



**COUNCIL OF
THE EUROPEAN UNION**



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Competitiveness (Internal Market, Industry, Research and Space)

Brussels, 20-21 February 2012

President

Mr Ole SOHN

Minister for Business and Growth

Mr Morten ØSTERGAARD

Minister for Science, Innovation and Higher Education
of Denmark

P R E S S

Main results of the Council

The Council discussed the **Europe 2020 strategy for growth and jobs** in relation to the Commission's **Annual Growth Survey**, in preparation for the EU Spring Summit on 1 and 2 March.

It held public deliberations on three priority areas, included in the **Single Market Act**, which are designed to help EU companies increase their competitiveness and their ability to create jobs:

- the reform of **accounting rules**, with a specific focus on a proposal for transparency on payments made to governments;
- the modernisation of the **public procurement** policy; and
- the improvement of **SMEs' access to finance** through the establishment of an EU passport for the managers of venture capital funds and social entrepreneurship funds.

The Council adopted conclusions on the **smart regulation** agenda, which is aimed at simplifying the regulatory environment in which EU enterprises operate, with a strong focus on end-users.

Delegations also took note of information by the Presidency on the state of play concerning the **patents package**.

The Council held a debate on the future framework programme for funding **research and innovation** for the years 2014 to 2020, called **Horizon 2020**. It also heard a presentation by the Commission on proposed future steps for the **European Institute of Innovation and Technology (EIT)**.

In the space segment, the Council held an exchange of views on the implementation of the **space flagship programme GMES** (European Earth Monitoring Programme) from the year 2014 onwards.

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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.
- 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.

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Deputy Minister for Economy

ITEMS DEBATED**ANNUAL GROWTH SURVEY: PREPARATIONS FOR THE SPRING EUROPEAN COUNCIL**

The Council discussed the Annual Growth Survey 2012, as a part of all relevant Council deliberations in preparation for the Spring European Council on 1 and 2 March.

It put emphasis on the measures which, under the remits of the Competitiveness Council, can improve the economic performance and create added value in both the short and the long term, including:

- the promotion of competitiveness through sustainable growth, which implies concrete deliverable actions by the Digital Single Market and the internal market for services, as well as helping EU companies to develop their external trade potential;
- facilitating access to finance to European companies, which includes increasing the use of financial instruments such as loan guarantees and venture capital investments; and
- modernising public administration, by simplifying the business regulatory environment and by facilitating e-Government initiatives.

Structural reforms and single market actions must be complemented by increased investment in research and innovation and other growth-enhancing areas. There is a need to seek additional and strengthened innovation measures to help put the European economy back on track and tackle common societal challenges by, among other things, implementing the Innovation Union commitments.

Furthermore, in a context of fiscal consolidation, research and innovation are crucial elements in the formulation of appropriate EU and national strategies for growth and job creation. In this context, ministers highlighted the importance of maintaining or increasing the level of investments in these fields and keeping ambitious research and development targets.

Last November the Commission published the Growth Survey for 2012, which is an analysis of the progress on the Europe 2020 targets for the creation of economic growth and jobs¹.

¹ http://ec.europa.eu/europe2020/pdf/ags2012_en.pdf

To encourage growth and competitiveness, the communication recommends that EU and national level efforts should focus on the following five priorities: pursuing differentiated, growth-friendly fiscal consolidation; restoring normal lending to the economy; promoting growth and competitiveness; tackling unemployment and the social consequences of the crisis; and modernising public administrations.

The Annual Growth Survey launches the European semester, which forms part of a new governance architecture to review member states' budgetary and structural policies in order to detect inconsistencies and emerging imbalances. The aim is to reinforce coordination while major budgetary decisions are still in preparation.

The Spring European Council will identify the main economic challenges facing the EU and give strategic advice. Taking this guidance into account, the member states will present their budgetary strategies in their stability and convergence programmes. At the same time, they will draw up national reform programmes setting out the action to be undertaken to strengthen their policies in several areas.

REFORM OF PUBLIC PROCUREMENT POLICY

The Council held an orientation debate on the modernisation of public procurement policy.

It was the first ministerial debate since the presentation by the Commission, in December 2011, of the proposals for a major overhaul of public procurement rules across the EU.

The outcome of the debate provides guidance for the continuation of technical work. The intermediate target is to reach an agreement on the main principles of the reform at the Competitiveness Council in May, with the final purpose of getting the reform approved in co-legislation with the European Parliament before the end of 2012.

The three proposals for modernising public procurement are:

- a draft directive setting up the new legislative framework (replacing directive 2004/18/EC ([18966/11](#)));
- a draft directive on procurement by entities operating in the water, energy, transport and postal services (replacing directive 2004/17/EC ([18964/11](#))); and
- a draft directive on the award of concession contracts ([18960/11](#)).

The revision of the current public procurement rules, which date back to 2004, is one of the twelve key priority actions contained in the "Single Market Act"¹.

The debate focused on the new general legal framework. More specifically, it concentrated on two aspects put forward by the Presidency ([6436/12](#)):

¹ http://ec.europa.eu/internal_market/smact/index_en.htm

1. The degree of flexibility that should apply in the use of competitive procedures with negotiation.

A majority of delegations stated that a wider use of negotiated procedures in public contracts should be possible and that certain safeguards should also be put in place to ensure equal treatment for tenders. Some other delegations would prefer a limited use for this procedure, in line with the Commission proposal.

Compared to the current rules, the Commission proposes to increase the list of cases in which member states may allow for the competitive procedure with negotiation, but not so as to allow unrestricted access to this procedure.

2. Rules for certain categories of services: social, cultural, health, etc.

Many delegations emphasised that the new system should strike the right balance between promoting efficiency through competition in contract awards and delivering on the objective of lighter public procurement rules for certain services.

The Commission proposes abolishing the current distinction applying to certain services that can be externalised under simpler regimes (social, cultural, health, education, etc.), so that standard rules would apply to all services unless explicitly exempted.

REVIEW OF ACCOUNTING REQUIREMENTS FOR COMPANIES

The Council held an orientation debate on the review of the accounting rules applicable to EU companies, specifically dealing with reporting on payments to governments.

The outcome of the debate provides guidance for the continuation of technical work with the purpose is to reach an agreement on the simplification of the accounting directives by the end of June 2012, in line with a request made by the European Council.

The proposal for an obligation to report on payments made by the extractive industry and loggers of primary forest to governments (also referred to as country-by-country reporting) is part of the Commission's "socially responsible business" strategy. It is included in the draft directive that will replace the current "accounting directives" ([16250/11](#)).

The "accounting directives" deal with the annual and consolidated financial statements of limited liability companies in Europe. These are:

- the Fourth Council Directive on the annual accounts of certain types of companies (78/660/EEC), of 25 July 1978), and
- the Seventh Council Directive on consolidated accounts (83/349/EEC), of 13 June 1983.

The new draft directive, which was presented last December as part of the priority actions of the Single Market Act, is to be adopted by the Council and the European Parliament under the ordinary legislative procedure.

The key objectives of the proposed review are:

- the reduction of administrative burden and the application of simplified accounting rules for SMEs;
- to increase the clarity and comparability of financial statements; and
- to enhance transparency on payments made to governments by the extractive industry and loggers of primary forest.

Based on a Presidency questionnaire ([5930/12](#)), the discussion focused on the last-named objective.

In order to promote governments' accountability, transparency and good governance, the proposal introduces new reporting requirements for large undertakings and all public-interest entities active in the extractive industry or in the logging of primary forests. The draft directive proposes that these companies shall disclose the payments they make to governments in each country where they operate and for each project.

The ministerial discussion showed that there was a clear acceptance of the objective to improve transparency in this field. Some delegations, however, expressed the need to examine the proposal in more detail as well as the need to take into consideration every angle of the impact that the proposed legislation will have on the competitiveness of European undertakings.

A large number of delegations expressed concerns about reporting on a “project” level. In addition, most delegations expressed preference to include a definition of “materiality” of payments in the future directive.

VENTURE CAPITAL FUNDS AND SOCIAL ENTREPRENEURSHIP FUNDS

The Council held an orientation debate on draft regulations concerning European Venture Capital Funds ([18499/11](#)) and European Social Entrepreneurship Funds ([18491/11](#)).

The proposals were submitted last December and are part of the Single Market Act and the Commission's action plan to improve access to finance for SMEs ([18619/11](#)).

Ministers endorsed the overall objective of the proposals and committed to a swift calendar for starting negotiations with the European Parliament, with a view to reaching an agreement by June 2012, as requested by the European Council ([6277/12](#)).

The overall objective of the proposals is to foster the growth of SMEs by improving their access to finance through the establishment of an EU-wide passport to venture capital fund (EuVECA) and social entrepreneurship fund (EuSEF) managers in relation to the marketing of their funds.

The proposals introduce uniform requirements for the managers of collective investment undertakings that want to operate under the EU-wide passport. They introduce requirements as to the investment portfolio, investment techniques and eligible undertakings that a qualifying fund may target. They also introduce uniform rules on which categories of investors a qualifying fund may target and on the internal organisation of the managers that market such qualifying funds. Identical substantive rules across the EU will help create a level playing field for all market participants.

The Commission introduced separate draft regulations for EuVECA and EuSEF, as these two types of funds are different in nature. EuVECA normally focus on providing equity finance for SMEs in the start-up phase of business, whereas EuSEF often have a larger range of qualifying investment tools available, such as combined public and private sector finance, debt instruments or small loans.

Venture capital funds are operators that provide mostly equity finance to companies that are generally very small, in the initial stages of their corporate development. In the EU, venture capital funding has high, but largely unexploited, potential. SMEs backed by venture capital can create high-quality jobs, as venture capital supports the creation of innovative businesses.

SMART REGULATION AGENDA - Council conclusions

The Council adopted conclusions ([6341/12](#)) on a future smart regulation agenda with a strong focus on end-users: businesses, especially SMEs and micro-enterprises, consumers, public administrations, etc.

By means of these conclusions, the Council will call on the Commission to further improve the smart regulation agenda by, among other things, keeping end-users in mind and involving them in evaluations of regulation in order to identify excessive burdens, inconsistencies, obsolete and ineffective measures, and reduce unnecessary regulatory burdens.

FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION: "HORIZON 2020"

The Council held a debate on the new common strategic framework for research and innovation for the years 2014-2020, "Horizon 2020".

The debate was conducted on the basis of a report presented by the Presidency focusing on two main political subjects: cross-cutting issues within the Horizon 2020 programme (such as international cooperation and the role of social sciences and humanities), and SME participation to Horizon 2020 ([6281/12](#)).

Many member states highlighted the advantages of embedding social sciences and humanities in research projects in order to better address the societal challenges. Integration of these aspects could be helpful in the innovation process in terms of increasing problem-solving capacity.

Some delegations pointed out that, building on past experience and the work of the Strategic Forum for International Cooperation (SFIC), a proactive approach on the part of the EU and its member states to international cooperation in research and development might result in greater reciprocal benefits through the choosing of a targeted strategy. Ministers also took note of the announcement made by the Commission on a communication to be issued on these aspects in the coming months.

Finally, all delegations showed strong support for facilitating the participation of SMEs in the innovation process by means of actions to be carried out at both national and EU levels, such as simplification of instruments for SMEs, promotion of clusters, better access to venture capital, partnerships, increased opportunities from public procurement, collaboration with universities, etc.

The Presidency's objective is to reach a common understanding within the Council on the content of the framework programme by May 2012, in order to pave the way for future work and secure timely approval by the Council and the European Parliament. Horizon 2020 will replace the EU's 7th research framework programme (FP7), which runs until end 2013.

Further to the ongoing analysis carried out by EU experts on the new programme, the Council took into account the main results of the first orientation debate of 6 December, as well as the outcome of the discussions held at the informal ministerial meeting in Copenhagen on 2 February¹. The informal ministerial meeting focused on three questions in relation to Horizon 2020: complementarities with other EU programs and, in particular, cohesion policy funds; simplification, and the importance of bridging research and innovation.

¹ <http://eu2012.dk/en/NewsList/Februar/Week-5/Compet-research>

The new framework for research is expected to eliminate fragmentation in this field and to ensure more coherence, with national research programmes *inter alia*. Horizon 2020 will build on the current FP7 concept, the Competitiveness and Innovation Programme (CIP) and the European Institute for Innovation and Technology (EIT). It will be closely linked to key sectoral policy priorities such as health, food security, energy and climate change, etc., and will have strong links to cohesion policy as well as rural development.

The Commission presented the several components of the future programme on 30 November 2011:

http://ec.europa.eu/research/horizon2020/index_en.cfm

EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

The Council took note of a presentation by the Commission on the strategic implementation plan as well as an amended regulation for the European Institute of Innovation and Technology (EIT) ([18090/11](#)).

The EIT, which was set up in March 2008, will continue to reinforce the innovation capacity of the EU and its member states and to contribute to the general objective of Horizon 2020, mainly by integrating the "knowledge triangle" of higher education, research and innovation. This integration takes place primarily via the Knowledge and Innovation Communities, which bring together organisations on a long-term basis in order to respond to big societal challenges.

Under Horizon 2020, the EIT would receive a financial contribution of € 3.1 billion for the period 2014 to 2020.

In a separate decision, the Council and the European Parliament will define the priority fields of the EIT's strategic agenda for the seven-year period ([18091/11](#)).

Website of the EIT: <http://eit.europa.eu/>

FOLLOW-UP TO EUROPEAN COUNCIL CONCLUSIONS ON INNOVATION

The Council took note of a Presidency report ([6279/1/12](#)) on the developments made in research and innovation following the European Council conclusions of 4 February 2011, which focused on energy and innovation (*EUCO 2/11*).

The report is to be brought to the attention of the next European Council, which will take place on 1 and 2 March.

In its conclusions, the European Council called for the implementation of an integrated approach to boosting innovation for taking full advantage to be taken of Europe's intellectual capital, to the benefit of citizens, companies - in particular SMEs - and researchers.

EUROPEAN EARTH MONITORING PROGRAMME (GMES)

The Council held an exchange of views on the Commission communication concerning the European Earth Monitoring Programme (GMES) and its operations from 2014 onwards ([17072/11](#)).

The debate addressed the future perspectives and most possible suitable models of governance and long-term funding of the GMES programme. The need to find an appropriate form for further operational follow-up was broadly underlined.

The GMES programme was established by regulation 911/2010¹. Together with the "Galileo" navigation satellite system, it is a flagship programme of the EU's space policy. GMES is also one of the programmes to be delivered under the Europe 2020 strategy for smart, sustainable and inclusive growth and was included in the industrial policy initiative of Europe 2020, because of its benefits to a wide range of Union policies.

The resolution ([18232/11](#)) adopted at the 8th Space Council between the EU and the European Space Agency (ESA) on 6 December, highlighted the important role that GMES will play in ensuring the independent access by Europe to gather essential information in support of environment, security, humanitarian aid, civil protection and the rest of the thematic areas covered by GMES.

Website of GMES: <http://www.gmes.info>

¹ Official Journal of the EU L 276 , 20.10.2010.

ANY OTHER BUSINESS

Unitary patent protection

The Presidency recalled the statement made on 30 January by the heads of state or government of the member states participating in the enhanced cooperation for the creation of unitary patent protection in which they committed to reaching a final agreement on the last outstanding issue in the patent package in June 2012 at the latest ([5/12](#)).

It highlighted the significant benefits that the new system will provide to European companies in terms of innovation potential, economic savings and legal certainty, and committed itself to striving to facilitate a final compromise.

Several delegations and the Commission urged the finalisation of a draft agreement by the member states for establishing a Unified Patent Court.

Last December the Council and the Parliament reached a provisional agreement on the two draft regulations implementing enhanced cooperation in the area of unitary patent protection.

The third pillar of the patent system, the creation of a Unified Patent Court that would judge patent litigation cases, is still pending final agreement on the seat of the Court.

Bio-economy: action plan for innovation and green growth

At an informal lunch, ministers for research exchanged views on the Commission communication "Innovating for sustainable growth: a bio-economy for Europe", issued on 13 February ([6487/12](#)).

Ministers highlighted that the bio-economy has great potential to contribute to a more innovative, resource-efficient and competitive society.

The communication sets out a plan of 12 actions for the implementation of a bio-economy strategy.

European Research Area: results of public consultation

The Council took note of the analysis carried out by the Commission on the results of a public consultation aimed at gathering views and evidence from stakeholders on the key obstacles that need to be overcome, as well as on the best ways to address them, in order to achieve a well-functioning European Research Area (ERA) by 2014 ([6537/12](#)).

Website of ERA: http://ec.europa.eu/research/era/index_en.htm

ITER: International Thermonuclear Experimental Reactor

The Council took note of information provided by the Commission on the state of play of the ITER project ([6599/12](#)).

In December 2011, the Commission submitted a proposal for a supplementary research programme under the Euratom Treaty for the period 2014-2018 ([5058/12](#)).

Website of ITER: <http://www.iter.org/>

OTHER ITEMS APPROVED

TRANSPORT

Interoperability of European railways - telematics applications for freight services

The Council decided not to oppose the adoption by the Commission of a regulation amending the technical specification for interoperability relating to the subsystem "telematics applications for freight services" of the trans-European rail system ([5184/12](#)).

The amendment updates the modalities of application of this technical specification and the rules on management of change, to be applied by railway undertakings, infrastructure managers and wagon keepers.

The draft regulation is subject to the regulatory procedure with scrutiny; now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

Common rail safety targets

The Council decided not to oppose the adoption by the Commission of a decision on common safety targets for the rail system ([5313/12](#)).

The common safety targets (CSTs) define the safety levels that must at least be reached by the rail system, expressed in quantitative risk acceptance criteria for different risk categories such as risks to passengers, staff, level crossing users or society as a whole.

The decision is based on the experience gained from the implementation of a first set of CSTs, which were adopted in 2010 and are now to be replaced by this second set.

The draft legal act is subject to the regulatory procedure with scrutiny; now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

FOOD LAW

Food colours - Control of dioxins and other contaminants in foodstuffs

The Council decided not to oppose the adoption by the Commission of two draft regulations:

- amending annex II to regulation 1333/2008 as regards the conditions of use and the use levels for the food colours Quinoline Yellow (E 104), Sunset Yellow FSF/Orange Yellow S (E 110) and Ponceau 4R, Cochineal Red A (E 124) ([16705/2/11 REV 2](#)); and
- laying down methods of sampling and analysis for the official control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs ([18587/11](#)).

These draft regulations are subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt them, unless the European Parliament objects.

CULTURE

European Heritage Label panel - Appointments

The Council appointed Mr Francisco Prado-Vilar, Ms Csilla Hegedüs, Ms Irma Grigaitienė and Mr Michel Thomas-Penette, as members of the European panel that will be responsible for selecting the sites to be awarded the European Heritage Label ([6274/12](#)).

The European Heritage Label may be granted to sites which have a strong symbolic - and not only aesthetic - value, in terms of European history and heritage (such as monuments, natural, underwater, archaeological, industrial or urban sites, cultural objects, etc). It is intended to strengthen a sense of belonging to Europe among European citizens, especially young people.