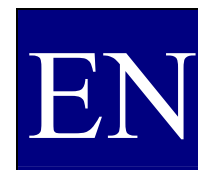




**COUNCIL OF
THE EUROPEAN UNION**



9081/04 (Presse 140)

PROVISIONAL VERSION

PRESS RELEASE

2583rd Council Meeting

Competitiveness (Internal Market, Industry and Research)

Brussels, 17 and 18 May 2004

President **Ms Mary HARNEY**
An Tánaiste (Deputy Prime Minister) and Minister for
Enterprise, Trade and Employment of Ireland

P R E S S

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

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Main Results of the Council

Competitiveness and innovation / Better regulation - Council conclusions.

REACH - Policy debate on Registration, "Duty of Care" and the European Chemicals Agency in order to provide political guidance for incoming Presidencies.

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

Software patentability - political agreement on a common position.

Consumer protection co-operation - confirmation of first reading agreement.

Unfair Commercial Practices Directive- political agreement on a common position.

Recognition of professional qualifications - political agreement on a common position.

Sales promotions - further examination of the proposal by the Council.

Community Customs Code - political agreement.

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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.

OTHER ITEMS APPROVED

none reported.

PARTICIPANTS

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

Belgium:

Ms Patricia CEYSENS

Flemish Minister for Economic Affairs, Foreign Policy and E-government

Ms Fientje MOERMAN

Minister for Economic Affairs, Energy, Trade and Scientific Policy

Mr Bernd GENTGES

Minister for Education and Training, Culture and Tourism (German-speaking Community)

Czech Republic:

Mr Miroslav SOMOL

Deputy Minister of Industry and Trade

Mr Petr KOLAR

Deputy Minister for Education and Research

Denmark:

Mr Jeppe TRANHOLM MIKKELSEN

Deputy Permanent Representative

Mr Michael DITHMER

State Secretary

Germany:

Mr Jürgen TRITTIN

Minister for the Environment

Mr Georg Wilhelm ADAMOWITSCH

Secretary of State

Mr Hansjörg GEIGER

Secretary of State

Mr Wolf-Dieter DUDENHAUSEN

Secretary of State

Estonia:

Mr Meelis ATONEN

Minister for Economic Affairs and Communications

Mr Toivo MAIMETS

Minister for Education and Science

Greece:

Mr Dimitrios SIOUFAS

Minister of Development

Mr Christos FOLIAS

Deputy Minister of National Economy and Finance

Spain:

Mr Alberto NAVARRO

State Secretary

France:

Mr Patrick DEVEDJIAN

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

Mr François d'AUBERT

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

Ms Claudie HAIGNERE

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

Ireland:

Mr Michael AHERN

Minister Trade/Employment

Italy:

Mr Antonio MARZANO

Minister for Production Activities

Mr Rocco BUTTIGLIONE

Minister without portfolio, Minister for Community policies

Ms Letizia MORATTI

Minister for Education, the Universities and Research

Cyprus:

Mr Yiorgos LILLIKAS

Minister for Commerce, Industry and Tourism

Latvia:

Mr Juris LUJANS

Minister for Economy

Lithuania:

Mr Rimantas VAITKUS

Deputy Minister for Education and Science

Mr Nerijus EIDUKEVIČIUS

Deputy Minister for the Economy

Luxembourg:

Mr Henri GRETHEN

Minister for Economic Affairs, Minister for Transport

Hungary:

Mr Péter GOTTFRIED

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

Malta:

Mr Censu GALEA

Minister for Competitiveness and Communications

Netherlands:

Mr Laurens Jan BRINKHORST

Minister for Economic Affairs

Austria:

Mr Martin BARTENSTEIN

Federal Minister for Economy

Poland:

Mr Krzysztof KRYSTOWSKI

Under-Secretary of State

Mr Jarosław PIETRAS

State Secretary, Office of the Committee for European
Integration

Portugal:

Ms Rosário VENTURA

State Secretary for Industry, Trade and Services

Ms Maria da Graça CARVALHO

Minister for Science and Higher Education

Mr Carlos COSTAS NEVES

State Secretary for European Affairs

Slovenia:

Ms Renata VITEZ

State Secretary for Foreign Economic Relations

Mr Zoran STANČIČ

State Secretary for Science

Mr Matjaž LOGAR

State Secretary for the Domestic Market

Slovakia:

Mr László POMOTHY

State Secretary at the Ministry of the Economy

Mr Martin FRONC

Minister for Education

Finland:

Mr Mauri PEKKARINEN

Minister for Trade and Industry

Sweden:

Ms Lena SOMMESTAD

Minister for Environment

Ms Ann-Christin NYKVIST

Minister for Agriculture

Mr Leif PAGROTSKY

Minister for Industry, Employment and Communications

United Kingdom:

Ms Jacqui SMITH

Minister of State for Industry and the Regions and Deputy
Minister for Women and Equality

.....
Commission:

Mr Philippe BUSQUIN

Member

Mr Mario MONTI

Member

Mr Erkki LIIKANEN

Member

Mr Ján FIGEE

Member

Mr Pavel TELIČKA

Member

Mr Frederik BOLKESTEIN

Member

Mr David BYRNE

Member
.....

REGULATION ON CONSUMER PROTECTION COOPERATION

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

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

UNFAIR COMMERCIAL PRACTICES DIRECTIVE - Public deliberation

The Council reached by qualified majority political agreement on its common position on the draft Directive concerning unfair business-to-consumer commercial practices in the Internal Market. Once the "Unfair Commercial Practices Directive" agreed upon, on the basis of an amended Presidency compromise package has been formally adopted, it will be submitted to the European Parliament for second reading.

The key features of the agreed text were:

- deletion of the "country of origin clause",
- understanding of the other provisions of the Directive ensuring maximum harmonisation,
- possibility for the Member States to apply national provisions more prescriptive or restrictive than the Directive, which implements minimum harmonisation clauses for six years from the transposition of the Directive,

- revision clause ensuring that the situation will be re-examined and as appropriate revised on the basis of a Commission report to be submitted after four years after the transposition of the Directive accompanied, if necessary, by appropriate proposals on which the European Parliament and the Council should act within the following two years.

SALES PROMOTIONS IN THE INTERNAL MARKET - Public deliberation

In the light of interventions today, the Council decided to instruct its preparatory bodies to further examining the proposal for a Regulation concerning sales promotions in the Internal Market in order to agree on a common position at one of its future sessions.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS - Public deliberation

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

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

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

Moreover, for the first provision of services, Member States may require that the declaration is also accompanied by the following documents:

- proof of the nationality of the service provider,
- an attestation certifying that the holder is legally established in a Member State for the purpose of practising the activities concerned,
- evidence of professional qualifications,
- any means of proof that the service provider has practised the activity concerned for at least two years during the previous ten years,

PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS - Public deliberation

The Council reached political agreement by qualified majority with the Austrian, Italian and Belgian delegations abstaining and Spain voting against, on a common position concerning the proposal for a Directive on the patentability of computer-implemented inventions. Once this text has been formally adopted by the Council, it will be submitted to the European Parliament for second reading.

The agreed text concerns:

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

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

COMMUNITY PATENT

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

COMMUNITY CUSTOMS CODE - Public deliberation

The Council reached political agreement by qualified majority with the Greek, Italian, Maltese, Portuguese and Swedish delegations voting against, on the draft common position on the proposal for a Regulation amending Council Regulation establishing the Community Customs Code. Being formally adopted, this text will be submitted to the European Parliament for second reading.

The proposal forwarded by the Commission aims to improve security at the external borders, while facilitating trade through simplified procedures and the use of information technology. In this context, the main feature agreed upon regards the concept of an Authorised Economic Operator (AEO). It benefits from facilitated customs controls relating to safety and security and/or from simplifications provided for under customs rules. Only its status will be recognised throughout the Community while the granting of the customs simplifications will be left to each Member States on described criteria.