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3094th Council meeting

Competitiveness (Internal Market, Industry, Research and Space)

Brussels, 30 and 31 May 2011

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Main results of the Council

*The Council meeting focused on a number of issues related to support for **small and medium sized-enterprises (SMEs)**.*

*The Council reached a political agreement on a draft directive aimed at exempting small companies with fewer than 10 employees (also known as "**micro-entities**") from certain **reporting obligations**, with a view to reducing their administrative burdens.*

*The Council also discussed a proposal for a regulation on a **European private company**, which failed to secure the required unanimity.*

*Ministers exchanged views on draft regulations implementing the enhanced cooperation in the area of the creation of **unitary patent protection**, and held a policy debate on a future unified patent litigation system, the other fundamental pillar of the patent reform.*

*Ministers approved conclusions on the "**Single Market Act**", on the review of the **Small Business Act** for Europe and on "**smart regulation**".*

*The Council adopted conclusions on a **space strategy for the EU** that brings benefits to its citizens.*

*The Council adopted conclusions on the development of the **European Research Area** through ERA-related groups.*

*By means of conclusions, the Council delivered its assessment on the ongoing research programmes "**Eurostars**", for SMEs, and "**Ambient Assisted Living**", for elderly people.*

*Following a debate, the Council took note of a progress report on the extension of the **Euratom programme for nuclear research** for the years 2012 and 2013.*

CONTENTS¹

PARTICIPANTS	6
---------------------------	----------

ITEMS DEBATED

Single Market Act - <i>Council conclusions</i>	8
Review of the Small Business Act - <i>Council conclusions</i>	8
European private company.....	9
Simplification of reporting rules for micro-enterprises	9
Unitary patent protection: enhanced cooperation	11
Smart regulation - <i>Council conclusions</i>	12
Space strategy for the benefit of citizens - <i>Council conclusions</i>	12
Euratom framework programme for nuclear research (2012-2013)	13
Eurostars research programme for SMEs - <i>Council conclusions</i>	14
"Ambient Assisted Living" research programme for elderly people - <i>Council conclusions</i>	14
European Research Area through ERA-related groups - <i>Council conclusions</i>	14

¹

- 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.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- 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 Council's Internet site or may be obtained from the Press Office.

OTHER BUSINESS	15
Gambling and betting: cooperation between member states	15
Euro-Mediterranean conference on industrial cooperation.....	15
Smokeless tobacco products	15
Professional qualifications directive	16
Simplification of rules in research and innovation programmes	16
European Research Council.....	17
Joint Technology Initiatives "ARTEMIS" and "ENIAC"	17
European Institute for Innovation and Technology (EIT) - Strategic agenda.....	17
Framework for future EU research and innovation programmes	18
ITER experimental project on nuclear fusion research - additional funding for 2012-2013	18
Space research under the Seventh research framework programme.....	18
Informal ministerial meeting of the Competitiveness Council (April 2011).....	19
Work programme of the upcoming Polish Presidency	19

OTHER ITEMS APPROVED

DEVELOPMENT COOPERATION

– Madagascar.....	20
-------------------	----

TAXATION

– VAT exemption for small enterprises - Lithuania.....	20
--------------------------------------------------------	----

EMPLOYMENT

– Mobilisation of the European Globalisation Adjustment Fund - Belgium.....	20
-----------------------------------------------------------------------------	----

TRADE POLICY

– Anti-dumping - Polyester staple fibres - China	21
--------------------------------------------------------	----

CUSTOMS UNION

– Andorra - Customs security measures	21
---------------------------------------------	----

JUSTICE AND HOME AFFAIRS

– Update of statements of reasons	21
-----------------------------------------	----

TRANSPARENCY

– Public access to documents 22

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Vice-President

Member

Member

Member

Member

Member

ITEMS DEBATED

Single Market Act - *Council conclusions*

The Council held a debate and adopted conclusions on the implementation of the "Single Market Act" (SMA), which is a two-year plan (2011-2012) of 50 initiatives aimed at ensuring continuous optimisation of the internal market and contributing to the successful implementation of the Europe 2020 objectives on stimulating employment and economic growth ([13977/1/10](#)).

In the light of the outcome of a public consultation, the Commission submitted on 13 April 2011 a communication identifying the 12 levers that can best contribute to tapping the single market's potential for growth and employment. Moreover, the communication sets out a timetable for the adoption of each lever ([9283/11](#)).

The 12 levers for growth and social progress include actions in the areas of workers' mobility, financing for small and medium-sized enterprises, consumer protection, the digital single market, energy taxation and trans-European networks.

Among other things, the conclusions invite the Commission to put forward all these key actions before the end of 2011 and calls on all actors to commit themselves to adopting a first set of priority measures to give a new impetus to the single market by 2012.

[10993/11](#)

Review of the Small Business Act - *Council conclusions*

The Council assessed the progress made in the first two years of implementation of the Small Business Act for Europe (SBA) and adopted conclusions.

The conclusions set out new actions to respond to challenges resulting from the economic crisis and ways to improve the implementation of the SBA along the following main axes to be addressed as a matter of priority: smart regulation, access to finance, better access to the internal and international markets, entrepreneurship and enhanced governance.

[10975/11](#)

European private company

The Council held a public debate on the creation of a European private company on the basis of a Presidency compromise proposal ([10611/11](#)).

The Council concluded that the compromise text failed to secure the unanimity required for the proposal to be approved.

The proposal would establish the legal form of a future European private company (also called "Societas Privata Europaea" or "SPE").

The SPE would be a limited-liability company, i.e. its shareholders may not be liable for more than the amount they have subscribed for. As the SPE is a private company, the shares of the SPE may not be offered to the public or be publicly traded.

The draft regulation was presented by the Commission in 2008 ([11252/08](#)) as part of a series of measures in the Small Business Act for Europe, and a first ministerial discussion took place in December 2009.

Simplification of reporting rules for micro-enterprises

In public deliberation, the Council reached a political agreement on a directive allowing member states to exempt very small enterprises (also known as "micro-entities") from accounting and financial reporting obligations.

The draft directive is intended to facilitate the business environment by reducing administrative burdens. It will be forwarded to the European Parliament for a second reading under the ordinary legislative procedure.

The debate focused on key elements of the draft directive ([10642/11](#)), including :

- *The definition of micro-entities to which a lighter accounting regime would apply.*

The directive provides that, in order to qualify as a "micro-entity", a company must not exceed the limits of two of the following three criteria on its balance sheet date: a balance sheet total of EUR 250,000, a net turnover of EUR 500,000 and an average number of 10 employees during the financial year in question.

– *The exemption from publication of annual accounts.*

The directive will allow member states to exempt micro-entities from the publication of annual accounts in accordance with the 4th company law directive. This optional exemption will be compatible with national obligations to keep records showing the company's business transactions and financial situation.

* * *

The European Parliament adopted a first-reading opinion on 10 March 2010 ([7424/10](#)) introducing five amendments to the Commission proposal ([7229/1/09](#)).

The new directive amends directive 78/660/EEC on the annual accounts of certain types of companies ("the 4th company law directive").

The 4th company law directive was adopted in 1978 in order to create a harmonised set of requirements for the external reporting of all limited liability companies in the EU. In 1983, the 7th company law directive added a common set of requirements for consolidated financial statements. The 4th and 7th company law directives (the "accounting directives") create together the core of the accounting *acquis*.

Accounting and auditing have been identified as key areas for reducing the administrative burden for European companies.

Unitary patent protection: enhanced cooperation

The Council exchanged views at a public session on the creation of unitary patent protection.

The outcome of the debate provides a political orientation for the implementation of enhanced cooperation among 25 member states towards the creation of a unitary patent title.

It paves the way for further work with a view to reaching a general approach¹ at the extraordinary Competitiveness Council meeting devoted to unitary patent protection in Luxembourg on 27 June.

The debate was conducted on the basis of a Presidency compromise text ([10629/11](#)), following the two proposals submitted by the Commission on 13 April with provisions to implement enhanced cooperation in the area of the creation of unitary patent protection.

The first proposal prescribes how patent holders can obtain European patents with unitary effect that ensures uniform protection for their invention ([9224/11](#)), and the second one contains the translation arrangements ([9226/11](#)).

The Council also discussed the main elements for the creation of a unified patent litigation system on the basis of a document presented by the Commission ([10630/11](#)) and in the light of the Opinion delivered by the Court of Justice of the EU on 8 March 2011, on the compatibility of the envisaged system with EU law².

The Council authorised the launch of enhanced cooperation in the field of the creation of unitary patent protection on 10 March and the European Parliament gave its consent to the use of this procedure on 15 February.

The use of enhanced cooperation was requested by 25 out of 27 EU member states with the aim of establishing a unitary patent that will be valid across the territory of the participating Member States. All EU Member States except Italy and Spain were in favour of the use of enhanced cooperation. The main obstacle to unanimity on the creation of a unitary patent is the number of languages in which the future unitary patent will be valid, hence the recourse to enhanced cooperation.

Enhanced cooperation is open to non-participating countries, and access to the unitary patent on the territory of participating member states will also be available to businesses from non-participating member states.

¹ A general approach is an agreement on the essential elements of a legal act, pending the opinion of the European Parliament.

² <http://curia.europa.eu/jcms/upload/docs/application/pdf/2011-03/cp110017en.pdf>

Smart regulation - *Council conclusions*

The Council adopted conclusions on "smart regulation", underlining, among other elements, the continuous need to reduce administrative burdens for businesses to what is strictly necessary, in order to allow them to work and compete more effectively.

These conclusions build upon the Commission communication on smart regulation, which emphasises a smart approach to legislation in the whole policy cycle, i.e. including the post-adoption, implementation and possible revision stages.

The conclusions also call on the Council to establish mechanisms which would allow the Council to conduct impact assessments of its own substantive amendments to Commission proposals.

In particular, the conclusions provide guidelines, addressed to the national governments, the European Parliament and the European Commission, for:

- improving the implementation and enforcement of existing EU legislation;
- ensuring the quality of new legislation through impact assessments, simplification and reduction of unnecessary administrative burdens, in particular for SMEs; and
- making EU law more clear, easily understandable and accessible to all citizens.

[10985/11](#)

Space strategy for the benefit of citizens - *Council conclusions*

Following a presentation by Commissioner Antonio Tajani of the communication "Towards a space strategy for the European Union that benefits its citizens" ([8693/11](#)), the Council held a debate and adopted the following conclusions:

[10901/11](#)

Euratom framework programme for nuclear research (2012-2013)

Following a public debate, the Council took note of a progress report submitted by the Presidency ([10519/11](#)) on a proposal for extending, for a two-year period, the current European Atomic Energy Community (Euratom) framework programme, which expires at the end of 2011.

A number of delegations asked to continue efforts in order to achieve an agreement on the proposal as soon as possible.

The new proposal ([7421/11](#)) will extend the Euratom programme in order to align it with the end of the EU's current financial cycle in 2013. Euratom programmes are limited by the Euratom treaty to five years, whereas the general 7th framework programme for research, which runs until end 2013, lasts for seven years.

The Euratom programme is organised in two parts corresponding to actions on fusion energy research and nuclear fission and radiation protection ([7402/11](#)), and to research activities of the Joint Research Centre (JRC) ([7404/11](#)).

- The fusion energy research activities include, as a central objective, to achieve the construction of ITER (International Thermonuclear Experimental Reactor), a major experimental facility to demonstrate the scientific and technical feasibility of fusion power.
- The nuclear fission research activities are in line with the objective of enhancing the safety of nuclear fission and other uses of radiation in industry and medicine.
- The activities of the JRC cover customer-driven scientific and technological support for the formulation, development, implementation and monitoring of the Union's policies, with an enhanced focus on safety and security research. The JRC works as an independent reference centre of science and technology in the Union¹.

The proposal envisages a maximum amount of EUR 2.5 billion for the implementation of the 2012-2013 Euratom programme.

The rules for the participation of undertakings, research centres and universities in actions under the Euratom programme are set out in a separate proposal ([7418/11](#)).

¹ <http://ec.europa.eu/dgs/jrc/index.cfm>

The extension of the Euratom framework programme 2012-2013 will continue to contribute to the implementation of the "Innovation Union" strategy ([17165/10](#)), by enhancing competition for scientific excellence and accelerating the deployment of key innovations in the nuclear energy field, notably in fusion and nuclear safety, and will contribute to tackling energy and climate change challenges.

Eurostars research programme for SMEs - *Council conclusions*

The Council adopted the following conclusions on the interim evaluation of the Eurostars Joint Programme:

[11030/11](#)

"Ambient Assisted Living" research programme for elderly people - *Council conclusions*

The Council adopted the conclusions on the interim evaluation of the Ambient Assisted Living Joint Programme set out in document [11031/11](#).

European Research Area through ERA-related groups - *Council conclusions*

The Council adopted the following conclusions on the development of the European Research Area (ERA) through ERA-related groups:

[11032/11](#)

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On 30 May, over lunch, industry ministers held an informal debate on the reduction of administrative burdens for businesses. Vice-President of the Commission Antonio Tajani, Commissioner Michel Barnier and Edmund Stoiber (chairman of the high level group of independent stakeholders on administrative burdens) also attended the working lunch.

On 31 May, over lunch, research ministers held an informal debate on the use of the structural funds for research purposes. Commissioners Máire Geoghegan-Quinn and Johannes Hahn also attended the working lunch.

OTHER BUSINESS

Gambling and betting: cooperation between member states

The Council took note of a Presidency report dealing with regulatory cooperation between EU member states in the field of gambling ([9853/11](#)).

Building on the results of previous debates in the Council, especially on the conclusions adopted in December 2010 ([16884/10](#)), the Hungarian Presidency conducted a more detailed discussion during the first months of 2011 on the subject of cooperation between national gambling regulatory authorities.

Last March, the Commission launched a public consultation on its "Green paper" on on-line gambling in the internal market, which runs until 31 July 2011:
http://ec.europa.eu/internal_market/services/gambling_en.htm

Euro-Mediterranean conference on industrial cooperation

The Council took note of the outcome of the 8th Conference of the Ministers for Industry of the Union for the Mediterranean, held on 11 and 12 May in Malta.

The Conference showed the great interest of the EU and its Mediterranean partners in further developing their industrial cooperation. It adopted the work programme for 2012-2013.

The Conference followed those held under the Union for the Mediterranean in Nice (2008) and under the Barcelona Process in Rhodes (2006), Caserta (2004), Malaga (2002), Limassol (2000), Klagenfurt (1998) and Brussels (1996).

Smokeless tobacco products

The Swedish delegation expressed interest in the possibility of creating common rules for smokeless tobacco products, with a view to addressing both health and internal market issues for these products at EU level.

Professional qualifications directive

The Council took note of information from the Commission on the outcome of a public consultation concerning the modernisation of the Professional Qualifications Directive. The consultation, which ended on 15 March, collected stakeholders' views on major challenges for the reform of the system of recognition of professional qualifications, including: (i) simplifying the existing rules to the benefit of individual citizens; (ii) integrating professions into the single market and (iii) injecting more confidence into the system.

The German delegation expressed interest on discussing the issue at a forthcoming Council meeting, highlighting the potential for removing barriers to mobility.

The reform of the system of recognition of professional qualifications as a means of facilitating mobility is one of the priority actions proposed by the Commission in the Single Market Act. A proposal from the Commission to prepare this reform is expected in the course of 2011.

The Professional Qualifications Directive (2005/36/EC), adopted in 2005, sets out the rules for mutual recognition of professional qualifications between EU member states. Apart from a few innovations, it mainly consolidated and simplified 15 previous directives, some of which dated back to the 1960s.

Simplification of rules in research and innovation programmes

The Presidency briefed the Council on the work of the ministerial expert group on "Simplification of rules in European research and innovation programmes". The expert group, which was established on 12 October 2010 in order to monitor the actions taken by the Commission in this field, has prepared its first intermediary report on monitoring simplification.

European Research Council

The Commission provided delegations with an information note on progress in the evaluation of the European Research Council (ERC)¹ ([10681/11](#)).

In March 2010, the Council adopted conclusions on the review of the ERC's structures and mechanisms calling on the Commission to carry out an independent evaluation by July 2011 ([6666/10](#)). The evaluation will assess whether the ERC's structure can be improved.

A conference organised by the ERC and the Hungarian Academy of Sciences on "Promoting excellence in research in Europe" will take place on 20 June 2011 in Budapest.

Joint Technology Initiatives "ARTEMIS" and "ENIAC"

The Commission updated ministers on the follow-up to the evaluation of "ENIAC²" and "ARTEMIS³", two public-private partnerships for collaborative research in the fields of nanoelectronics and embedded computing systems.

Vice-president of the Commission Neelie Kroes invited ministers to combine efforts on three main issues: a strategic re-engagement from industry; a commitment to reduce the risk of funding shortfall and the alignment of funding rates and national procedures to reduce bureaucracy and speed up the process.

On 16 December 2010, the Commission adopted its report on the first interim evaluation of the ARTEMIS and ENIAC Joint Technology Initiatives.

European Institute for Innovation and Technology (EIT) - Strategic agenda

The Council took note of the preparations underway on the strategic innovation agenda of the EIT⁴. Commissioner Androulla Vassiliou announced that the Commission will present, before the end of 2011, a proposal to the Council and the European Parliament, with a view to adopting the EIT's strategic innovation agenda for the next seven years.

1 <http://erc.europa.eu/index.cfm>

2 <http://www.eniac.eu/web/index.php>

3 <http://www.artemis-ju.eu/>

4 <http://eit.europa.eu/>

Framework for future EU research and innovation programmes

The Council took note of information from the Commission on the state of play of preparation on the common strategic framework for future EU research and innovation funding ([10682/11](#)).

Last February, the Commission launched a public consultation, which ended on 20 May, on the key issues to be taken into account for future EU research and innovation funding programmes. These programmes will be part of the proposals for the next multi-annual financial framework of the EU.

Commissioner Geoghegan-Quinn announced the presentation of the Commission's analysis of the public consultation at a conference to take place in Brussels on 10 June.

ITER experimental project on nuclear fusion research - additional funding for 2012-2013

The Council took note of a presentation by the Commission on a proposal for amending the EU's current multiannual financial framework in order to address additional financing needs of the ITER project ([9419/11](#)).

The initiative proposes a budgetary redeployment in order to provide additional funds for ITER, whilst keeping unchanged the overall ceilings for commitment and payment appropriations of the financial framework over the period 2007-2013.

The final decision is to be approved by the European Parliament and the Council.

Space research under the Seventh research framework programme

The Council took note of information provided by the Commission and the Presidency ([10600/11](#)) on the outcome of the conference devoted to space research under the EU's framework programme for research (FP7), which took place in Budapest, Hungary, on 12 and 13 May¹.

¹http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?displayType=calendar&tpa_id=141&item_id=4845

UN Committee on peaceful uses of outer space

The Presidency briefed ministers ([10474/11](#)) on the preparations for the fifty-fourth session of the United Nations Committee on the Peaceful Uses of Outer Space (UN COPUOS), which will take place in Vienna from 1 to 10 June.

Informal ministerial meeting of the Competitiveness Council (April 2011)

The Council took note of the outcome of the informal ministerial meeting that took place in Gödöllő, Hungary, from 11 to 13 April.

The meeting had a strong focus on innovation, support for SMEs and the current and future research framework programmes ([9318/11](#)).

Work programme of the upcoming Polish Presidency

The Polish delegation informed ministers about the work programme on competitiveness of the Polish Presidency for the second half of 2011.

In the field of internal market and industry, one of the priorities will be the development of the initiatives contained in the Single Market Act. The Polish Presidency will organise a "Single Market Forum" in Krakow on 3 and 4 October.

In the field of research, the Polish Presidency will take forward the preparations for the next multi-annual framework programme for research. It will give special attention to synergies between the cohesion funds and future research programmes, as well as to innovation partnerships.

OTHER ITEMS APPROVED**DEVELOPMENT COOPERATION****Madagascar**

The Council extended for six months the appropriate measures in place for the Republic of Madagascar ([10028/11](#)). They will now apply until 6 December 2011 and be reviewed regularly until then.

The measures suspend all budgetary aid to Madagascar as well as the implementation of the national indicative programme under the 10th European development fund. They do not affect humanitarian and emergency aid and certain projects that directly benefit the population. They were first imposed in the wake of the forcible transfer of power in Madagascar on 17 March 2009, which the EU considered a serious violation of democracy and the rule of law, essential elements of the Cotonou Agreement between the EU and ACP states.

TAXATION**VAT exemption for small enterprises - Lithuania**

The Council adopted a decision authorising Lithuania to exempt from value added tax small enterprises whose annual turnover is below the equivalent in national currency of EUR 45 000. Previously the maximum threshold for Lithuania was EUR 29 000.

The decision authorises Lithuania to apply a measure derogating from Article 287 of directive 2006/112/EC on the common system of value added tax.

EMPLOYMENT**Mobilisation of the European Globalisation Adjustment Fund - Belgium**

The Council adopted a decision mobilising an amount of EUR 9.59 million under the European Globalisation Adjustment Fund (EGF), providing support for dismissed workers at General Motors Belgium and four of its suppliers, arising from a decrease in demand for passenger cars and commercial vehicles as a consequence of the global financial and economic crisis.

TRADE POLICY**Anti-dumping - Polyester staple fibres - China**

The Council repealed the anti-dumping duties on imports of polyester staple fibres from China, ranging between 4,9 % and 49,7 % depending on the manufacturer of the product, imposed by regulation 428/2005 ([10076/11](#)).

CUSTOMS UNION**Andorra - Customs security measures**

The Council adopted the position to be taken by the EU within the joint committee established by the EU-Andorra agreement concerning the list of customs security provisions.

The agreement, signed in 1990 between the European Economic Community and Andorra, provides that the Principality of Andorra is to adopt the customs security measures applied by the EU and that a detailed list of the provisions in question is to be drawn up by the joint committee set up under the agreement.

JUSTICE AND HOME AFFAIRS**Update of statements of reasons**

The Council adopted the updated statements of reasons concerning persons groups and entities subject to the restrictive measures provided for under Council regulation 2580/2001 (*OJ L 344, 28.12.2001*) with a view to combating terrorism. It also approved a letter of notification to be sent to the persons and groups concerned. The notice will be published in the Official Journal.

TRANSPARENCY

Public access to documents

The Council adopted:

- the reply to the confirmatory application made by Mr Ronny Patz (No 11/c/01/11), the Bulgarian, Czech, Danish, Estonian, Finnish and Swedish delegations voting against ([9704/11](#)); and
 - the reply to the confirmatory application made by Mr Peter Harris (No 12/c/01/11) ([9712/11](#)).
-