



Brussels, 19 November 2007

BACKGROUND NOTE¹
COMPETITIVENESS COUNCIL
Brussels, 22-23 November 2007

*The Council meeting will take place on 22 November (starting at 9.30) and 23 November (starting at 10.00) , in the Justus Lipsius building in Brussels. It will be chaired by **Mr Manuel Pinho**, Portuguese Minister for Economy and Innovation and by **Mr Mariano Gago**, Portuguese Minister for Science, Technology and Higher Education.*

*On Thursday 22 the Council will deal with internal market, industry and consumer protection matters. Namely, the Council is expected to adopt conclusions on **an integrated approach to competitiveness** and will take note of a progress report regarding the **better regulation** agenda. It will also hold an exchange of views on progress made on a proposal for a **timeshare directive** and will adopt conclusions on **tourism**.*

*In the afternoon, under the chair of **Mr João Tiago Silveira**, Secretary of State for Justice of Portugal, the Council will adopt conclusions on simplification of **business environment for EU companies** and will hold an exchange of views regarding possible elements for a **future patent litigation system in the EU**.*

*On Friday 23, research ministers will try to reach, during a public deliberation, a political agreement on the creation of a **European Institute of Innovation and Technology** and will try to agree on essential elements of the first four private/public **Joint Technology Initiatives** concerning: innovative medicines (IMI), embedded computing systems (ARTEMIS), aeronautics and air transport (CLEAN SKY) and nano-electronics (ENIAC).*

*In a public session, the Council should also reach a general approach on an initiative under article 169 TEC for the Community's participation in a research programme aimed at enhancing the **quality of life of older people** ("Ambient Assisted Living" joint programme).*

*The Council is due to adopt conclusions on the **Future of Science and Technology**, on **Scientific Information** and on **Nanoscience and Nanotechnology**. It will also approve a resolution on **Modernising universities** for Europe's competitiveness in a global knowledge economy.*

On the evening of Wednesday, 21 November, ministers will have an informal working dinner on "The Future of Energy Intensive Industries in Europe".

The Presidency will give press conferences at the end of each session.

Public events that can be followed by video streaming:

<http://www.consilium.europa.eu/videostreaming>

¹ This note has been drawn up under the responsibility of the Council press office.

HORIZONTAL ISSUES

Competitiveness / Integrated approach

The Council will hold a policy debate after which it is due to adopt integrated conclusions on EU competitiveness.

The conclusions set up political orientations dealing with industrial policy, small and medium-sized enterprise (SME) policy, e-skills strategy and innovation priorities.

This will be the second ministerial debate on an integrated approach for competitiveness after the one that took place at the last Competitiveness Council meeting of 28 September (13265/07, p. 6).

The conclusions will reflect the consensus of intensive discussions in the Council at working party level on the following Commission communications:

- the mid-term review of industrial policy (11686/07);
- the mid-term review of modern SME policy (13664/07);
- the e-skills strategy for the 21st century for fostering competitiveness, growth and jobs (12795/07);

as well as the communications on "The European interest: succeeding in the age of globalisation", submitted to the heads of state and government last October², and "The 2007 European competitiveness report" (14794/07).

Sustainable industrial policy and SME policy were the subject of fruitful discussions at the Lisbon informal Council meeting on 20/21 July in the context of the preparation of renewed agenda for the creation of growth and jobs, with a particular focus on financing, innovation, better regulation, internationalization, energy efficiency and ways to strengthening SME competitiveness in the global market.

The conclusions stress that the new cycle of the Lisbon strategy 2008-2010 for growth and jobs will be a key instrument of tackling current challenges.

They recognize the need to reinforce competitiveness in tackling further reforms, in particular in the following policy areas:

- enhance the role of industrial policy;
- emphasising the role of SMEs as drivers of growth and job creation;
- development of life long learning and e-skills strategies;
- promotion of the role of R&D and innovation;
- ensuring an efficient and effective internal market;
- accelerating the implementation of the Better regulation agenda, and
- development of the external dimension of competitiveness.

They recall in particular the conclusions of the 2007 Spring European Council, the May 2007 Council Conclusions on industrial policy (10032/07) and the March 2006 Council Conclusions on SME modern policy (6964/06).

² COM(2007) 581 final

Better regulation

The Council will be invited to take note of a Presidency progress report and will hold an exchange of views on the Better regulation agenda (14625/07).

The Better regulation agenda aims at improving the quality and form of the regulatory environment in order to strengthen the EU competitiveness. It covers simplification of legislative texts, reduction of administrative burdens and preparation and examination of impact assessments on legislative proposals.

Since the presentation of the last report in May 2007 (9164/07), the principles of Better regulation have been steadily implemented in the EU's law-making process, notably thanks to the impulse given by the Portuguese presidency in cooperation with the Commission.

The Presidency report reflects the most relevant developments in the three key areas of the Better regulation process:

- *reduction of administrative burdens*, where five of the ten fast-track actions intended to reduce costs for businesses have already been adopted;
- *impact assessment*, where, during the Portuguese Presidency, 20 legislative proposals and other major Commission initiatives accompanied with impact assessments have been adopted by the Commission; and
- *simplification*, where the report notes that, for 2007, 29 simplification initiatives have been presented by the Commission, 25 are confirmed for presentation by the end of 2007, 6 are postponed to 2008 and one is cancelled.

The report also welcomes the Commission's intention to present the second strategic review of Better regulation in early 2008. The review will be an useful basis for discussion at the 25-26 February Competitiveness Council, as well as at the 13-14 March European Council of how Better regulation tools are effectively applied, and whether further action is needed.

INTERNAL MARKET - INTELLECTUAL PROPERTY - CONSUMER PROTECTION

Simplified business environment for EU companies: company law, accounting and auditing

The Council will adopt conclusions on a simplified business environment for companies in the areas of company law, accounting and auditing (15222/07).

The conclusions are a policy response to a Commission communication adopted on 10 July³ in the context of the better regulation initiative with the objective of ensuring that Community legislation corresponds to today's business needs and allows European businesses to compete more effectively in a global environment.

The conclusions call upon the Commission to:

- expedite consideration of responses to its Communication and, where appropriate and preferably before the end of 2008, bring forward proposals, based on impact assessments and in line with the objective of achieving a 25% reduction of administrative burdens arising from EU legislation by 2012; and
- actively promote an open exchange amongst member states on best practices and further consider the need for integration in EU legislation the following objectives: streamlining reporting requirements imposed on undertakings; reducing the number of preventive legality checks; increasing and optimising the use of electronic means and simplifying the relationship between undertakings and public administration.

Through the abovementioned communication, the Commission invited the European Parliament, the member states and the stakeholders to provide with contributions in order to help identifying the scope for simplification with a view to submitting legislative proposals covering these areas before the end of 2008.

The initiative is also linked to the on-going review of the Single Market and forms part of the exercise aimed at reducing administrative burdens, especially for SMEs.

A first fast track proposal, tabled by the Commission in March 2007 and aimed at aligning certain rules on expert reports in the case of domestic mergers and divisions with the rules contained in the 10th Company Law Directive on cross-border mergers (directive 2005/56/EC), has been recently adopted by the Parliament and the Council.

³ http://ec.europa.eu/internal_market/company/simplification/index_en.htm

Intellectual property: EU patent jurisdiction

The Council will hold an exchange of views on possible elements of a future unified and integrated patent litigation system for the EU.

The exchange of views will take place on the basis of a progress report elaborated by the Portuguese Presidency based on the deliberations of the Council preparatory bodies following the Commission's communication "Enhancing the patent system in Europe" of 3 April 2007 (8302/07).

The report also reflects reactions of EU member states and stakeholders during informal consultations carried out during September and October 2007.

The Presidency report underlines the following general features that may form the basis for future work:

- The EU patent jurisdiction should be an **exclusive jurisdiction** dealing with validity, infringement and inter-related proceedings concerning European patents and future Community patents in order to ensure efficiency and coherence of patent litigation.
- It should be a **Community jurisdiction specialised in patent litigation**.
- It should be an **integrated system** effective in all member states.
- It should comprise a **first instance** with local and regional divisions as well as one central division, a **second instance** and a **registry**.
- All divisions would form an integral part of a **unified Community jurisdiction with uniform procedures**.
- All divisions would be specialised and distinct bodies. They would, however, be linked with the European Court of Justice.

Following requests made by the December 2006⁴ and March 2007⁵ European Councils, the Commission intends to present a comprehensive strategy on the overall field of intellectual property rights (IPR) in a near future. The IPR strategy document will address the main outstanding non-legislative and horizontal issues in all fields of intellectual property including trade marks, designs, copyright, geographical indications, patents and enforcement.

The Commission's communication of 3 April was presented following a broad consultation carried out in 2006 on the future of patent policy in Europe with the objective of gathering stakeholders' views on the current patent system and on a patent system for Europe truly worthy for the twenty-first century⁶.

4 Presidency Conclusions of the European Council (14/15 December 2006), point 29: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/92202.pdf.

5 Presidency Conclusions of the European Council (8/9 March 2007), point 13: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf.

6 Further information on the consultation can be found at http://ec.europa.eu/internal_market/indprop/patent/consultation_en.htm.

Consumer protection: revision of the "Timeshare directive"

The Council will hold an exchange of views on a draft directive concerning the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange.

The debate will take place during a public session on the basis of a progress report submitted by the Presidency (14392/07). The report reflects the state of the work conducted within the Council under the Portuguese Presidency since the presentation of the proposal.

The Commission submitted the proposal, known as the "timeshare directive", on 8 June 2007 (10686/07). It takes into account the Council conclusions of 13 April 2000 on the implementation of directive 94/47/EC as well as the European Parliament's resolution of 4 July 2002 recommending to take action to resolve the problems of consumers of timeshare products, while guaranteeing them the highest level of protection.

The report points out that revision of directive 94/47/EC becomes a priority given the problems faced by consumers in relation to resale and new products such as timeshare-like products (e.g. holiday stays in movable rather than immovable property, like boats or caravans) and long term holiday products (e.g. discount holiday clubs).

In the course of the ongoing work at experts level, several improvements have already been introduced as regards the original proposal.

Other outstanding issues will require further analysis, namely:

- the relation between the timeshare directive and the review of the consumer acquis;
- the definitions of the different contracts or products;
- the language regime for pre-contractual and contractual information;
- the inclusion in the contracts of a form for facilitating the right of withdrawal;
- the relation between the future directive and the Community law applicable to contractual obligations.

This draft directive is subject to the Parliament-Council codecision procedure. The Parliament first reading opinion is expected in Spring 2008.

Agenda for a sustainable and competitive European tourism

The Council will adopt conclusions after hearing a presentation by the Commission on the communication: "Agenda for a sustainable and competitive European tourism" (14248/07).

The communication, issued on 22 October 2007, has been recently presented to the Sixth European Tourism Forum in Algarve, Portugal.

Taking into account the input given at this event, the conclusions will launch a call to EU public authorities, the Commission, industry and other stakeholders, encouraging them to take steps with a view to consolidating a sustainable and competitive tourism sector in Europe in line with the principles contained in the agenda.

Furthermore, the conclusions will stress the crucial role that tourism plays in generating growth and jobs in the EU.

RESEARCH

European Institute of Innovation and Technology

The Council will hold a public deliberation aimed at reaching a political agreement on a draft regulation for the creation of a European institute of innovation and technology (EIT).

The EIT will primarily have the objective of contributing to the development of the innovation capacity in the EU, by involving higher education, research and innovation (the "knowledge triangle") activities at the highest standards. In so doing, the EIT will facilitate and enhance networking and cooperation and create synergies between innovation communities in Europe.

The Commission presented the proposal (*14871/2/06*) for setting up an EIT in November 2006, with a view to contributing to boost competitiveness by enhancing the knowledge triangle and thus helping to create jobs and sustainable economic growth in the EU.

Following the agreement reached by the Council on 25 June (*11058/07*) on essential elements of the future institute, and the European Parliament's first reading opinion delivered last September (*13186/07*), a political agreement would allow to start implementation of the EIT regulation as from Spring 2008, after completing the second reading phase provided for under the Council-Parliament codecision procedure.

Informal contacts carried out during the Portuguese Presidency between both institutions together with the Commission, have revealed a broad degree of consensus on main issues that will configure the EIT:

- the two-step approach concept, according to which a limited number of initial Knowledge and Innovation Communities (KICs) would be set up in a first step; and further KICs would be developed in a second step, subject to the evaluation of the EIT's activities. The EIT would perform most of its activities through the KICs, which are partnerships between the private sector, the research community and excellent teams from research communities and universities;
- the long-term strategic policy guidance will be provided by the Parliament and the Council, who will have to adopt the EIT's strategic innovation agenda (SIA) for future EIT activities;
- the use of an additional EIT label to recognised diplomas awarded by universities and higher education institutes participating to the KICs;
- EUR 308.7 million will be earmarked for the functioning of the EIT for a period of six years. Other sources of the EU's budget contributing to the funding of the EIT will be subject to the approval of the Community budgetary authorities.

For organisation and administrative management purposes, the EIT will be provided with a governance structure designed to facilitate business involvement. It will be made up of a governing board, an executive committee, a director and an audit committee.

The location of the EIT will be decided within 12 months after the regulation enters into force.

Joint Technology Initiatives

The Council will try to reach a "general approach" (substantial elements of the legal acts) on four proposals aimed at establishing joint technology initiatives (JTIs) in the following fields:

- Innovative medicines ("IMI") (9686/07)
- Embedded computing systems ("ARTEMIS") (9685/07)
- Nano-electronic technologies ("ENIAC") (10149/07)
- Aeronautics and air transport ("CLEAN SKY") (10148/07)

Following a first round of discussions at the last Competitiveness Council on 28 September on the four proposals, the Presidency will submit to EU delegations a compromise text incorporating the improvements achieved in the meantime by the Council working group.

The main purpose of the Presidency is to pave the way with a view to adopting final decisions as soon as possible in order to enable a swift start to the four JTIs in 2008.

JTIs are a major new element of the EU's 7th research framework programme (FP7) for 2007-2013. They were foreseen in the specific programme "Cooperation"⁷, which implements the FP7, by stimulating cooperation and reinforcing links between industry and research within a transnational framework.

JTIs provide a way of creating new partnerships between publicly and privately funded organisations involved in research, focussing on areas where research and technological development can contribute to European competitiveness and quality of life. The approach proposed by the JTIs signals a change in how Europe promotes industry-driven research, designed to establish European leadership in certain technologies that are strategic to Europe's future.

These Commission proposals arise mainly from the work of European Technology Platforms and are the result of two years of negotiations with different industry sectors.

At the present stage of negotiations, the JTIs would have the following common features:

- The JTIs should be set up under Community law as Community bodies. They should receive Community funding in order to implement the research programmes, notably by awarding funding to selected projects, following publication of calls for proposals.
- They will take the form of real public / private partnerships with a shared responsibility of industry in the management of the joint undertakings. EU member states and the Commission will exercise appropriate supervision over the use of public funds.
- They will have a limited duration of 10 years.
- JTIs will not have the status of international organisations.
- JTIs will have legal personality and will be established on the basis of articles 171 and 172 of the EC treaty.
- They will implement the research programmes by combining public and private funding.
- The Community will contribute to both the research activities and the running costs.

⁷ EU Official Journal L 400 of 30.12.2006, p.86.

Innovative Medicines Initiative (IMI)

The IMI aims at increasing the competitiveness of the European pharmaceutical sector by providing a coordinated approach to overcome the research bottlenecks in the drug development process, reducing drug development time and clinical attrition rate for new medicines. This will enable faster access to more targeted medicines and an earlier return on research investment and thus leverage more private investment for further research.

It will include: development of tools and methods to better predict the suitability, safety and efficacy of drugs, intelligent infrastructures for data integration and knowledge management through close cooperation between industry, academia and clinical centers. It will also address education and training gaps to ensure that Europe has the skills to translate research results into benefits for the patient.

The maximum of the Community contribution is estimated at EUR 1 billion (up to 2017).

<http://www.imi-europe.org>

Embedded computing systems (ARTEMIS)

Embedded computing systems - the invisible electronics and software that impart intelligence to products and processes - are of strategic importance to the competitiveness of important European industrial sectors such as automotive, avionics, consumer electronics, telecommunications, medical systems and manufacturing. Furthermore, the increasing connectivity of these devices creates potential for entirely new markets and societal applications.

ARTEMIS will address the design, development and deployment of ubiquitous, interoperable and cost-effective, yet powerful, safe and secure electronic and software systems. It will deliver reference designs that offer standard architectural approaches for given ranges of applications, middleware that enable seamless connectivity and interoperability, integrated design software tools and methods for rapid development and prototyping.

The maximum of the Community contribution is estimated at EUR 420 million (up to 2017).

<http://www.artemis-office.org>

Nano-electronics technologies (ENIAC)

Nano-electronics is of paramount importance for European competitiveness because its products are key enablers for innovation in other sectors (multimedia, telecommunications, transport, health, environment, industrial processing, etc.).

The initiative will address the needs for silicon-based technologies throughout four technology domains: the shrinking of logic and memory devices to increase performance and reduce costs; the development of value-added functions, include sensing, actuating and packaging functions and their embedding with logic and memory to form complex system-on-chip or system-in-package solutions; equipment and materials and design automation.

The maximum of the Community contribution is estimated at EUR 450 million (up to 2017).

<http://www.eniac.eu>

Aeronautics and air transport (CLEAN SKY)

The development of green technologies is key to ensuring the competitiveness of the entire air transport sector. Under the Clean Sky initiative different areas will be addressed, such as environmentally friendly and cost efficient air transport system, and air traffic management in support of the Single European Sky policy.

The maximum of the Community contribution is estimated at EUR 800 million (up to 2017).

Research programme on quality of life for older people

The Council will have an exchange of views on a draft decision on the participation by the Community in a research and development programme aimed at enhancing the quality of life of older people through the use of new information and communication technologies (ICT), undertaken by several EU member states ("Ambient Assisted Living") (10959/07).

In public deliberation, ministers will be invited to give their agreement on a "general approach" (substantial elements of the legal act) with a view to facilitating a first-reading agreement in co-decision with the Parliament early next year.

The proposal for a programme on "Ambient Assisted Living" (AAL joint programme) is the first of four initiatives based on article 169 of the EC treaty that are planned during the course of the FP7. Article 169 regulates the participation of the Community in research programmes jointly undertaken by several EU member states, including participation in the structures created for the execution of those programmes.

The overall objective of the AAL joint programme is to enhance the quality of life of older people and strengthen the industrial base in Europe through the use of ICT. The AAL joint programme has the following specific aims:

- Foster the emergence of innovative ICT-based products, services and systems for ageing well at home, in the community, and at work, thus increasing the quality of life, autonomy, participation in social life, skills and employability of elderly people, and reducing the costs of services for ageing well in the information society, including the establishment of a favourable environment for participation by SMEs;
- Improve conditions for industrial exploitation by providing a coherent European framework for developing common approaches and facilitating the localisation and adaptation of common solutions which are compatible with varying social preferences and regulatory aspects at national or regional level across Europe.

The AAL joint programme provides the legal and organisational framework for a large-scale European programme between Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Poland, Portugal, Romania, Spain and Sweden and Israel, Norway and Switzerland on applied research and innovation in the area of ICT for ageing well in the information society. They have agreed to coordinate and implement jointly activities aimed at contributing to the AAL joint programme.

See also "Action plan on ICT and ageing: an i2010 initiative" (10971/07).

The Future of Science and Technology in Europe

The Council is due to adopt conclusions on the future of science and technology in Europe (14687/07).

At short and mid-term, the Council will invite, through these conclusions, the Commission and the EU member states to incorporate science and technology policies as one of the central priorities for the next cycle of the Lisbon strategy for growth and jobs 2008-2010.

At longer-term, the conclusions are of paramount importance, as they will constitute a remarkable input to the strategic debate about future orientations of the European Research Area and the design of the 8th research framework programme to be adopted in 2013.

They also identify areas where faster progress is deemed necessary in order to respond to the following challenges:

- the increased international competition, including for qualified human resources for R&D, and new opportunities brought by the globalisation of economic and knowledge flows;
- the increasing complexity and scale of the economic, social and environmental challenges affecting society;
- the need of business to operate in an environment of “open innovation” where connections with each other and with public research institutions are at the core of value creation;
- the growing importance of the freedom of knowledge and of knowledge circulation, notably knowledge-sharing between public research and industry, as well as public at large.

Moreover, the document will suggest a set of key objectives to be attained by the EU during the next decade in the following areas:

- a balanced circulation of highly qualified scientists between the EU and the US;
- a positive growth rate of new graduates and in science and technology and the appropriate flow to the private sector, as well as an increase of women among researchers;
- an appropriate balance of R&D personnel inflow to the EU from the rest of the world for mutual benefit.

Scientific information in the digital age

The Council is due to adopt conclusions on scientific information in the digital age reflecting the outcome of EU delegations discussions having as a main basis the Commission communication: "Scientific information in the digital age: access, dissemination and preservation" (5748/07).

The discussions have also taken into account other relevant elements, namely:

- the recommendation on the digitisation and online accessibility of cultural material and digital preservation⁸ and the related Council conclusions of November 2006⁹;
- the Commission Green paper on the “European Research Area: new perspectives”¹⁰; and
- the OCDE principles and guidelines for access to research data from public funding¹¹.

These conclusions have been elaborated in order to strike a balance between the legitimate interests of scientific publishers on the one hand, and the interest of society to enhance access to scientific information in order to stimulate research and innovation on the other hand.

By the means of the conclusions, the Council will invite EU member countries to take steps with a view to:

- reinforcing national strategies and structures for access to and dissemination of scientific information;
- enhancing coordination between member states on access and dissemination policies and practises;
- maximising access for researchers and students to scientific publications; and
- ensuring the long-term preservation of scientific information.

⁸ EU Official Journal L 236/2006, p.28.

⁹ EU Official Journal C 297/2006, p.1.

¹⁰ http://ec.europa.eu/research/era/consultation-era_en.html#greenpaper

¹¹ http://www.oecd.org/document/55/0,3343,en_2649_201185_38500791_1_1_1_1,00.html

In line with the conclusions the Commission will implement the measures announced in its communication.

Modernising universities for Europe's competitiveness

Following an exchange of views at the Education, Youth and Culture Council meeting on 15 November 2007 (14806/07, page 13), the Competitiveness Council will approve a resolution on modernising universities for Europe's competitiveness in a global knowledge economy.

The resolution builds on the commission communications "The role of universities in the Europe of knowledge"¹² and "Mobilising the brainpower of Europe: enabling universities to make their full contribution to the Lisbon Strategy" (8437/05).

The resolution reaffirms the need to advance in bringing about the modernisation of Europe's universities, addressing their interlinked roles in education, research and innovation, as a key element of Europe's drive to create a knowledge-based society and economy and improve its competitiveness, as highlighted by the European Council in March 2007.

It invites the EU member states to take the necessary measures in order to, namely:

- promote excellence in higher education and research and the internationalisation of higher education institutions;
- modernise higher education institutions by granting them autonomy and greater accountability;
- promote the contribution of higher education institutions to innovation, growth and employment, as well as to social and cultural life;
- develop better learning and research environments for students and young researchers;
- promote the widest possible and most equitable participation in mobility schemes for students and researchers; and
- enhance the attractiveness of European higher education systems and make use of the structural funds for modernising them.

The resolution also invites the Commission to support the EU member states with regard to the agenda for universities of May 2006¹³, which pointed to nine areas where action would help universities to modernise.

Nanosciences and nanotechnologies

The Council is expected to adopt conclusions on nanosciences and nanotechnologies.

The conclusions have been elaborated in the light of the progress made in the implementation of the action plan for Europe 2005-2009 in the field of nanosciences and nanotechnologies (13090/07).

The conclusions underline, among other things, that a rapid and successful development of the nanotechnology sector is of vital strategic importance for European competitiveness, and that it requires stronger coordination by public and private actors at European, national and regional level.

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¹² COM(2003) 58 final

¹³ COM(2006) 208 final