3% of GDP by 2010 and that two thirds of this investment should come from the private sector;
- urged Member States to take concrete action on the basis of the Commission’s forthcoming R&D Action Plan, encouraged Member States to speed up the implementation of the European Charter for Small Enterprises and called for the momentum behind the European Research Area (ERA) to be maintained and strengthened by the application of the open method of co-ordination in areas such as action pursuing the 3% of GDP objective for RTD investment or developing human resources in science and technology;

the Commission Communications "Towards a European Research Area", "Making ERA a reality" and "More research for Europe: Towards 3% of GDP", and the Council Resolutions and Conclusions on ERA, in particular the Conclusions of 26 November 2002 on progress made in the development of the European Research Area and on providing it with new momentum;

WELCOMES

- the Commission's Communication "Investing in research: an action plan for Europe", and **ENDORSES** the main message of this communication which calls for a comprehensive and coherent range of actions to increase investments in research and close the gap with Europe's main competitors;

REAFFIRMS THAT

- investing in research and technological development and stimulating innovation and transfer of knowledge is essential to increasing European competitiveness and to the strategy set by the Lisbon European Council for Europe's economic, social and environmental development and that there is a particular need to stimulate and improve conditions for more private investment for research and innovation;

RECOGNISES THAT

- investment in R&D and innovation will contribute to stimulating growth and employment, taking into account the Communication of the Commission to the Council and to the European Parliament on 27 November 2002 (“Strengthening of the coordination of budgetary policies”) and the conclusions of the European Spring Council, the Commission communication of 7 July 2003 (“An initiative for growth: investing in Trans European Networks and major R&D projects”), the Council conclusions of 15 July 2003 on a European action for growth and the ongoing discussions on these subjects.
- scientific and technological excellence and quality of research remain basic criteria for increasing and attracting investment in R&D and innovation;
- fundamental research, a broad and dynamic knowledge base, sufficient and high-quality human resources, research infrastructures and mechanisms for the efficient transfer of technology, are crucial for the sustainable development of the knowledge based society;
- broad policy mixes, adapted to the respective national and regional contexts, combining financial incentives and measures to improve framework conditions, are necessary to stimulate private investment in R&D, taking into account the specific needs of SMEs, in particular new innovative SMEs and spin-off firms, as well as those of larger firms;
- a supportive policy for the further development of R&D strategies and cross-border partnerships of the European Regions, taking into account the needs of SMEs, is essential for attaining the 3% objective;
- SMEs could play an important role in raising the level of expenditure in research and innovation, as well as in fostering employment;
- the innovative and more effective use of various public financing instruments at EU and national levels, and facilitating and promoting the use of the Structural Funds in support of R&D, are key factors for raising the level of expenditure in research and innovation;
- simplification and modernisation of State Aid rules can facilitate Member States’ efforts to reorient state aid expenditure towards objectives of common interest, such as R&D and SMEs
- efforts should be continued in this context to achieve closer linkage with other European cooperation initiatives such as COST, Eureka and ESF;

INVITES MEMBER STATES, ACCEDING STATES AND THE COMMISSION TO

- apply the open method of co-ordination building upon the guidelines set out by the European Council and the Council to support the implementation of the Action Plan and the achievement of the 3% objective, using, on a voluntary basis, freely chosen national qualitative and/or quantitative targets;
- use CREST as an operational interface to define and oversee the implementation of the open method of co-ordination in respect of the 3% objective, with a view to it becoming rapidly operational, recognising that the work of CREST in this respect will need active links with other ongoing actions to strengthen competitiveness;
- develop the training of researchers, promote and diversify career opportunities, and create incentives for researchers in Europe aimed at attracting and retaining high level researchers in the European Union, as well as increase mobility, by the removal of persistent obstacles to it, and in particular mobility between public and private sectors;
- enhance access to equity and debt financing for research and innovation through a range of measures giving particular attention to the needs of SMEs in new as well as traditional sectors and of new innovative SMEs and spin-off firms;
- to develop a European risk capital/venture capital market, as well as to increase complementarity between EIB and EIF initiatives and national initiatives, with specific regard to the needs of SMEs;
- promote a supportive environment for the development and deployment of new technologies and improve the social, fiscal and administrative framework conditions in order to make the European Union more attractive for private investment and stimulate the creation and growth of high-tech enterprises;
- encourage and develop new initiatives aimed at intensifying co-operation between industry and public research, enhancing in such a way the efficiency of technology transfer and transnational public private links, for example by the promotion of centres and networks of excellence, research infrastructures and industrial clusters;
- examine the possibility of using to a greater extent structural funds to support research, development and innovation, bearing in mind the role of these funds to promote social and economic cohesion, and taking into account the specific needs and potential of different regions, including those of acceding States;
- encourage entrepreneurship among students and researchers;
- promote intellectual property right (IPR) awareness and training activities targeted in particular at public research organisations and SMEs;

INVITES THE COMMISSION TO

- pursue its ongoing initiatives to simplify and modernise State Aid rules and procedures, considering the new relationships between R&D and production processes, taking into account a more modern and coherent definition of R&D activities and the particular needs of newly developed innovative companies;
- to support, in consultation with the Member States, the setting up of European Technology Platforms on a limited number of key technologies as a means to foster effective public-private partnership among the research community, industry and SME associations, financial institutions, users and policy makers in order to develop a strategic agenda for leading technologies and mobilise the research and innovation efforts;
- in the context of developing a strategic approach to growth and competitiveness, report annually to the Council from 2004 onwards on the progress achieved in reaching the 3% objective, on the implementation of the Action Plan, and on the application of the open method of co-ordination, identifying remaining obstacles and problems and, where appropriate, new actions needed.”

SPACE POLICY - AGREEMENT WITH THE EUROPEAN SPACE AGENCY

The Council reached a political agreement on the draft Decision on the signing of a framework Agreement between the European Community and the European Space Agency (ESA). The Decision will be formally adopted at a forthcoming Council meeting after verification of the text by the legal-linguists.

This framework Agreement is aimed at developing an overall European Space Policy notably by securing Europe's independent and cost-effective access to space. The establishment of this Agreement provides a common basis and appropriate operational arrangements for a mutually beneficial cooperation between the EC and the ESA .

Some delegations were able to join the majority as it was made clear that appropriate operational arrangements for the effective cooperation between the Parties, should be established with full respect of their institutional settings and operational frameworks.

Following negotiations conducted by the Commission on behalf of the European Community, an agreement between the ESA Executive and the Commission was reached in September 2003 on a joint draft text for a Framework Agreement This draft text has been the base for the political agreement by the Council. It is recalled that on 13 May 2003, the Competitiveness Council adopted a Resolution on an overall European space policy, which stressed "the need for concluding the framework agreement between the Community and ESA, as soon as possible and no later than the end of 2003, in view of the White Paper, as a step towards the further development of an overall European space policy".

The process which has led to the draft text of the EC-ESA Framework Agreement started in 2000 with the Commission Communication "Europe and Space: Turning to a New Chapter"¹, which resulted in the setting up of a Joint Task Force by the European Commission and the Executive of ESA. The Joint Task Force assessed all aspects of co-operation between the European Community and ESA and submitted a report, which formed the basis for the Commission's Communication entitled, "Towards a European Space Policy"², submitted to Council on 7 December 2001. One of the main conclusions of this communication was that a successful development and implementation of a European Space Policy required the establishment of formal relations (a "Framework Agreement") between the European Community and the European Space Agency, in order to define the principles and mechanisms of reinforced co-operation.

¹ COM(2000)597 final.

² COM(2001) 718 final.

NUCLEAR FUSION ENERGY RESEARCH

The Council took note of the presentation by the Commission on the state of play regarding the international nuclear fusion energy research project (ITER)¹, including the report of the ITER site analysis group chaired by Sir David King.

The Council decided that discussions would continue on this question with a view to be in a position to reach a decision at its meeting on 27 November 2003.

In the previous months, the Commission had undertaken a process, in close cooperation with the Member States which had submitted site proposals, for analysing those proposals on the basis of objective criteria, including cost and other aspects. The Commission has called on the necessary expertise and adopted a time schedule to ensure that the analyses are completed for the end of 2003.

For the time being, four candidate sites have been proposed: Cadarache (France), Clarington (Canada), Rokkasho (Japan) and Vandellós (Spain).

The Commission intends to submit by the end of 2003 two proposals for decisions, one concerning the international agreement on ITER implementation and the other on the structure of the joint undertaking which will be responsible for the European contribution to this project.

- ITER implementation will include a construction phase lasting about ten years, an operation phase lasting about 20 years and a decommissioning phase;
- the total cost of the construction phase is estimated at €4 570 million. The total cost of the project, covering the three phases mentioned above and including funds for decommissioning, is estimated at €10 300 million.

¹ Intergovernmental negotiations on the possible joint implementation of ITER started in November 2001 among four participants: Canada, the European Community, Japan, and Russia. At the meeting held in St. Petersburg in February 2003, China and the USA acceded to the negotiations. Recently, the Republic of Korea has also joined the negotiations.

OTHER BUSINESS– *European Research Council*

The Council took note of a note submitted by the French delegation regarding the initiative for creating a "European Research Council" and of the intention of the Commission to prepare a communication on this issue.

The "European Research Council" is envisaged to be an autonomous funding organisation managed by scientists and oriented towards basic research. This initiative was discussed at a scientific conference organised by the Danish Presidency at Copenhagen in October 2002. Since then, it has been developed by an expert group which is discussing the purpose and scope of this proposed body and exploring options for its possible creation.

ITEMS APPROVED WITHOUT DEBATE

RESEARCH

Co-operation in science and technology

The Council adopted a Decision authorising the signature of an Agreement in order to launch scientific and technological co-operation with the Federative Republic of Brazil (*doc. 11679/03 + doc. 11680/03*) for an initial period of five years.

The Council also adopted an Agreement with a view to renewing scientific and technological co-operation with Ukraine (*doc. 11673/03*) for another period of five years.

INTERNAL MARKET

Frontier controls

The Council authorised the Commission to negotiate, on behalf of the European Community, modifications concerning the Geneva International Convention on the Harmonisation of Frontier Controls of Goods.

EUROPEAN SECURITY AND DEFENCE POLICY

Financing of military operations

The Council decided on the principle of a permanent financing mechanism, including the necessary financial regulation, to be set up by 1 March 2004, to assume charge of the financing of the common costs of any future EU military operation. Such a mechanism will enhance the EU's flexible capability for managing the financing of the common costs of military operations of any scale, complexity or urgency.

EU-UN cooperation in crisis management

The Council authorised the Presidency to sign a Joint Declaration on EU-UN Cooperation in crisis management on 24 September 2003, in the margins of the UN General Assembly.

The declaration welcomes the existing co-operation between the United Nations and the European Union in the area of civilian and military crisis management, in particular in the Balkans and in Africa and looks at ways to deepen this co-operation and provide it with reliable and sustainable mechanisms.

EXTERNAL RELATIONS

Liberia – Exceptions to the arms embargo

The Council adopted a Common Position and a Regulation providing for an exception to the arms embargo against Liberia in order to allow for the establishment of a multinational force to support the implementation of the cease–fire agreement signed in Accra on 17 June. (*doc 12152/03 + doc. 12323/03*)

The decisions modify Common Position 2001/357/CFSP and Regulation 1030/2003, which, adopted in May 2001, provide for a visa ban, an arms embargo and bans on the provision of arms–related technical training or assistance and on imports of rough diamonds from Liberia.

The establishment of a multinational force and the exception to the arms embargo were authorised by United Nations Security Council Resolution 1497(2003), adopted on 1 August 2003.

Cyprus – Participation in EU forces in the Democratic Republic of the Congo

The Council adopted a Decision approving an Agreement on the participation by the Republic of Cyprus in the European Union forces contributing to the military operation "Artemis" in the Democratic Republic of the Congo (*doc. 12136/03*).

Latvia - Agricultural concessions

The Council adopted a Decision approving a Protocol on adjustment of the trade aspects of the EU-Latvia Association Agreement, incorporating new mutual concessions for agricultural products (*doc. 5296/03*).

The Commission has held two rounds of negotiations with the ten associated countries of Central and Eastern Europe with a view to establishing new concessions for agricultural products. As regards Latvia, the outcome of these negotiations was implemented in July 2000 and July 2002 respectively, by way of transitional measures.

The Decision is aimed at incorporating this outcome in a Protocol that will replace the transitional measures.

Czech Republic, Hungary – Conformity Assessment for industrial products

The Council adopted Decisions on the conclusion of a Protocol on conformity and acceptance of industrial products under the Association Agreements between the Community and its Member States, on the one hand, and, respectively, the Czech Republic and Hungary respectively, on the other hand (*doc. 9191/03 + doc. 9111/03 + doc. 9189/02 + doc. 9115/03*).

Romania – Rules of origin

The Council approved a draft Decision, to be adopted by the EU–Romania Association Council, aimed at introducing a consolidated version of the Protocol on rules of origin under the EU–Romania Association Agreement (*doc. UE–RO 1810/03*).

Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Czech Republic

The Council adopted a Decision approving Agreements between the Community and Estonia, Latvia, Lithuania, Malta, Poland, the Slovak Republic, Slovenia and the Czech Republic on the establishment of a procedure for the provision of information regarding technical regulations and rules on information society services (*doc. 9904/1/03 REV 1*).

In October 2002, the Council authorised the Commission to open negotiations with the ten associated countries of Central and Eastern Europe, Cyprus and Malta, with a view to extending the notification procedure established by Directive 98/34/EC and extended to information society services by Directive 98/48/EC.

The Decision approves the Agreements concluded by the Commission with eight of those twelve countries.

TRADE POLICY

Antidumping – Taiwan, Indonesia, Thailand, Malaysia – Polyester yarn

The Council adopted a Regulation terminating anti–dumping proceedings concerning imports of polyester textured filament yarn from Taiwan, Indonesia, Thailand and Malaysia (*doc. 12015/03*).

Antidumping – Poland, Ukraine – Steel cables

The Council adopted a Regulation amending a definitive anti–dumping duty imposed in 1999 on imports of steel ropes and cables originating, inter alia, in Poland and Ukraine (*doc. 12046/03*).

Antidumping – Algeria, Belarus, Lithuania, Russia, Ukraine – Urea and ammonium nitrate

The Council adopted a Regulation amending a definitive anti–dumping duty imposed in 2000 on imports of urea and ammonium nitrate solutions from Algeria, Belarus, Lithuania, Russia and Ukraine (*doc. 12123/03*).

JUSTICE AND HOME AFFAIRS

Family reunification

The Council adopted the Directive on the right to family reunification (*doc 10502/2/03 REV 2*). The purpose of this Directive is to determine the conditions under which family reunification is granted to third-country nationals residing lawfully in the territory of the Member States.

In accordance with the Directive, family reunification will apply in any case to members of the nuclear family: the sponsor's spouse and the minor children. However, it is for the Member States to decide whether they wish to authorise family reunification for relatives in the direct ascending line, adult unmarried children, unmarried or registered partners as well as, in the event of a polygamous marriage, minor children of a further spouse and the sponsor.

Family reunification may be refused or withdrawn on grounds of public policy, public security or public health. When the application is submitted, the Member State may require evidence that the sponsor has adequate accommodation and sickness insurance for the whole family as well as stable and regular resources which are sufficient to maintain the family without recourse to the social assistance system of the Member States concerned.

The duration of the residence permits granted to the family member(s) shall in principle not go beyond the date of the expiry of the residence permit held by the sponsor. Both family members and sponsor shall be entitled in the same way, to access to education, to employment and self-employed activity and to vocational guidance, initial and further training and retraining. Member States may decide according to national law the conditions under which family members shall exercise an employed or self-employed activity.

NUCLEAR ENERGY

Nuclear energy cooperation with Uzbekistan

The Council adopted a Decision with a view to concluding an agreement for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community (Euratom) and the Government of the Republic of Uzbekistan. These peaceful uses include for example nuclear safety, applications of nuclear energy in the fields of medicine and industry and generation of electricity (*doc. 12203/03*).

SOCIAL POLICY

Organisation of working time* – *Public deliberation*

In public debate, the Council adopted a codified version of the Directive concerning some aspects of organisation of working time. This codified version is aimed at collecting the principles of the Directive (93/104/EC) into one legal text (*doc. PE-CONS 3625/03 + doc. 10610/03 + ADD 1*)

ROAD TRANSPORT

Eco points Austria – *Public deliberation*

The Council decided to reject the amendments adopted in second reading by the European Parliament on the draft Regulation establishing a transitional transit system applicable to heavy goods vehicles travelling through Austria for 2004 (*doc. 12539/1/03 REV 1*). The Council, therefore, decided to convene the Conciliation Committee, in accordance with Article 251(3) of the Treaty establishing the European Community.

AIR TRANSPORT

Denied boarding – *Public deliberation*

The Council decided to reject the amendments adopted in second reading by the European Parliament on the draft Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights (*doc. 12201/1/03 REV 1*). The Council, therefore, decided to convene the Conciliation Committee, in accordance with Article 251(3) of the Treaty establishing the European Community.

Single European Sky – *Public deliberation*

The Council decided to reject the amendments adopted in second reading by the European Parliament on the package of four draft Regulations providing for the creation of a "Single European Sky" introducing common rules on the use of airspace throughout the Community (*doc. 12735/1/03 REV 1*). The Council, therefore, decided to convene the Conciliation Committee, in accordance with Article 251(3) of the Treaty establishing the European Community.

FISHERIES

TACs and Quotas

The Council adopted a Regulation amending, for the third time, Regulation (EC) No. 2341/2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required (*doc. 12358/03*). The Opinion of the European Parliament was not required. In June 2003 the International Baltic Sea Fishery Commission (IBSFC) recommended that the total allowable catch (TAC) for sprat in zone III b,c,d (EC waters) be increased from 310 000 tonnes to 341 000 tonnes, the minimum mesh size for towed nets without an exit window when fishing for cod be reduced from 140 to 130 mm from 1 October 2003, and the minimum mesh opening of the window in a "Top Window Codend Bacoma" be reduced from 120 mm to 110 mm. The EC countries concerned by the increase of the TAC for sprat are Denmark, Germany, Finland and Sweden. However, following scientific information concerning the degree of selectivity, towed nets without exit windows are prohibited for cod fishery in the Baltic Sea. The Community had to apply these measures immediately after the summer ban in order to avoid extra costs for fishermen.

FOODSTUFFS

Indication of the ingredients present in foodstuffs – *Public deliberation*

The Council approved the amendments adopted by the European Parliament at second reading on the amended proposal for a Directive amending Directive 2000/13/EC as regards indication of the ingredients present in foodstuffs (*doc. 12436/03 +ADD 1 + doc. 10809/1/03 REV 1*). The Council adopted its Common Position¹ on 20 February 2003, and the European Parliament voted at second reading on 2 July 2003. The amendment adopted is an updating of the list of ingredients causing food allergies or intolerances. It states that the Commission may be notified until 9 months after entry into force of the Directive of the studies on which ingredients listed in Annex IIIa are not allergenic. After consulting the European Food Safety Authority, the Commission will, not later than 12 months after the entry into force of the Directive, adopt a list of those ingredients which will then be excluded from Annex IIIa until 4 years after entry into force of the Directive at the latest. The Directive shall then be deemed to have been adopted in the form of the common position thus amended. The Spanish delegation issued a statement in which it expressed its intention not to support the proposal.

The purpose of the initial proposal was to abolish the 25% rule on listing compound ingredients in the labelling of food products. This rule refers to the current possibility of not indicating the components of compound ingredients, which form less than 25% of the final product. This has led consumers to be ill-informed about the content of the food they are purchasing.

TRANSPARENCY

Archives*

The Council adopted a Regulation amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (*doc. 11653/03*).

The new Regulation brings into line the former legislation on archives as regards public access to certain categories of documents older than thirty years in accordance with the rules on the public's right of access to documents (Regulation No 1049/2001), in conformity with the general principles of transparency laid down in Article 255.

¹ OJ C 102 E of 29.4.2003, p. 16.

Public access to documents

On **12 September 2003** the Council adopted, by written procedure, the replies to :

- the confirmatory application made by Mr Ilias KONTEAS (*doc. 11959/03*)
- the confirmatory application made by Mr Jeremy BROWN (the Danish Finnish and Swedish delegations voting against) (*doc.11969/03*)
- the confirmatory application made by Mr Conor SWEENEY (the Swedish delegation voting against) (*doc.11972/03*)
- the confirmatory application made by Mr Ilias KONTEAS (the Danish and Swedish delegations voting against) (*doc.11983/03*)
- the confirmatory application made by Mr James DUNN (*doc.11986/03*)
- the confirmatory application made by Mr Karol RECZKIN (*doc.11991/03*)
- the confirmatory application made by Mr Joern HARRY (*doc.12000/03*)
- the confirmatory application made by Mr Adam CRAIG (*doc.12003/03*)
- the confirmatory application made by Mr Hans KLAVER (*doc.12053/03*)

APPOINTMENTS

Committee of the Regions

The Council adopted the Decisions appointing:

- Mr Daniel DUCARME as member of the Committee of the Regions in place of Mr François-Xavier DE DONNÉA for the remainder of his term of office, which ends on 25 January 2006 (*doc. 11787/03*);
- Mr Dieter ALTHAUS as member of the Committee of the Regions in place of Mr Hans KAISER for the remainder of his term of office, which ends on 25 January 2006 (*doc. 11771/03*);
- Mr Hans KAISER as member of the Committee of the Regions in place of Mr Jürgen GNAUCK for the remainder of his term of office, which ends on 25 January 2006 (*doc. 11772/03 + COR 1*).

Economic and Social Committee

- The Council adopted a Decision appointing Mr Eero LETHI as a member of the Economic and Social Committee in place of Mr Pertti RAUHIO, for the remainder of the latter's term of office which runs until 20 September 2006 (*doc. 12452/1/03 REV 1*).