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2462nd Council meeting

- COMPETITIVENESS (Internal Market, Industry, Research) -

Brussels, 14 November 2002

Presidents : **Mr Bendt BENDTSEN**, Minister for Economic Affairs, Trade and Industry, of the Kingdom of Denmark.

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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.

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PARTICIPANTS

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

Belgium :

Mr Charles PIQUÉ

Minister for Economic Affairs and Scientific Research

Denmark :

Mr Bendt BENDTSEN

Mr Michael DITHMER

Minister for Economic Affairs, Trade and Industry
Secretary of State

Germany :

Mr Hansjörg GEIGER

State Secretary, Federal Ministry of Justice

Greece :

Mr Christos PACHTAS

State Secretary for Economic Affairs and Finance

Spain :

Mr Ramón DE MIGUEL Y EGEA

State Secretary for European Affairs

France :

Ms Noëlle LENOIR

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

Ireland :

Mrs Mary HARNEY

Deputy Prime Minister and Minister for Enterprise, Trade and
Employment

Italy :

Mr Alessandro PIGNATTI

Deputy Permanent Representative

Luxembourg :

Mr Christian BRAUN

Deputy Permanent Representative

Netherlands :

Mr Joop WIJN

Minister for Foreign Trade

Austria :

Ms Judith GEBETSROITHNER

Deputy Permanent Representative

Portugal :

Mr Carlos COSTA NEVES

Ms Rosário VENTURA

State Secretary for European Affairs
State Secretary for Trade, Industry and Services

Finland :

Mr Jari VILÉN

Minister of Foreign Trade

Sweden :

Mr Leif PAGROTSKY

Minister for Industry, Employment and Communications

United Kingdom :

Ms Melanie JOHNSON

Parliamentary Under-Secretary of State for Competition,
Consumers and Markets

* * *

Commission :

Mr Frits BOLKESTEIN

Mr David BYRNE

Mr António VITORINO

Member

Member

Member

ITEMS DEBATED**Horizontal issues****THE NEW COMPETITIVENESS COUNCIL**

The Council heard a report from the presidency on the follow-up to the informal ministerial meeting at Nyborg (Denmark) on 11 and 12 October as concerns:

- the role of the new Competitiveness Council (Internal Market/Industry/Research);
 - initiatives aimed at simplifying legislation and improving the regulatory environment;
- and held an exchange of views.

The "Competitiveness" configuration was established at the initiative of the European Council at Seville (June 2002) as one of a number of changes aimed at improving the functioning of the Council in the run-up to the Union's enlargement. At the same time, the merging of the former Internal Market, Industry and Research Councils is a response to the need for a more coherent and better co-ordinated handling of matters related to the competitiveness of European companies.

Summing-up the discussions held at the the Nyborg meeting, the President noted that economic growth in coming years will very much depend on the extent to which Member States manage to remove structural barriers in their economies. It will also depend on the creation of favourable conditions for enterprises, not least small/medium-sized enterprises, through an improved regulatory environment, including simplification of legislation.

The President noted that the new Competitiveness Council has a key role to play in this regard and that it should be a focal point for policy initiatives and actions related to structural reform, competitiveness and growth. Consequently, the new Council configuration must play an active role in the preparations of the Spring European Councils. This means, among other things, a sharper focus on broad, horizontal policy issues, without neglecting individual legislative and other dossiers which also form an integral part of the reform agenda.

The President concluded that an increased concentration on horizontal issues will require careful preparations within the Council structure in the most appropriate and effective form.

On the subject of better regulation, the President noted agreement within the Council on the importance of improving the quality of legislation for the creation of a more competitive and business-friendly environment. He noted support for the Commission's action plan on better regulation, in line with the conclusions which the Council adopted at its meeting on 30 September, and the intention of delegations to provide the Commission with suggestions for areas and measures which could feed into the Commission's forthcoming rolling simplification programme.

BETTER REGULATION

The Council heard a report from the Commission on the follow-up to its action plan aimed at enhancing the quality of Community legislation, in particular as regards work on guidelines for impact assessments for important legislative proposals and policy initiatives, and the identification of areas for legislative simplification. In accordance with the conclusions adopted at its meeting on 30 September, the Council agreed to continue assessing the implementation of the action plan.

The communication "*European governance: better lawmaking*", the action plan "*Simplifying and improving the regulatory environment*" and communications on impact assessments and minimum standards for public consultation were adopted by the Commission on 5 June as a reform package.

INTERNAL MARKET SCOREBOARD

The Council took note of the Commission's presentation of the latest version of its internal market "scoreboard" and held an exchange of views. It welcomed the progress made with regard to the objectives of the single market, including as concerns transposition by the Member States of the Community's internal market legislation over the longer term. However, recalling the objectives set by the European Council at Stockholm (March 2001) and Barcelona (March 2002) for reducing the Member States' transposition deficits, the Council regretted that the positive trend noted in the May 2002 edition of the scoreboard seems to have come to a halt. It therefore urged the Member States to intensify their efforts to speed up transposition and welcomed the Commission's continued close monitoring of the development towards agreed transposition targets.

WORK PROGRAMME FOR THE COMPETITIVENESS COUNCIL

The Council took note of the joint work programme for the Competitiveness Council up to the end of 2003, established by the current Danish and the forthcoming Greek and Italian presidencies, and held an exchange of views. It welcomed the general thrust of the priorities set out in this document and encouraged the coming presidencies to prepare the timetable of meetings in the light of the new Council configuration.

An updated version of the joint work programme is presented to the Council every six months. Future versions will relate more specifically to the Competitiveness Council itself, with its broad field of responsibilities, although the current edition still concentrates essentially on the internal market.

Ten years after the formal completion of the internal market, much work still remains to be done. Accordingly, the work programme focuses both on individual legislative initiatives that are needed to complete or to simplify and modernise the regulatory framework, and on horizontal policy issues aimed at improving the competitiveness of European enterprises, which will be placed high on the agenda of each Council meeting.

In particular, the work programme emphasises the key role of the Competitiveness Council in determining and implementing the EU's structural and microeconomic reform agenda, with a more focused and strategic input to the Spring European Councils.

SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PROTECTION - FOLLOW-UP TO THE GÖTEBORG AND JOHANNESBURG SUMMITS

The Council adopted a report on the integration of environmental protection and sustainable development into the internal market aspects of competitiveness policy, and agreed to forward it to General Affairs and External Relations Council.

It is recalled that in May 2001, the Council agreed on a strategy for the integration of environmental protection and sustainable development into internal market policy and forwarded it to the Göteborg European Council in June 2001. At the same time, it stated its intention of reporting on progress in implementing this strategy no later than at the end of 2002.

The report also highlights the need to review and adapt the objectives, actions and indicators set out in the strategy in the light of a variety of recent developments. This follows in particular the Johannesburg world summit on sustainable development, adoption of the sixth Community environment action programme and the merging of the Internal Market Council into the Competitiveness Council. The review should start under the forthcoming Greek presidency and be completed before the end of 2003.

INTERNAL MARKET BARRIERS TO THE PROVISION OF SERVICES - Council Conclusions

"The Council

1. WELCOMES the Commission report on the state of the Internal Market for Services, which completes the first stage of the Internal Market Strategy for Services and which provides an excellent basis for the second stage of the Strategy;
2. ACKNOWLEDGES that a decade after the envisaged completion of the Internal Market, considerable work still needs to be done in order to make the Internal Market for services a reality; NOTES that the removal of barriers to the cross-border provision and consumption of services, as well as to cross-border establishment of service providers, is far less advanced than the removal of barriers to the free movement of goods;
3. NOTING that services account for 70% of GDP and employment, STRESSES that very high political priority should be given to the removal of both legislative and non-legislative barriers to services in the Internal Market, as part of the overall goal set by the Lisbon European Council to make the European Union the most dynamic and competitive economy in the world by 2010, as complemented by the strategy for sustainable development agreed by the Göteborg European Council; CONSIDERS that the removal of such barriers will also make it possible to exploit new opportunities resulting from the enlargement of the EU;
4. REAFFIRMS that in the removal of barriers, due account needs to be taken of general interest objectives, such as the protection of consumers, health and safety and the environment. In that respect, further harmonisation may be required. Furthermore, REAFFIRMS the need to create conditions for reducing costs for companies, in particular SMEs;
5. EMPHASISES that the fragmentation of the Internal Market for services affects in particular the ability of SMEs, especially in small and peripheral Member States, to provide cross-border services and of consumers to have access to such services at competitive prices;
6. WELCOMES the inclusion in the Commission's report of a comprehensive inventory of legal barriers throughout the various stages of a service provider's activity, including administrative burdens at national, regional and local levels affecting establishment, barriers to the cross-border posting of workers, restrictions on the use of commercial communications and marketing strategies, authorisation and registration requirements for cross-border services, the duplication of requirements already fulfilled in the Member State of establishment, and many others;
7. RECOGNISES that better integration and interconnection of network industries will improve cross-border services;
8. EMPHASISES the importance of ensuring that initiatives in all policy areas which affect cross-border services are coherent with the aims of the Cardiff economic reform process and contribute to the overall goal set by the Lisbon European Council; in this context, ENCOURAGES Member States and the Commission to maximise the synergy between the Internal Market Strategy for Services and the ongoing GATS 2000 negotiations in WTO;

9. URGES the Commission to accelerate work on the second stage of the Internal Market Strategy for Services, and in this respect WELCOMES the Commission's intention to consult closely with the European Parliament, the Member States and other interested parties; in particular, CALLS on:
- the Commission to develop further its economic analysis, with an emphasis on the potential for economic growth, job creation and benefits for consumers, in order to assess more accurately the benefits of a fully functioning Internal Market in services;
 - the Commission and Member States to improve the coverage and quality of statistics on services, in particular with a view to assessing more accurately the contribution of services to manufacturing industries and their competitiveness as well as to pay particular attention to improving the flow and the quality of information to assist SMEs and consumers who want to offer or use cross-border services, without creating further administrative burdens for companies;
 - the Commission to develop a system for monitoring progress towards the elimination of barriers to the creation of a fully functioning Internal Market in services and to integrate this into the Internal Market Scoreboard;
 - Member States and the Commission to encourage service providers to improve their coordination and representation at national and EU level;
 - Member States to ensure that they comply fully and rapidly with judgements of the European Court of Justice concerning the free movement of services and freedom of establishment and to ensure appropriate monitoring, while CALLING ON the Commission to continue to be active and rigorous in ensuring full compliance with Community law across the EU;
 - the Commission, in those cases where barriers cannot be removed by non-legislative means or by application of the principle of mutual recognition, to propose, where appropriate, harmonisation of the relevant legislation, if possible by means of a single legislative instrument;
 - the Commission, and where appropriate the Council, to complement measures to remove barriers to cross-border trade in services with other measures, aimed at improving the competitiveness of services and their contribution to the performance of enterprises in all economic sectors;
 - CALLS ON the Commission and Member States to complete the above actions as soon as possible and by 31 December 2003;
10. UNDERTAKES to monitor closely the implementation of the Services Strategy, in the context of the overall goal set by the Lisbon European Council, and to include a section on progress made in this respect in its periodic reports to the Spring meetings of the European Council."

Individual dossiers**FREEDOM OF MOVEMENT AND RESIDENCE**

The Council held a policy debate on the proposal for a directive of the European Parliament and the Council on the right of citizens of the Union and members of their families to move and reside freely on the territory of the Member States. It requested the Permanent Representatives Committee to pursue work on the dossier, taking account of the positions expressed by delegations, and to report back to the Council at the earliest possible opportunity.

The debate focused on the following issues:

- the nature of the registration system provided for in the host State;
- the concept of family member;
- protection against expulsion.

The proposal is aimed at extending from three to six months the period in which the Union's citizens and their families may reside without conditions and with no formality in a Member State other than that of their nationality. For a period longer than six months, the current residence card would be replaced by an optional system of registration and after four years of continuous residence, they would acquire the right of permanent residence, without conditions and with access to social welfare and immunity from expulsion. The proposal is also aimed at broadening and unifying the definition of "family member" whilst strengthening the rights of family members.

The general objectives of the proposal are as follows:

- Streamlining existing legislation, taking into consideration the case law of the Court of Justice and the provisions of the Union's Charter of Fundamental Rights regarding family unity and the protection of family life;
- Simplifying the conditions and administrative formalities associated with the exercise by citizens of their rights;
- Facilitating the freedom of movement and residence of family members of Union citizens.

PROFESSIONAL QUALIFICATIONS

The Council held a policy debate on the proposal for a directive of the European Parliament and the Council aimed at clarifying and consolidating existing Community provisions on professional qualifications whilst maintaining the rights and guarantees contained in those provisions. The President considered that the positions expressed by delegations provided useful guidance for further work on this text at a technical level.

The debate focused in particular on the following issues:

- simplification of committee structures and legislative texts and the avoidance of multiple use of similar or identical provisions;
- improvements aimed at ensuring the freedom to provide services;
- guarantees aimed at allowing temporary and occasional cross-frontier provision of services on the basis of the home country title;
- initiatives for informing and supporting migrants seeking professional recognition.

The main objectives of the proposal are :

- a contribution to flexible labour and services markets by providing for simpler conditions for the cross-frontier provision of services than those applicable to the freedom of establishment;
- consolidation and simplification by consolidating into a single directive the twelve main directives covering the professions of doctor, general care nurse, dental practitioner, veterinary surgeon, midwife, pharmacist and architect, as well as the three "General System" directives;
- improved management (one single regulatory committee in place of the two existing committees, with additional implementing powers);
- improved information and advice to citizens with regard to recognition of professional qualifications.

COMMUNITY PATENT - JURISDICTIONAL ARRANGEMENTS

The Council examined the jurisdictional arrangements for the proposed Community patent system with a view to identifying principles that might serve as a basis for taking work forward on this issue. Following an in-depth discussion, it noted that further work was necessary on the jurisdictional system and on the dossier as a whole; the dossier will be on the Council's agenda at its session on 26 November.

The Community patent system, which is provided for in a proposal for a Council regulation, is aimed at creating a single patent that would be valid throughout the Community. Patents would be granted by the European Patent Office (EPO) in Munich in accordance with the requirements and procedures laid down in the European Patent Convention (EPC) and its implementing regulation.

The European Council has emphasised on several occasions that the Community patent must be an efficient and flexible instrument obtainable by businesses at an affordable cost, while complying with the principles of legal certainty and non-discrimination between Member States and ensuring a high level of quality.

COMPUTER-IMPLEMENTED INVENTIONS

The Council examined a draft common approach on the proposal for a directive of the European Parliament and the Council aimed at harmonising Member States' patent laws as regards computer-implemented inventions. It noted a broad degree of agreement on this text, whilst taking note of a reservation by the Commission and of scrutiny reservations by certain delegations. The Council agreed that work would be taken forward on the basis of this text once the Parliament has given its opinion in first reading.

The proposal is aimed at ending legal uncertainty and removing obstacles to trade within the internal market as a result of differing practices whereby computer-implemented inventions can be patented by the European Patent Office or by national patent offices but the detailed provisions vary from one Member State to another.

COMPANY TAKEOVER BIDS

The Council took note of the presentation by the Commission of a new proposal for a directive of the European Parliament and the Council on company takeover bids, and confirmed its intention to give priority attention to this dossier.

This is the third proposal from the Commission on takeover bids since 1989. Following the Parliament's rejection in July 2001 of the agreement reached in conciliation with the Council on the previous proposal, the Commission presented the latest text on 7 October 2002. It is based in part on the recommendations, published last January, of a group of high-level experts in company law.

CORPORATE GOVERNANCE

The Council held a first exchange of views on the report drawn up in response to recent corporate failures by a group of high-level experts in company law. It confirmed the importance it attaches to the issues dealt with in this report and welcomed the Commission's intention to present as soon as possible an action plan aimed at improving and modernising the Community regulatory framework on company law, including corporate governance.

The report was also presented to the Economic and Financial Affairs Council on 5 November by Mr Jaap Winter, chairman of the high-level group, following its publication on 4 November. It is due to be presented to the European Parliament on 27 November.

AUTOMOBILE INSURANCE - CIVIL LIABILITY - *public deliberation*

The Council took note of the presentation by the Commission of its proposal for a directive of the European Parliament and of the Council on insurance against civil liability in respect of the use of motor vehicles, and requested the Permanent Representatives Committee to continue work on this dossier.

The proposal is aimed at improving the protection of accident victims by compulsory insurance, whilst clarifying existing provisions (directives 72/166/EEC, 84/5/EEC, 88/357/EEC, 90/232/EEC and 2000/26/EEC), thereby ensuring increased convergence as regards their interpretation and application by the Member States. It also aims to provide solutions to problems that arise frequently, in order to create a more efficient single market in motor insurance.

CONSUMER CREDIT - *public deliberation*

The Council took note of the presentation by the Commission of its proposal for a directive of the European Parliament and the Council concerning credit for consumers, and held an exchange of views.

The proposal is aimed at revising the Community framework for consumer credit, replacing directive 87/102/EEC, as amended in 1990 and 1998, in order to reflect better the situation on the consumer credit market. It provides for:

- a redefinition of the directive's scope, taking account of market developments and establishing a clearer division between consumer credit and housing credit;
- the inclusion of new arrangements with regard to credit intermediaries;
- an information framework allowing the credit provider to assess risks more fully;
- more comprehensive information for the consumer and credit guarantors;
- a new division of responsibilities between the consumer and the credit professional;
- improved arrangements and practices determining how professionals deal with payment defaults, both for the consumer and for the credit provider.

CONSUMER PROTECTION - FOLLOW-UP TO THE COMMISSION'S GREEN PAPER

The Council heard a progress report from the Commission on the follow-up to its green paper on consumer protection, and held an exchange of views. The President noted the Council's wish that the Commission should shortly complete the various consultations being held on the basis of the green paper, which was adopted in October 2001.

In a communication adopted on 11 June, the Commission concluded that there is clear justification for a reform of the Community's consumer protection policy using a mixed approach, consisting of a framework directive harmonising the Member States' legal provisions as well as specific directives.

The communication has not been discussed in detail within the Council, pending further input from the Commission. Meanwhile, the Commission's services are due to begin work on a proposal aimed at improving co-operation between Member States as regards implementation of consumer protection policy, as well as on the proposal for a framework directive. The Commission is expected to present these texts during the course of 2003.

ITEMS APPROVED WITHOUT DEBATE**JUSTICE AND HOME AFFAIRS****Standard form for exchanging information on terrorists***(Doc. 5712/6/02)*

The Council adopted a recommendation on the introduction of a standard form for exchanging information on terrorists.

The form will be mainly used by Member States in preventing terrorist activities at large international events.

RELATIONS WITH CENTRAL AND EASTERN EUROPEAN COUNTRIES**Association Council with Hungary and Poland**

The Council established the position of the European Union in view of the 9th meeting of the Association Council with respectively Hungary and Poland on 18 November 2002,

Association Council with Bulgarian and the Czech Republic

The Council established the position of the European Union in view of the 8th meeting of the Association Council with respectively Bulgaria and the Czech Republic on 18 November 2002,

INSTITUTIONS**European Parliament - Access to information in the field of security and defence policy**

The Council approved a draft interinstitutional agreement concerning access by the European Parliament to sensitive information held by the Council in the field of security and defence policy, and authorised the Presidency to sign this agreement on behalf of the Council. In view of the specific nature and especially sensitive content of certain highly classified information in the field of security and defence policy, special arrangements are introduced for the handling of documents. The interinstitutional agreement will provide the European Parliament with treatment comparable to practices in the Member States, where specific mechanisms govern the transmission and handling of classified information by governments and national parliaments.

Adoption of the following points was open to the public**ENVIRONMENT****Waste statistics**

The Council adopted a regulation of the European Parliament and of the Council on waste statistics, aimed at establishing a framework for the production of Community statistics on the generation, recovery and disposal of waste from businesses and private households.

The regulation aims to ensure comparability of data at Community level by providing for common terms for the description of waste and the definition of waste management. It sets specific waste categories and standardised procedures for data collection and reporting. The text does not apply to radioactive waste, which is already covered by other legislation. Enterprises of less than ten employees are excluded from statistical surveys conducted by Member States, unless they contribute significantly to the production of waste.

TRANSPORT**Use of safety belts in vehicles**

(Doc.10927/02)

The Council adopted a common position on the draft directive of the European Parliament and the Council on the use of safety belts and child-restraint systems in vehicles, in accordance with the political agreement reached at its session on 17 and 18 June. The common position will be forwarded to the European Parliament for a second reading under the co-decision procedure.

The text is aimed at amending directive 91/671/EEC, covering all vehicles for the transport of persons and goods. In order to deal with specific situations, Member States would be able to grant national exemptions, either permanent or temporary, in addition to those established at Community level. They would be obliged to take the necessary steps to ensure that the national exemptions are not abused. As regards the safety of children under 3 years of age in coaches, it would be for the Member States to choose the arrangements to apply pending the introduction of an appropriate Community regime.

HEALTH

Ingredients present in foodstuffs*

(Doc. 13913/02 + Add1)

The Council reached a political agreement by qualified majority, with the Austrian delegation voting against, on the amended proposal for a directive regarding indication of the ingredients present in foodstuffs. A common position will be adopted at a forthcoming meeting, and forwarded to the European Parliament for a second reading under the co-decision procedure.

The proposal, which amends directive 2000/13/EC on the labelling, presentation and advertising of foodstuffs, is aimed at improving consumers information, in particular by indication of allergenic ingredients. The agreed text mentions that the indication of the list of ingredients is not compulsory where the compound ingredient constitutes less than 2% of the finished product, as opposed to 5% in the initial proposal. Under current legislation (directive 79/112/EEC amended by directive 2000/13/EC) the list of the ingredients is not compulsory where the compound ingredient constitutes less than 25% of the finished product, except in the case of additives.

EDUCATION

Socrates programme

(Doc. 3653/02)

The Council adopted a decision of the European Parliament and of the Council on the co-financing requirements for decentralised actions (activities taking place at Member State level) of the "Socrates" education programme. The new text modifies decision 253/2000/EC on the second Community's phase of the Socrates programme.

Under decision 253/2000/EC financial assistance towards the realisation of projects may not normally exceed 75% of the total costs. Staff and infrastructure costs are not eligible for Community assistance, although other costs incurred during the realisation of the project can be covered up to 100%.

The current decision is aimed at allowing more flexibility in the application of the co-financing principle. Staff and infrastructure costs necessary for the implementation of a project will now be taken into account as the beneficiary's contribution for the realisation of the project. It is expected that this measure will in particular benefit projects run by small institutions (eg. schools, adult education institutes) which generally have limited resources.

The Socrates programme comprises eight different actions, covering, *inter alia*, school education, higher education, adult education, language learning and information and communication technologies in education. The programme's first phase took place from 1995 to 1999. The second phase covers seven years (2000- 2006) with a budget of EUR 1,850 million.