



**COUNCIL OF  
THE EUROPEAN UNION**



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**PRESS RELEASE**  
**(only points treated on the session of 25 November)**

2624th Council Meeting

**Competitiveness (Internal Market, Industry and Research)**

Brussels, 25 and 26 November 2004

President      **Mr Laurens Jan BRINKHORST**,  
Minister for Economic Affairs,  
  
**Ms Maria VAN DER HOEVEN**,  
Minister for Education, Culture and Science,  
  
of the Netherlands

**P R E S S**

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14687/04 (Presse 323)

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**EN**

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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 abovementioned 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 Jean-Claude MARCOURT

Minister for Economic Affairs and Employment (Wallon Region)

**Czech Republic:**

Mr Martin JAHN

Mr Miroslav SOMOL

Mr Petr KOLAR

Deputy Prime-Minister for Economics

Deputy Minister for Industry and Trade

Deputy Minister for Education, Youth and Sport

**Denmark:**

Mr Bendt BENDTSEN

Mr Helge SANDER

Ms Connie HEDERGAARD

Minister for Economic and Business Affairs

Minister for science, Technology and Development

Minister for the Environment

**Germany:**

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Mr Wolfgang CLEMENT

Mr Jürgen TRITTIN

Federal Minister for Education and Research

Federal Minister for Economic Affairs and Labour

Federal Minister for the Environment, Nature Conservation and Reactor Safety

**Estonia:**

Mr Andrus ANSIP

Mr Toivo MAIMETS

Minister for Economic Affairs and Communications

Minister for Education and Science

**Greece:**

Mr Dimitrios SIOUFAS

Minister for Development

**Spain:**

Mr José María MONTILLA AGUILERA

Mr Alberto NAVARRO

Mr Salvador ORDÓÑEZ DELGADO

Minister for Industry, Tourism and Trade

State Secretary for European Affairs

State Secretary for Universities and Research

**France:**

Ms Claudie HAIGNÈRE

Mr Patrick DEVEDJIAN

Mr François d'AUBERT

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

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

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

**Ireland:**

Mr Michael AHERN

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

**Italy:**

Mr Antonio MARZANO

Ms Letizia MORATTI

Mr Guido POSSA

Minister for Production Activities

Minister for Education, the Universities and Research

Deputy Minister for Education, the Universities and Research

**Cyprus:**

Mr Yiorgos LILLIKAS

Minister for Commerce, Industry and Tourism

**Latvia:**

Mr Valdis EGLE

State Secretary

**Lithuania:**

Mr Nerijus EIDUKEVIČIUS

Mr Rimantas VAITKUS

Deputy Minister for the Economy

Deputy Minister for Education and Science

**Luxembourg:**

Mr Jeannot KRECKÉ

Mr François BILTGEN

Minister for Economic Affairs and Foreign Trade,  
Minister for Sport  
Minister for Labour and Employment, Minister for  
Culture, Higher Education and Research, Minister for  
Religious Affairs

**Hungary:**

Mr Etele BARÁTH

Mr Kálmán KOVÁCS

Political State Secretary, Prime Minister's Office  
Minister for Informatics and Communications

**Malta:**

Mr Censu GALEA

Minister for Competitiveness and Communications

**Netherlands:**

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Ms Maria van der HOEVEN

Ms Catharina van GENNIP

Minister for Economic Affairs  
Minister for Education, Cultural and Science  
Minister for Foreign Trade, State Secretary for Economic  
Affairs

**Austria:**

Mr Martin BARTENSTEIN

Mr Eduard MAINONI

Federal Minister for Economic Affairs and Labour  
State Secretary, Federal Ministry of Transport, Innovation  
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**Poland:**

Mr Jerzy HAUSNER

Mr Michal KLEIBER

Deputy Prime Minister, Minister for Economic Affairs and  
Labour

Minister for Science and Information Technology

**Portugal:**

Mr Mário DAVID

Mr Manuel LANCASTRE

Mr Pedro SAMPAIO NUNES

Mr Álvaro BARRETO

State Secretary of European Affairs  
State Secretary Economic Development  
State Secretary to the Minister for Science and Education  
Ministro de Estado, Minister for Economic Activities and  
Work

**Slovenia:**

Mr Matjaž LOGAR

State Secretary for Domestic Market

**Slovakia:**

Mr Martin FRONC

Minister for Education

**Finland:**

Mr Mauri PEKKARINEN

Ms Tuula HAATAINEN

Minister for Trade and Industry

Minister for Education

**Sweden:**

Mr Thomas ÖSTROS

Mr Leif PAGROTSKY

Minister of Industry and Trade

Minister for Education and Culture

**United Kingdom:**

Ms Patricia HEWITT

Secretary of State for Trade and Industry and Minister for  
Women and Equality

**Commission:**

Mr Günter VERHEUGEN

Mr Charlie McCREEVY

Mr Janez POTOČNIK

Mr Stavros DIMAS

Member

Member

Member

Member

**ITEMS DEBATED**

**ECONOMIC SITUATION AND THE COMPETITIVENESS PACKAGE**

The Council took note of the information given by the Presidency on the economic situation and competitiveness package as follows:

"The Council welcomed the presentation of the Commission's Competitiveness Package which provides an extensive description of the current state of affairs on a broad range of determining factors of European competitiveness. The information in the Competitiveness Package is considered useful input for the development of future policies to further increase the competitiveness of the European Union, particularly in the context of the Midterm review of the Lisbon Strategy.

The Competitiveness Package consists of three separate documents. Firstly, the *Competitiveness Report 2004* examines the public sector's influence on productivity growth, the role of public sector funding in research and development, and the performance of the health sector. The Report also examines the opportunities and challenges that China's integration into the world economy provides for Europe, and recent developments in the automotive industry (which is also the subject of a report of the High Level Group on Competitiveness and Growth that was offered to the Council). Secondly, the *Innovation Scoreboard* describes the development and current state of affairs of a substantial set of indicators related to innovation, whereas, thirdly, the *Enterprise policy scoreboard* provides extensive information on the progress in improving the framework conditions that constitute the business environment of the European Union.

In the course of discussions Ministers emphasised the need to pursue efforts to develop the competitiveness dimension of impact assessment.

In this regard, Ministers welcomed the conclusions and recommendations of the HLG report on the cumulative impact of legislation on the competitiveness of the automotive industry. This report clearly shows that the automotive sectors' competitiveness will benefit from the setting of a predictable regulatory environment, providing reasonable lead times, and the move towards world wide harmonisation. Moreover, the report shows that future regulatory proposals should undergo comprehensive Impact Assessments taking into account the cumulative burden of the existing regulatory framework for the automotive industry.

Ministers agreed that the recommendations and conclusions would be a good basis for future work and forwarded the recommendations and conclusions to the Commission. The Commission welcomed the conclusions and recommendations. The Commission will establish a High Level Group on the automotive industry, which will address key issues that are important for the future competitiveness of this important industry sector. The Ministers supported the establishment of this HLG on automotive."

## **LISBON MIDTERM REVIEW AND THE KOK REPORT**

Following informal discussions over lunch among Ministers on the Competitiveness Council's approach to the Lisbon Mid-term Review and the concrete proposals put forward by the High Level Group chaired by Wim Kok, former Prime Minister from the Netherlands, the Presidency informed the Council in formal session on the outcome of such discussion as follows:

"The Competitiveness Council had an exchange of views on the Kok report on the Mid-term evaluation of the Lisbon process. The following conclusions focus on the economic aspects of the Lisbon Strategy. They are part of the follow-up to the European Council Conclusions of 4-5 November, which underline the three dimensions of the Lisbon Strategy.

The Council expressed broad support for the Kok report and considered it to be a good basis for the Mid Term Review of the Lisbon Strategy. It welcomed the recommendation by the Kok report to focus on growth, employment and productivity, as being a precondition for ensuring social cohesion and sustainable development, and considered it to be essential to take practical, operational measures at all levels, in particular at Member State level, to ensure that the Lisbon Strategy is successful. The need to focus on a limited number of key recommendations is considered essential.

In addition, it was considered that, while acknowledging the Lisbon agenda cut across a number of sectoral Councils, the Competitiveness Council had a central role to play in three of the five priority policy areas indicated in the Kok report, namely the knowledge society, the internal market and the business climate. Besides, in view of its assigned horizontal responsibilities for improving competitiveness, the Competitiveness Council assumes a co-responsibility for the other two areas, building an inclusive labour market and working towards an environmentally sustainable future.

The recommendations considered as being of particular relevance for the Competitiveness Council include: substantial investment in R&D, education and training; adopting and implementing the internal market in services; speedier implementation of internal market legislation; improvement in the quality of legislation at all levels; and paying due attention to the importance of SMEs in the overall strategy.

Openness to the outside world, investment in infrastructure and the importance of young people in achieving the Lisbon goals, as well as the issues of governance, the involvement of the citizen in the process and labour flexibility were considered by certain Member States as being worthy of more attention.

With respect to the key recommendations on governance, a large majority of Member States welcomed the recommendation to formulate national action programmes, especially if this could be combined with a reduction in the overall 'reporting burden' on Member States.

The Council invites the Permanent Representatives Committee to return to the issues set out in the 2004 Competitiveness Package and in the Kok report in order to prepare the Key Issues Paper which the Competitiveness Council will submit to the Spring European Council 2005."



**BETTER REGULATION AND SIMPLIFICATION OF LEGISLATION** - Council

*Conclusions*

The Council adopted the following conclusions:

"The Council,

RECALLING its Conclusions of 17/18 May 2004 in which it set out its views on how to take work forward on Better Regulation, in particular in respect of impact assessments and simplification of legislation,

RECALLING the European Council Conclusions of 5 November 2004, especially the call for the establishment of Council priorities for simplification of existing Community legislation while respecting the *acquis communautaire*,

RECALLING the Interinstitutional Agreement on better law-making<sup>1</sup>.

1. Impact assessments

- TAKES NOTE OF the Commission's recent Report on the next steps for Impact Assessment<sup>2</sup> outlining the measures which the Commission intends to take in order to improve the present practice and procedures in a refined framework for impact assessments covering the three pillars of the sustainable development strategy; also welcomes Member States' input to this report and reiterates the need to enhance the competitiveness dimension;
- ENDORSES the objectives and the general thrust of the Commission's Report, in particular as regards the improved methodology and guiding principles for the integrated approach to impact assessments;
- INVITES the Commission to implement, as soon as possible, the recommendations of this report including the necessary actions for the revised guidelines to become operational;

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

<sup>2</sup> SEC(2004)1377.

- UNDERTAKES to take the relevant elements of the Commission's report into account in the context of how the Council makes use of the Commission's impact assessments and with regard to the evaluation of the ongoing pilot project on impact assessment of Council amendments, which is scheduled for May 2005, and in the follow-up to that project;

2. **Simplification of legislation**

- REITERATES the importance which it attaches, in particular as regards SMEs, to the Commission's Rolling Programme for simplification of Community legislation, inter alia as a key component of the efforts to enhance competitiveness by reducing where necessary the regulatory burden on economic operators;
- WELCOMES the progress achieved since its session in May 2004 in identifying, on the basis of contributions from the Member States, individual legal acts which seem to offer a particular potential for simplification from the point of view of competitiveness;
- AGREES to submit the attached list<sup>3</sup> of Council priorities for simplification, with possible solutions, to the Commission with the invitation to include these in future updates of its rolling programme of planned legislative proposals or to take any other appropriate action;
- NOTES in this regard that, in addition, there appears to be a clear need for codification of legal acts, in particular in the transport sector, which the Commission is invited to consider for the next phase of its codification programme;
- INVITES the Commission to take account of the Council's priorities for simplification and to report on the result to the Council session in March 2005;
- STATES its intention to pursue work on identifying, on a regular basis and on the basis of a systematic approach, priorities for simplification as a continuous process in the broader framework of Better regulation and enhancing the competitiveness of the European economy. In this context suggestions already made by the Member States but not included in the present priority list will be further examined and any new proposals will also be considered."

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<sup>3</sup> See Annex II to this Note.

**List of Council Priorities for Simplification of EU legislation**

<b>SECTOR</b>	<b>NAME OF LEGISLATION</b>	<b>PROBLEM ANALYSIS</b>	<b>POSSIBLE SOLUTIONS</b>
<b>Plant protection products</b>			
Agriculture	Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market	<p>a) This directive has similar aims as 98/8/EC. They should therefore be as similar as possible. The number of SMEs applying these directives is growing. Rules on data protection are different in the two cases.</p> <p>b) Sometimes substances become prohibited during growing season.</p>	<p>a) The directives putting specific substances in the Annexes to these two directives should have similar structure and the terminology should be consistently applied. Common rules on data protection.</p> <p>b) Prohibitions should enter into force 1 January.</p>
<b>Annual accounts</b>			
Company law	Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies	Administrative burdens for companies are too high.	Change thresholds defining medium sized enterprises (in addition to the standard periodical review for inflation correction), thus exempting more companies from the tight requirements of this directive,
<b>Twelfth company law directive</b>			
Company law	Twelfth Council Company Law Directive 89/667/EEC of 21 December 1989 on single-member private limited-liability companies	Problems of survival for micro-businesses.	Incorporate in this directive or in other legislation the particular characteristics of micro-businesses ("Transfer of Businesses" programme following on from the Commission communication of 20 March 1996).
<b>Waste oils</b>			
Environment	Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils	Priority for the processing of waste oils is rendered obsolete by new insights. Implementation of this directive produces numerous procedures against Member States that have no material benefit.	<p>Make the Directive consistent with the Waste Framework Directive (75/442/EEC).</p> <p>Consider provisions covering different methods for processing of waste oils.</p>
<b>Waste</b>			
Environment	<p>Council Directive 75/442/EEC of 15 July 1975 on waste</p> <p>Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste</p>	<p>a) Definitions in the Directives are not sufficiently clear. Inconsistent use of terminology in the sections dealing with recovery and disposal operations.</p> <p>b) Implementation is bureaucratic, for instance because of obligation for adhesive manufacturers to complete formalities for empty containers which are less dangerous than full containers.</p>	<p>a) Technical adjustments of the texts concerned for the purpose of clarifying existing definitions and removing inconsistencies in terminology.</p> <p>b) Formalities for transporting empty containers need to be simplified.</p>

Hazardous waste

Environment	Council Directive 91/689/EEC of 12 December 1991 on hazardous waste	Art. 8 requires detailed reporting on waste processing. This serves no obvious purpose, especially as there is already another requirement to report once every three years on the amounts and types of waste actually processed.	Abolish reporting requirements on waste processing capacity (art. 8 sub 3 of the directive)
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Incineration of waste

Environment	Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste	Reporting requirements resulting from this directive show large overlap with reporting requirements resulting from directives 2001/80/EC (on emissions from large combustion plants) and 1999/13/EC (on organic solvents), for instance regarding emissions of SO <sub>2</sub> and NO <sub>x</sub> .	Examine reporting requirements resulting from these Directives with a view to facilitating streamlining.
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Food labelling

Health	Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs	The horizontal Food Labelling Directive is often inconsistent with a number of product-specific directives, thereby creating additional burdens for those on whom the directives impact.	Reduce burdens by resolving inconsistencies.
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International vs. EU motor vehicle rules

Transport	<p>Council Directive 71/320/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and of their trailers</p> <p>Council Directive 76/756/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers</p>	Industrial simplification in vehicle design and administrative simplification in type-approval procedures needed.	Arrange for direct application and for bringing Community provisions in line with those adopted by the World Forum for Harmonisation of Vehicle Regulations in Geneva.
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Construction products

Internal market	Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products	Problematic to assess precise meaning of construction product, for instance in the case of electrical equipment, steel products, nails and paints.	Clarify definition.
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## Medical devices

Internal market	Council Directive 93/42/EEC of 14 June 1993 concerning medical devices	Currently five directives apply to medical devices: 90/385/EEC, 93/42/EEC, 98/79/EC, 2003/12/EC and 2003/32/EC.	Simplify by replacing the five directives by only two: one for diagnostic medical devices in vitro (by updating 98/79/EC) and an umbrella directive for all other medical devices (by concentrating the scope of the other four) that contains a more detailed classification.
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## Pressure vessels

Internal market	Council Directive 87/404/EEC of 25 June 1987 on the harmonization of the laws of the Member States relating to simple pressure vessels	Process of conformity assessment is too complicated compared to 97/23/EC. Approach of existing legislation (87/404) is not corresponding.	Incorporate 87/404/EEC into 97/23/EC.
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## Health and safety at work

Social	Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work	Yearly information requirements with regard to all of the individual measures impose a disproportionate burden on the Member States.	Information requirements should be minimised, harmonised and reverted to a 6 year cycle. Reporting should be shaped as one summary report for all measures.
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## Structural business statistics

Statistics	Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning structural business statistics	Too many and partially overlapping statistics are required.	Drop some of the statistics and reorganise the rest to cover the necessary data.
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## Intrastat

Statistics	Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States	Two measures of quantity (net mass in kg, and a secondary measure like litres or number of items) are required for trading information on some goods.	Exclude double quantity information.
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## **REACH**

The Council held a policy debate on a draft Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and establishing a European Chemicals Agency.

The debate took place in the light of the Presidency's Report based on discussions so far in the *ad hoc* Working Party on Chemicals, established in November 2003.

At the end of the debate, the Presidency summarised as follows:

"A number of key issues have been discussed during the policy debate, the purpose of which was to give political guidance for work under the subsequent Presidencies.

The Council took note of the Presidency's report set out in document 14226/1/04 REV 1 on the basis of which it held a policy debate addressing a set of key issues, notably: conclusions and recommendations from the REACH Impact Assessment Workshop; mandatory sharing of non-animal data, including agreements on core data sets and cost sharing; and information requirements for low volume substances.

1. As to the Workshop on REACH Impact Assessment held in The Hague on 25-27 October 2004, the Council welcomed the conclusions and recommendations and instructed its preparatory bodies in cooperation with the Commission to take account of them in the future work.
2. Concerning the issue of joint submission of data including cost sharing, the Council stressed the importance of avoiding unnecessary testing on animals and underlined the need to improve the protection of the human health and the environment while ensuring the competitiveness of the European chemicals industry, in particular of SME's. In this context, the Council discussed a suggestion implying mandatory sharing of all data , including legally-binding rules on cost sharing, as a possible means to achieve these objectives. While there was support, the Council called for further examination of this issue, taking into account the Opinion of the Council Legal Service.
3. The Council discussed the question of a possible extension of the data requirements for low volume substances (1-10 tonnes per year). Member States acknowledged the importance of having sufficient data to enable appropriate classification and labelling and to ensure the protection of human health and the environment, especially as to the identification of substances of high concern, such as PBTs and vPvBs. Member States stressed the importance of achieving the right balance between costs of additional data (specifically for SMEs) and benefits. The importance of taking into account the competitiveness aspects of such a possible extension of data requirements was also emphasized by Member States and the Commission.

The Council instructed its preparatory bodies to examine in greater detail these issues while, besides considerations of human health and environment, taking into account the impact of REACH on competitiveness, in particular of SMEs, as well as a simplification of the administrative processes and an efficient use of scarce resources."

## **SERVICES IN THE INTERNAL MARKET**

Minister discussed over lunch a draft Directive establishing a general legal framework for services in the internal market. The objective of this Commission's proposal is to eliminate the obstacles to the freedom of establishment for service providers and the free movement of services between the Member States. It covers a wide variety of economic service activities – with several exceptions, such as financial services, electronic communications services and networks and most transport services – and applies only to service providers established in a Member State.

The debate took place on the basis of a note prepared by the Presidency. The note focused on three main issues: the country of origin principle, administrative cooperation and administrative simplification. At the end of the debate the Presidency summarised the outcome of the discussion as follows:

- The political and economic significance of the proposed Directive as a key element of the Lisbon agenda and of the realisation of the internal market in services was underlined.
- There was general agreement on the economic objectives of the proposed Directive which will enhance economic growth, as shown in a number of economic studies.
- The country of origin principle was discussed extensively. Member States supported this principle as an essential element of the proposed directive. Some Member States expressed specific concerns although they could accept the country of origin principle as a starting point for the discussions.
- It was generally felt that the proposed Directive needs to be further clarified in order to better communicate what it means and does not mean. The Directive would, for example, not undermine the European social model or affect the Posting of workers Directive.
- The need for further clarification of derogations and exceptions to the directive was stressed. In this respect health, environment, taxation, monopolies, such as lotteries, and impact on consumers were mentioned.
- The proposed provisions for administrative co-operation and simplification as essential tools for a well-functioning internal market, especially in services, as well as for an effective country of origin principle were generally agreed.

## **CROSS BORDER MERGERS**

Pending the European Parliament's opinion at first reading, the Council agreed by qualified majority on a general approach on a Directive on cross-border mergers of limited liability companies. The Italian delegation voted against and the Danish delegation abstained as it had a parliamentary scrutiny reservation.

This proposal lays down Community provisions to facilitate the carrying-out of cross-border mergers between various types of limited liability companies governed by the laws of different Member States.

The agreement was reached on the basis of an amended Presidency compromise package. The key features of the agreed text as modified by the Council are:

- On the scope, this draft Directive will apply to limited liability companies, encompassing the types of companies falling within the scope of the Council Directive 68/151/EEC<sup>1</sup>, as well as those types of companies which meet the criteria of a definition very similar to the one contained in the Commission proposal. Member States agreed to exclude from the scope of the Directive of undertakings for collective investment in transferable securities within the meaning of Article 1 of Directive 85/611/EEC<sup>2</sup> (UCITS Directive) and on a provision allowing Member States to decide whether or not apply this Directive to cross-border mergers involving a cooperative society even in the cases where the latter fall within the definition of limited liability company. Finally, the agreement includes a provision making clear that the possibility for two or more companies to carry out a cross-border merger shall depend upon whether such companies are allowed to merge under the national law of all Member States involved.
- The text agreed on provided the possibility for Member States to apply some provisions and formalities applying to domestic mergers to transnational mergers in a manner which takes into account the cross-border nature of cross-border mergers. In addition, Member States are granted the possibility of adopting specific provisions regarding the protection of minority members of a merging company, who have opposed the cross-border merger.
- The establishment of a minimum content of the common draft terms of cross-border merger for each of the companies concerned in the various Member States while leaving the companies free to agree on other items.

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<sup>1</sup> OJ L 65, 14.03.68, p. 8.

<sup>2</sup> OJ L 375, 31/12/1985 p. 3



- The principle that the common draft terms of cross-border merger must be approved by the general meeting of each of these companies.
- The monitoring of the completion and legality of the decision-making process in each merging company must be carried out by the national authority having jurisdiction over each of those companies, whereas monitoring of the completion and legality of the cross-border merger should be carried out by the national authority having jurisdiction over the company resulting from the cross-border merger.
- On the key issue of employee participation rights, the general principle is that the national law governing the company resulting from the cross-border merger will be applied. As an exception to this general principle, the European company (SE) Regulation and Directive rules should apply if at least one of the merging companies has an average number of employees in the six months before the publication of the draft terms of the cross-border merger as that exceeds 500 and is operating under an employee participation system, or where the national law applicable to the company resulting from the cross-border merger does not
  - provide for at least the same level of participation as operated in the relevant merging companies, measured by reference to the proportion of members of the administrative or of the supervisory organ or their committees or of the management group, which covers the profit units of the company, subject to employee representation, or
  - provide for employees of establishments of the company resulting from the cross-border merger and are situated in other Member States the same entitlement to exercise participation rights as is enjoyed by those employees employed in the Member State where the registered office of the company resulting from the cross-border merger is situated,

An agreement was finally reached on the threshold proposed by the Presidency for the application of the European Company standard rules, It will be 33 1/3% of the total number of employees in all merging companies that must have operated under some kind of employee system.

Another important provision aims at protecting employees rights in subsequent domestic mergers for a period of three years after the cross-border merger has taken effect.

**TRADE OF DRUG PRECURSORS**

The Council reached a unanimous political agreement on a draft Regulation on the monitoring of trade between the Community and third countries in certain substances frequently used for the illicit manufacture of narcotic drugs and psychotropic substances. The Council agreed to enter in the minutes at the time of the adoption of the Regulation a statement on the use of the term "penalties". The text of the Regulation will be formally adopted without debate at a forthcoming Council meeting after being finalised by legal linguists.

This proposal aims to prevent the illicit use of drug precursors by intensifying the import and export requirements for these chemicals, by extending monitoring requirements with regard to Community operators facilitating trade between third countries, by introducing a Community approach with regard to procedures for granting licences and by strengthening monitoring requirements governing suspensive customs procedures.

This proposal complements the Regulation on intra-Community monitoring of drug precursors which the Council adopted in February this year. With the adoption of the present text, the Community will fulfil its obligations under the United Nations Convention illicit traffic in narcotic drugs and psychotropic substances, adopted in Vienna in 1988.

**TEXTILES AND CLOTHING AFTER 2005** - *Council conclusions*

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING

- the Commission's Communication on "The future of the textiles and clothing sector in the enlarged European Union" of 29 October 2003<sup>1</sup>;
- the conclusions of the Competitiveness Council of 26-27 November 2003<sup>2</sup>;
- the Commission's Communication "Textiles and clothing after 2005 – Recommendations of the High Level Group for textiles and clothing" of 13 October 2004<sup>3</sup>;
- the conclusions of the fifth Euro-Mediterranean Ministerial Conference on industry, which took place in Caserta, Italy, on 4 October 2004<sup>4</sup>.

2. WELCOMES the Commission's Communication and the set of actions proposed in the accompanying Commission Staff Working Document;

3. RECOGNISES the challenges that the textile and clothing sector is facing and will continue to face over the coming years and the importance of improving its competitive position in an open and fair trade environment;

4. RECOGNISES the importance of the approach outlined in the Communication as an effective way of implementing horizontal principles in EU industrial policy, while identifying the needs specific to the textile sector;

5. SUPPORTS the Commission's strategy towards the textiles and clothing sector, which focuses on competitiveness factors linked to research and innovation, training and better skills, protection of intellectual property rights, access to third country markets and encouraging the development of strategies at the level of the Euro-Mediterranean zone for the textiles industry;

6. INVITES Member States to co-operate with the Commission in order to identify and make available best practices with a view to facilitating the dissemination of information on national and regional support for the textiles and clothing sector;

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<sup>1</sup> 14314/03  
<sup>2</sup> 15472/03  
<sup>3</sup> 13679/04 + ADD 1  
<sup>4</sup> 13458/04

7. URGES the Commission to continue with the work of the High Level Group for textiles and clothing, with a particular focus on strategic areas where further progress could be achieved, such as innovation, including non technological innovation, and development of industrial co-operation with the partners of the Euro-Mediterranean zone and of the dialogue initiatives with important partners such as, for example, China, India and Russia;
8. URGES the Member States and the Commission to proceed with ongoing work related to the fight against counterfeiting and piracy;
9. URGES the Commission to continue to promote a proactive approach seeking to obtain better market access to third country markets; NOTES the Commission's readiness to use the available trade defence instruments, if the legal conditions are met and if and when they are effectively needed;
10. SUPPORTS a General System of Preferences (GSP) scheme that will be targeted at countries most in need, such as the the least developed countries and the most vulnerable developing countries in order to help them play a greater role in international trade. In this context the situation arising from the end of the Multi Fibre Agreement textile quota scheme will be addressed within the discussion of the new GSP scheme;
11. STRESSES the importance of a continued social dialogue to address key challenges such as skill qualifications and work organisation for a successful outcome of the on-going structural changes;
12. STRESSES the important role of SMEs in the textile sector. There is a need to improve access of these enterprises to finance by using Community financial instruments to provide European leverage and support for SME financing, including their access to support for research and innovation;
13. INVITES the Commission to regularly inform the Council on the developments in the EU textiles and clothing sector in the aftermath of the dismantling of import quotas from 1 January 2005 and in the light of the implementation of the proposed initiatives; it also invites the Commission to report on the outcome of the further discussions of the High Level Group."

## **EUROPEAN SPACE POLICY**

In the margins of the Council, the first meeting of the "Space Council"<sup>1</sup>, which is a joint meeting of the Council of the European Union and of the Council of the European Space Agency (ESA) at ministerial level, took place. It was the first opportunity for Ministers representing the 27 European Union and/or European Space Agency Member States to jointly discuss the development of a coherent overall European space programme.

This meeting was jointly chaired by Mr Laurens-Jan Brinkhorst, Dutch Minister for Economic Affairs and current chair of the EU Competitiveness Council, and by Mrs Edelgard Bulmahn, German Minister for Education and Research and current chair of the ESA Council at ministerial level. The meeting was also attended by Mr Günter Verheugen, European Commission Vice President, as responsible for enterprise, industry competitiveness and space matters and by Mr Jean-Jacques Dordain, ESA Director General representing the European Space Agency.

During the meeting a debate was held among Ministers on policy issues concerning the development of an European Space Programme (ESP) on the basis of a questionnaire drawn up by the two Presidencies concerned (EU and ESA). The questions varied from the scope of a space programme to governance, industry policy principles and possible mechanism's for funding.

In addition, the "Space Council" proposed the first 'orientations' relating to the future development of ESP, which were subsequently endorsed by the Competitiveness in accordance with its Rules of Procedure.

The above mentioned first orientations read as follows:

"First orientations on the preparation of the European Space Programme

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<sup>1</sup> The Framework Agreement between the European Community and the European Space Agency (ESA) entered into force on 28 May 2004. This agreement provides a common basis for the coherent and progressive development of an overall European Space Policy and establishes under Article 8 regular joint and concomitant meetings of the Council of the European Union and of the Council of ESA at ministerial level, the "Space Council", for coordinating and facilitating cooperative activities.

1. Space activities are acknowledged as being of strategic importance for their contribution to the implementation of a wide range of European policies.<sup>1</sup>
2. It is therefore essential to assess the resources necessary and to utilise the available resources in an efficient and effective way at all levels, so that efforts are complementary and avoid duplication, and so that the offer of space based services and infrastructures meet the demand from users, such as the European Union's policies, the Member States' policies and the European citizens.
3. The specificity of the space sector requires the continued attention of public authorities and the determination of appropriate industrial policy principles to respond to the above.
4. The first joint and concomitant meeting of the Council of the European Union and of the Council of ESA at ministerial level ("Space Council") established under the EC-ESA Framework Agreement was an important opportunity to gather twenty seven States, members of the European Union and members of the European Space Agency, to assess the issues above and to discuss the coherent and progressive development of an overall European Space Policy.
5. The European Space Programme will constitute a common, inclusive and flexible framework on the basis of which activities and measures would be taken by the European Union, the European Space Agency and other stakeholders (e.g. national organisations).
6. It is advisable to start the process of preparing a European Space Programme so as to define its conceptual basis for a "Space Council" session planned for end 2005. This should be without prejudice to the outcome of the on-going discussions of the European Union Financial Perspectives 2007-2013.
7. It is foreseen to hold the second "Space Council" session in Spring 2005 for addressing preliminary elements of the European Space Programme. This second session is expected, in particular to:
  - Recognise and identify priorities of the European Space Programme, including estimation of possible costs

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1 In this context, Art. III-254 par. 1 of the Constitutional Treaty for Europe reads as follows: "To promote scientific and technical progress, industrial competitiveness and the implementation of its policy, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space".

- Identify the roles and responsibilities of the EU, ESA and other stakeholders of the European Space Programme as well as the relevant funding sources
  - Identify industrial policy principles and funding principles related to the implementation of the European Space Programme
8. The Joint Secretariat will develop, in consultation with Member States, and in particular through the High Level Space Policy Group pursuant to article 8 of the Framework Agreement, the above mentioned preliminary elements of the European Space Programme."

**OTHER BUSINESS**

– ***Shipbuilding***

The Council was briefed by Commission Vice-President, Mr Günther Verheugen on the progress made under the LeaderSHIP 2015 initiative.

– ***5th Euro-Mediterranean Ministerial Conference on Industry, Caserta***

The Council was informed by the Presidency on the outcome of the Caserta ministerial conference jointly arranged between the Presidency and the Italian authorities. The Conference adopted the "Caserta declaration" and the "Euro-Mediterranean Charter for Enterprise".

– ***Implementation of internal market legislation***

As a follow-up to the discussion in the Council on 24 September 2004, the Council took note of the information given by the Presidency regarding efforts by the Member States to reduce their transposition deficits.

– ***Netherlands Presidency conferences***

The Council took note of the information given by the Presidency on conferences and activities relating to competitiveness, which have taken place under the Dutch Presidency.

– ***European centres of Enterprise award scheme***

The Council took note of the UK written note bringing to the attention of the new Commission the Competitiveness Council conclusions of 11 March 2004 inviting the Commission to carry out an examination of the feasibility of establishing a "European Centres of Enterprise" award scheme examination as soon as possible with a view to reaching agreement on the introduction of a European Centres of Enterprise award scheme during 2005.



**OTHER ITEMS APPROVED**

**EXTERNAL RELATIONS**

**Southeast Asia countries - Agreements on partnership and cooperation**

The Council adopted negotiating directives for individual Framework Agreements on partnership and cooperation with Thailand, Indonesia, Singapore, the Philippines, Malaysia and Brunei.

**EUROPEAN SECURITY AND DEFENCE POLICY**

**EU military operation in Bosnia and Herzegovina "EUFOR-ALTHEA"**

The Council, at its meeting on 25 November 2004, adopted a Decision on the launching of the EU military operation in Bosnia and Herzegovina "EUFOR-ALTHEA"<sup>1</sup> (14602/04).

Under this Decision ALTHEA operation will be launched on 2 December 2004.

The present Decision follows the adoption of the UN Security Council Resolution 1551(2004), of 9 July 2004, welcoming the EU's intention to launch a mission in BiH, including its military component.

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<sup>1</sup> See Council Joint Action 2004/570/CFSP of 12 July 2004 (published in the Official Journal of the EU L 252/04, page 10).