



Brussels, 21 September 2004

BACKGROUND ¹

COMPETITIVENESS COUNCIL

(Internal market, Industry and Research)

Brussels, 24 September 2004

The Council session under the chair of Mr. Brinkhorst, Dutch Minister for Economic Affairs and Mrs. Van der Hoeven Dutch Minister for Education, Science and Culture, will start on Friday 24 September at 10 o'clock.

Upon the initiative of the Presidency and for the first time, the meeting will be opened by an exchange of views on the general economic situation and competitiveness. Then, the Council is expected to adopt conclusions on industrial policy and structural change. It will continue its work on simplification of the legislation and better regulation and, it will be informed by Commissioner Bolkestein on the state of implementation of the Internal Market legislation.

The remaining agenda will be covered by a series of internal market and research items. The Council will endeavour to reach a political agreement on the following internal market proposals: phthalates Directive, sales promotions Regulation and on machines Directive.

Regarding research, the Council will reflect on possible scenarios and lines to take concerning ITER international negotiations. Ministers will also be called to exchange their views and adopting conclusions on EU research policy, in particular regarding the evaluation of the new instruments of the Framework and the future European Union policy to support research. The last point on the agenda concerns the adoption of conclusions on different actions proposed by the Commission on nanotechnologies.

Two press conferences will be held by the Presidency at the end of the morning session (around 1 pm) and at the end of the meeting.

¹ This note has been drawn up under the sole responsibility of the Press Service.

HORIZONTAL ISSUES

- **Economic situation and competitiveness**
- **Industrial policy and structural change**
- **Better regulation – Simplification of legislation**
- **Implementation of Internal market legislation**

The Council will deal with these four issues closely linked and all of them concerning competitiveness of the European economy. The Dutch Presidency is keen in strengthening the role of this formation of the Council in fostering growth of European economy and on the follow-up of the targets set in the Lisbon Strategy.

For the first time upon the initiative of the Dutch Presidency, the Council will have an exchange of views on the economic situation and competitiveness in Europe. Then, it will focus on the Commission's Communication on industrial policy and structural change leading up to the adoption of conclusions.

The main ideas of the draft conclusions can be summarised as follows:

- It is recognised the need of intrasectoral and cross-sectoral structural change to boost European competitiveness and productivity growth. This will imply reallocation of resources into economic activities with growth potential for productivity, value added and job creation.
- It is underlined the necessity of ensuring a maximum of coherence between policies at national and European level as well as between national policies.
- It is necessary to deepen the analysis of Community policies' impact on industry's competitiveness and adjust them where necessary so that they improve their contribution to industrial competitiveness and structural change. That is why the draft conclusions enumerate a series of actions in the domain of trade, state aid, research, cohesion and environment policies.
- The Council supports the Commission approach on its initiatives launched on sectors such as the automobile industry, mechanical engineering or eco-industries. The Commission's method for such initiatives, beginning with a detailed analysis of the sector's competitiveness, followed by a wide-ranging consultation of all the stakeholders concerned, and only then considering what mix of policy tools could be adapted to foster structural change, in a framework of open markets and competition.

As it concerns "Better regulation and simplification of legislation", the Presidency will present a progress report leading to a policy debate. The report focuses on four areas where work is currently being done:

- Simplification of legislation: the Competitiveness Council adopted Conclusions on Better regulation at its session on 17/18 May 2004, stating its intention to consider priority areas for simplification of legislation in September with a view to agreement before the end of 2004. Most of the Member States submitted a list with concrete proposals. The Working Group competent at the Council is examining those proposals in order to draw up a priority list that will be submitted for decision to the Committee of Permanent Representatives and then to the Competitiveness Council.
- Competitiveness testing: The Council is working on how the competitiveness dimension in the Commission's impact assessment procedure might be further strengthened.
- Measurement of administrative burdens: Work is under way on the feasibility and requirements of a measurement tool for administrative burdens.
- Impact assessments on Council amendments: As a follow-up to the Interinstitutional Agreement on Better Lawmaking, a pilot project is conducted in order to develop a workable procedure.

The Council will also hear the presentation by Commissioner Frits Bolkestein of Scoreboard 13 on the implementation of Internal Market legislation published last July². He will also present the Recommendation adopted on 12 July, 2004, which sets out a number of best practices that are currently used in the Member States to facilitate the correct and timely transposition of Internal Market directives into national law.

The Dutch Presidency attaches great importance to this matter as it considers the correct and timely implementation of EU Internal Market directives essential for the proper functioning of the internal market and by implication for the competitiveness of the European Union.

As shown by the latest Internal Market Scoreboard, the transposition of Internal Market directives remains problematic in most Member States. The transposition deficit for Internal Market directives is 2.2%. This means that as many as 134 Internal Market directives have not been transposed into national law in all the Member States, despite the deadline for transposition having passed. This represents almost 9% of Internal Market directives. According to the Scoreboard, there are big disparities among the new Member States as regards transposition.

The Presidency's intention is to hold a debate structured by a questionnaire seeking a strong political commitment to structurally remove the obstacles which impede timely and correct transposition.

² See: SEC (2004) 956 at http://europa.eu.int/comm/internal_market/score/index_en.htm

INDIVIDUAL POLICY FILES

Internal Market

➤ MACHINES (public deliberation)

The Council is expected to reach a political agreement on the draft Directive on technical harmonisation for machines. Specifically this legal text is aimed at simplifying the approval and testing procedures, and at updating the technical prescriptions, extending *inter alia* the scope of the Directive 98/37/EC³ to portable cartridge devices and to construction site lifts.

A large majority of delegations is now supporting the compromise text of the Presidency. Many questions have been solved over the last weeks, *inter alia*: the extension of the scope of the Directive to portable cartridge devices and to construction site lifts, the updating of safety components via a comitology procedure or the need to introduce a new class of potentially hazardous machinery.

Legal basis: Article 95 of the Treaty (codecision with the European Parliament and qualified majority required at the Council). The European Parliament adopted its first reading opinion in July 2002.

➤ PHTHALATES⁴ (public deliberation)

The Council is expected to reach a political agreement on a common position concerning a draft Directive aimed at restricting the use of certain phthalates in toys and childcare articles.

Since 1999, the use of six phthalates in toys and childcare articles intended to be mouthed by children under the age of three is subject to a temporary ban at EU level following the adoption of Decision 1999/815/EC⁵. This decision is being renewed regularly. However; the Commission decided to propose a permanent ban as they exist other limitations in force in certain Member States on the marketing of toys and childcare articles because of their phthalate content, which affect directly the functioning of the internal market.

Following to risk assessments DEHP, DBP and BBP⁶ have been identified as reprotoxic substances and then the exposure of children from them has to be reduced as far as possible. For reasons of proportionality, restrictions for DINP, DIDP and DNOP⁷ are less severe as scientific information regarding them is lacking or conflictual.

³ Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery
Official Journal L 207 , 23/07/1998 P. 0001 - 0046
European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts
Official Journal L 213 , 07/09/1995 P. 0001 - 0031

⁴ Some phthalates are used to soft PVC in childcare articles and toys

⁵ OJ L 315, 9.12.1999 p. 46.

⁶ DEHP= bis (2-ethyhtxyl); DBP= dibutyl phthalate; BBP= benzil butyl phthalate

⁷ DINP= di-“isononyl”phthalate; DIDP= di-“isodecyl” phthalate; DNOP= dioctyl phthalate

The measures proposed are based on the precautionary principle and therefore they will be subject to review in the light of new scientific data. The Commission, in co-operation with the Member State authorities responsible for market surveillance and enforcement for toys and childcare articles, and in consultation with the relevant organisations of producers and importers, shall monitor the use of phthalates and other substances as plasticisers in toys and childcare articles.

The discussion of this proposal has been controversial among Member States and an agreement seems now attainable on the basis of a compromise text of the Dutch Presidency. On one hand, the text as it stands now establishes a total ban for toys and childcare articles containing DEHP, DBP and BBP. That is to say that those articles cannot be placed on the market if those substances are used in preparations of greater than 0.1% in the plasticised material. On the other hand, toys and childcare articles where DINP, DIDP and DNOP have been used will be forbidden only if 1) those articles are intended for children under three years, 2) can be placed in the mouth of them and 3) the above mentioned substances are used at concentrations of greater than 0.1% in the plasticised material.

The proposal submitted for decision to the Council differs in few points from the original Commission proposal. Originally, the Commission proposed a same ban for the six phthalates in question when used in preparations of greater than 0.1% in articles intended to be put in the mouth of children under the age of three. For other cases of use of phthalates, the Commission introduced the obligation of a warning to be appeared on the packaging of childcare articles saying that those articles should not be put in the mouth as could release phthalates dangerous to child health.

Legal basis: Article 95 of the Treaty (codecision with the European Parliament and requiring qualified majority at the Council). The European Parliament adopted its first reading opinion in July 2000.

➤ SALES PROMOTIONS (public deliberation)

The Council is invited to reach a political agreement on the amended proposal for a Regulation concerning sales promotions in the internal market.

This proposal aims at establishing directly and uniformly applicable rules throughout the European Union and seeks to remove uncertainty arising from different national interpretations and implementations of provisions. This should bring transparency and better information in trade and in communication with potential clients.

Since its submission in October 2001 by the Commission⁸, intensive work on this file, including several discussions at Ministers level, has been done. Discussions at internal bodies of the Council have been mainly focussed on the appropriateness of the instrument proposed by the Commission, the mutual recognition clause and on the inclusion of promotional games and contests.

⁸ The proposal was prepared on the light of the two and a half year analysis by a group of experts from the Member States and the Commission on the differences in national regulations relating to sales promotions. On the basis of this work and by applying the principle of proportionality, the Commission was able to distinguish between those areas where mutual recognition could be applied and those where targeted harmonisation was necessary.

The draft Regulation as it stands now, introduces the interdiction for Member States to impose neither a general prohibition on the use of commercial communication of a sales promotion nor a limitation on the value of a sales promotion, except for discounts on books, sheet music or press products. Economic operators will not be obliged to ask for a prior authorisation from the Member State where the sales promotions will be launched.

The Committee of Permanent Representatives will continue its work on this proposal with a view of resolving some of the questions which remained outstanding before the Council meeting on Friday.

Legal basis: Article 95 of the Treaty (codecision with the European Parliament and requiring qualified majority at the Council). The European Parliament adopted its first reading on 4 September 2002.

Research

➤ ITER

The Council will hold an exchange of views on the state of play in international negotiations concerning ITER (International Thermonuclear Experimental Reactor). During the debate, it is expected that delegations will express their positions as regards possible future scenarios and the line to take by the European Union.

➤ EUROPEAN RESEARCH POLICY

Responding to the Commission Communication on the evaluation of the new instruments of the 6th Framework Programme, which followed the report of the high level panel lead by Prof. Marimon, and the Commission Communication on the future European Union policy to support research, the Council will hold an exchange of views and approve conclusions linked to these subjects.

The draft conclusions *inter alia* emphasise the potential of the new instruments (Networks of Excellence & Integrated Projects), which were introduced with the 6th Framework Programme, as well as the Specific Targeted Research Projects (STREP's). They call for the maintenance of these instruments in an appropriate balance between new and traditional instruments in the 7th Framework Programme, depending on the outcome of the financial perspectives negotiations, to ensure continuity between the Framework Programmes.

They also acknowledge the work of the high level panel and its recommendations for improvement of the new instruments, in particular with regard to the needs of SME's, as they will help in the necessary task of making the Framework Programme more accessible to SME's and startups.

With regard to the future EU policy to support research, the draft conclusions welcome the initiative of such a debate. They further take note of a number of objectives and corresponding activities that the Commission has identified as the starting point for the discussions:

- Making Europe more attractive to the world's best researchers
- Launching European technology initiatives, which bring together the main stakeholders to mobilise a critical mass of public and private resources in specific technology areas
- Stimulating the creativity of basic research through competition individual teams at European level and defining the appropriate mechanism to support such research

- Developing research infrastructures of European interest
- Improving the co-ordination of national research programmes, building on the successful experience of ERA-NET
- Consideration of specific action for space and security
- Creating European centres of excellence through collaboration between laboratories

➤ **NANOTECHNOLOGY⁹ (public debate)**

The Council will adopt a set of conclusions on a European strategy for nanotechnology.

The Commission adopted last May a Communication proposing several actions as part of an integrated approach to maintain and strengthen European R&D in nanosciences and nanotechnologies. It considers the issues that are important to ensure the creation and exploitation of the knowledge generated via R&D for the benefit of society.

The main issues addressed by the draft conclusions are as follows:

- There is a broad agreement on the main message of this Communication, namely the need to develop an integrated and responsible strategy.
- With a view to maintaining and reinforcing European scientific excellence and industrial competitiveness a coherent and co-ordinated management of initiatives both at the national and European level is needed, thus generating scientific and technological knowledge in sectors such as nanomaterials, nanoelectronics and nanomedicine.
- Initiatives in this field should take into account the need of increasing investment in R&D activities, creating high-level “poles” of excellence and infrastructures in nanotechnology, promoting interdisciplinary education and training of research personnel and promoting favourable conditions for technology transfer and innovation integrating societal, environmental and health considerations into the R&D process and assessment of potential risks throughout the life cycle of nanotechnology-based products.
- The Commission intends to draw up an Action Plan for nanotechnology during the first quarter of 2005, after having launched a wide-ranging stakeholder debate. It will also engage in a dialogue at international level, with a view to establishing a framework of shared principles for the safe, sustainable, responsible and socially acceptable development and use of nanotechnologies.

⁹ Conceptually, nanotechnology refers to science and technology at the nano-scale of atoms and molecules, and to the scientific principles and new properties that can be understood and mastered when operating in this domain. Such properties can then be observed and exploited at the micro- or macro-scale, for example, for the development of materials and devices with novel functions and performance.

As a general background, the Commission Communication shows that when comparing Europe, Japan and the USA, there are no established “winners” or “losers” in nanotechnology but some trends can be identified. Europe’s strength in nanosciences is demonstrated by the fact, over 1997-1999, the EU shared 32% of worldwide publications, compared to 24% for the USA and 12% for Japan. However, this knowledge does not appear to be always capitalised upon by industry. Analysis of patents reveals that the EU has a worldwide share of 36%, compared to 42% for the USA, demonstrating a weakness in transforming R&D into applications.

Public investment levels vary considerably across the Member States both in absolute and relative terms. The level of public funding for nanotechnology R&D in Europe has risen from around 200 million € in 1997 to the present level of around 1 billion € with around two-thirds from national and regional programs.

The Commission in its Communication calls for Member States to take the following actions in this field:

1. To remain at the forefront of nanosciences and nanotechnologies, the EU should reinforce its commitment to R&D. While ensuring synergy with programmes at national level, the Commission calls upon the Member States to:
 - (a) substantially increase public investment in nanosciences and nanotechnologies in a coherent and coordinated manner by a factor of 3 by 2010 bearing in mind the Lisbon and “3%” objectives;
 - (b) promote excellence in nanosciences through competition at European-level;
 - (c) boost R&D in nanotechnologies with a view to wealth-generating applications with emphasis on the involvement of SMEs;
 - (d) to maintain a concentration of R&D activities in the next Framework Program in order to secure critical mass and synergy between the development of nanosciences, nanotechnologies, related engineering and safety aspects;
 - (e) ensure effective coordination of the national programmes;
 - (f) reinforce roadmap and foresighting efforts at European level with the contribution of centres of excellence and institutes such as the IPTS.

In its draft conclusions, the Council supports the approach of the Commission, while stressing the importance of the existing nanotechnology-industry and the potential for the future. In line with the Commission, the Council attaches great importance to a responsible approach and international cooperation.