



**COUNCIL OF
THE EUROPEAN UNION**



16577/08 (Presse 354)

PROVISIONAL VERSION

PRESS RELEASE

2910th meeting of the Council

Competitiveness (internal market, industry and research)

Brussels, 1 and 2 December 2008

Presidents

Ms Valérie PECRESSE

Minister for Higher Education and Research of France

Mr Hervé NOVELLI

Minister of State with responsibility for Trade, Craft Trades,
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16577/08 (Presse 354)

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Main results of the Council

*The Council held an exchange of views on the response to be made to the current economic crisis from the point of view of European competitiveness. In this connection, it adopted conclusions for the introduction of a **"Small Business Act" to benefit small and medium-sized European undertakings.***

The Council also adopted conclusions on **competitive clusters** in Europe.

The Council adopted conclusions in the field of research with regard to:

- *the "2020 Vision" for the **European Research Area**;*
- *the **joint programming** of research in Europe;*
- ***international science and technology cooperation**;*
- *a strategy for **marine and maritime research** and*
- *implementation of the **Global Monitoring for Environment and Security programme (GMES).***

The Council approved a Directive intended to improve safety on the Community's railways without debate.

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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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PARTICIPANTS

The governments of the Member States and the European Commission were represented as follows:

Belgium:

Mr Vincent QUICKENBORNE
Ms Patricia CEYSENS

Minister for Enterprise and Simplification
Minister for the Economy, Enterprise, Science, Innovation
and Foreign Trade

Bulgaria:

Ms Nina RADEVA

Deputy Minister for the Economy and Energy

Czech Republic:

Mr Alexandr VONDRA

Deputy Prime Minister with responsibility for
European Affairs

Mr Ondřej LIŠKA
Mr Martin TLAPA
Mr Jakub DŮRR

Minister for Education, Youth and Sport
Deputy Minister for Industry and Trade
Deputy Minister for Education, Youth and Sport

Denmark:

Mr Uffe Toudahl PEDERSEN

State Secretary, Ministry of Science, Technology and
Development

Germany:

Ms Annette SCHAVAN
Mr Bernd PFAFFENBACH

Federal Minister for Education and Research
State Secretary, Federal Ministry of Economic Affairs and
Technology
State Secretary, Federal Ministry of Justice

Mr Lutz DIWELL

Estonia:

Mr Ahti KUNINGAS

Deputy State Secretary, Ministry of Economic Affairs and
Communications

Mr Tõnis LUKAS

Minister for Education and Science

Ireland:

Ms Mary COUGHLAN

Tánaiste (Deputy Prime Minister) and Minister for
Enterprise, Trade and Employment

Greece:

Mr Stavros KALAFATIS
Mr Philippos TSALIDIS

State Secretary for Development
Secretary-General for Research and Technology

Spain:

Ms Christina GARMENDIA MENDIZÁBAL

Minister for Science and Innovation

France:

Ms Valérie PÉCRESSE
Mr Jean-Pierre JOUYET
Mr Hervé NOVELLI

Minister for Higher Education and Research
Minister of State with responsibility for European affairs
Minister of State with responsibility for Trade, Craft
Trades, Small and Medium-Sized Undertakings, Tourism
and Services

Italy:

Mr Andrea RONCHI

Minister without portfolio, Minister for Community
Policies

Mr Giuseppe PIZZA

State Secretary for Education, Universities and Research

Cyprus:

Mr Efstathios HAMBOULLAS

Permanent Secretary, Ministry of Commerce, Industry and
Tourism

Latvia:

Mr Kaspars GERHARDS
Mr Mareks GRUŠKEVICS

Minister for Economic Affairs
State Secretary, Ministry of Education and Science

Lithuania:

Mr Vytautas NAVICKAS

Minister for the Economy

Luxembourg:

Ms Jeannot KRECKÉ

Minister for the Economy and Foreign Trade, Minister for Sports, Minister for Sea Transport

Mr François BILTGEN

Minister for Labour and Employment, Minister for Culture, Higher Education and Research, Minister for Religious Affairs

Hungary:

Mr Károly MOLNÁR

Minister without Portfolio with responsibility for Research Policy and for Research and Development

Mr Zoltán MESTER

State Secretary, Ministry of National Development and Economic Affairs

Malta:

Mr Jason AZZOPARDI

Parliamentary Secretary for Revenues and Land in the Ministry of Finance, the Economy and Investment

Netherlands:

Ms Maria van der HOEVEN

Minister for Economic Affairs

Austria:

Mr Martin BARTENSTEIN

Federal Minister for Economic Affairs and Labour

Poland:

Mr Jerzy DUSZYNSKI

Deputy Minister for Science and Higher Education

Ms Grażyna HENCLEWSKA

Deputy State Secretary, Ministry of Economic Affairs

Mr Łukasz Antoni RĘDZINIAK

Deputy State Secretary, Ministry of Justice

Portugal:

Mr Manuel PINHO

Minister for Economic Affairs and Innovation

Mr José MARIANO GAGO

Minister for Science, Technology and Higher Education

Mr João Tiago SILVEIRA

State Secretary for Justice

Romania:

Ms Aurel CIOBANU-DORDEA

State Secretary for European Affairs

Slovenia:

Ms Darja RADIČ

State Secretary at the Ministry of the Economy

Mr Jozsef GYÖRKÖS

State Secretary at the Ministry of Higher Education, Technology and Sport

Slovakia:

Mr Ivan RYBÁRIK

State Secretary, Ministry of the Economy

Mr Jozef HABÁNIK

State Secretary, Ministry of Education

Finland:

Mr Mauri PEKKARINEN

Minister for Economic Affairs

Ms Tarja CRONBERG

Minister for Labour

Sweden:

Ms Maud OLOFSSON

Deputy Prime Minister and Minister for Enterprise and Energy

Mr Lars LEIJONBORG

Minister for Higher Education and Research

Mr Gunnar WIESLANDER

State Secretary to the Minister for Trade

United Kingdom:

Mr Ian PEARSON

Parliamentary Under-Secretary, Department for Business, Enterprise and Regulatory Reform

Commission:

Mr Günter VERHEUGEN
Mr Janez POTOČNIK
Mr Charlie McCREEVY
Ms Meglena KUNEVA

Vice-President
Member
Member
Member

.....

ITEMS DEBATED

Response to the economic crisis

The Council held an exchange of views on the response to be made to the present economic crisis from the point of view of European competitiveness.

Among other considerations, the Council expressed its views that an improvement in the framework conditions for European businesses, particularly for SMEs, was essential to counter the effects of the crisis on competitiveness and to support and enhance job creation.

The discussion was preceded by a presentation by the Commission of its communication "The Lisbon strategy: a European plan to boost growth and employment", published on 26 November 2008 ([16097/08](#)). It will be followed by a discussion by the Economic and Financial Affairs Council on 2 December.

Inspired by the fundamental principle of solidarity and social justice, the European Economic Recovery Plan presented by the Commission is based on two main pillars: the injection of purchasing power into the economy to stimulate demand and restore confidence and the need to direct short-term action to reinforce Europe's competitiveness in the long-term.

Ten actions for recovery are proposed, to help EU Member States put economic and social levers in place to meet today's challenges.

"Small Business Act" for Europe - Council conclusions

The Council adopted the conclusions set out in ([14677/1/08](#)) on the communication ""Think Small First" - A "Small Business Act" for Europe".

European private company

The Council examined a progress report ([16400/1/08](#)) on a proposal for a Regulation on the statute for a European private company (SPE).

The Regulation aims to create a new legal form of a European private company that would foster and enhance the competitiveness of European enterprises, notably SMEs (which currently represent more than 99% of companies in the European Union), by making it simpler and easier for their establishment and functioning within the internal market and by reducing costs.

The Ministers' discussions focused on key aspects of the proposal: the applicable law, the cross-border element, share capital, compliance control, provisions on the company's registered office, liability of directors, and employee participation.

The proposal for a Regulation ([11252/08](#)) was discussed on several occasions by the Council's preparatory bodies following the presentation of the proposal by the Commission on 27 June 2008¹.

The proposal is part of a package of measures contained in the "Small Business Act for Europe" and provides for the establishment and functioning of the European private company.

The proposal aims to regulate the company's share capital and the rights of shareholders. Like other Community corporate forms, it will allow a company to transfer its registered office to another Member State and to organise, if appropriate, employee participation where employees have acquired rights. A number of areas such as labour law, tax law, the accounts and insolvency mechanisms will continue to come under the applicable national or Community law.

¹ On the basis of Article 308 of the EC Treaty.

Clusters in Europe - Council conclusions

Following the Commission communication entitled "Towards world-class clusters in the European Union: implementing the broad-based innovation strategy", the Council adopted the conclusions set out in [14679/08](#).

Intellectual property: enhancing the patent system in Europe

The Council took note of a progress report ([16006/08](#)) from the Presidency on discussions to create a Community patent and establish an EU patent court.

The Council agreed that discussions would have to continue during the incoming Presidencies with a view to finding effective solutions and it gave the relevant instructions to its preparatory bodies.

As regards the patent litigation system, the discussions held in the preparatory bodies enabled better coordination to be achieved between the provisions of the various jurisdiction instruments so that the Commission would be able, in due course, to propose negotiating directives on a future international agreement establishing an EU patent court.

However, a number of issues need to be examined in more depth. These issues relate, in particular, to the composition of the judicial panels, the language arrangements, jurisdiction on validity, the control exercised by the Court of Justice, the financing of the judicial system and the transitional arrangements.

As regards the Community patent, the discussions enabled the concerns of delegations to be expressed, particularly in relation to cost issues and the language arrangements.

In the second half of 2008, discussions focused on annual renewal fees and the distribution key applicable to any resulting revenue, and enabled broad agreement to be reached on objectives such as:

- 1) facilitating the protection of innovation for European companies;
- 2) fostering the competitiveness of European businesses, particularly SMEs, in the global economy;
- 3) guaranteeing the functioning and financial security of the European Patent Office, and
- 4) allowing for harmonious co-existence between national, European and Community patent systems.

Following the conclusions of the Council of December 2006 and of the 2007 Spring European Council, the Commission presented a communication entitled "Enhancing the patent system in Europe" ([8302/07](#)) in April 2007.

On the basis of that communication, national experts examined the possibility of establishing a single patent litigation system in the EU, which would apply both to European patents and to future Community patents.

Progress reports were presented to the Council in November 2007 ([15162/07](#)) and May 2008 ([9473/08](#)).

Duration of related rights on sound recordings, and of co-authors' rights

The Council took note of a progress report on a proposal for a Directive amending Directive 2006/116/EC on the term of protection of copyright and related rights. It asked its preparatory bodies to continue discussions with a view to finding solutions to the questions outstanding.

The report ([16005/08](#)) was drawn up by the Presidency on the basis of discussions held by the Council's experts following presentation by the Commission of the draft Directive in July 2008 ([12217/08](#)).

The draft Directive is intended mainly to extend the term of protection of related rights enjoyed by performers and phonogram producers. It also aims to improve the social situation of performers, in particular that of session musicians given that performers increasingly live beyond the term of protection of their performances.

Since the rules in force do not contain any specific provisions on co-written musical compositions with words, the new proposal seeks to introduce a uniform method for calculating the starting point of the period of protection which would apply to this type of musical composition. In different Member States, this type of musical composition with words is classified as a single work of joint authorship with single period of protection running from the death of the last surviving co-author, or as separate works with separate periods of protection running from the death of each contributing author.

The terms of protection for copyright and related rights were harmonised by Directive 93/98/EEC, which was subsequently codified by Directive 2006/116/EC. The codification did not entail any substantive changes to the Directive. These Directives set the term of protection for performers and phonogram producers at 50 years from publication or communication to the public of the fixation of the performance, whereas the new Directive would extend that protection to 95 years after the event setting the term running.

As this is a codecision draft law, the European Parliament is expected to give its opinion on the proposal at first reading in February 2009.

Gambling and betting: legal framework in EU Member States

The Council held an exchange of views on the legal framework and the policies adopted in EU Member States on gambling and betting. (16022/08 COR 1)

Discussion was based on a better knowledge of the legal frameworks and policies adopted in Member States with regard to the general organisation of the sector, the cross-border dimension of gambling, and its objectives and instruments.

The discussion was based on a Presidency report on the work done in the second half of 2008. The launch of this exploratory work follows an initiative taken by the Presidency as early as July following a request emanating jointly from several Member States. It is the first time that Council bodies have addressed this subject in such a detailed manner.

The Presidency's report, which proposes taking joint discussions further, considers the major areas covered by policies on gambling: protection of public order, combating addiction, protection of minors, consumer protection, instruments to combat illegal gambling and matters of taxation.

It emerges from this account that the national models for the organisation and regulation of the gambling and betting sector are very heterogeneous. Member States have produced diverse models, in particular as regards the types of gambling authorised and the extent to which the sector is open, its regulation or the taxation rules applicable, often linked to moral, cultural and social considerations.

The report shows that the policies conducted in many Member States are influenced by considerations of public order (combating money laundering and organised crime), social order (protection of minors and combating addiction) and consumer protection (ensuring that gambling operations and operators are trustworthy, etc.). Member States therefore frequently have recourse to instruments such as bans on access to gambling by minors or restrictions on the amounts of bets or winnings or methods for checking transactions. With regard to the development of on-line gambling, a number of Member States have opted to ban them, whereas others have adopted specific regulations.

"2020 Vision" for the European Research Area - Council conclusions

Following an exchange of views on the launch of the "Ljubljana Process – towards full realisation of the European Research Area", the Council adopted the conclusions set out in [16012/08](#).

Joint programming of research - Council conclusions

Following a debate on the framework conditions for the development of joint programming of research in order to tackle Europe's major societal challenges and on the criteria which need to be used to identify areas for joint programming, the Council adopted the conclusions set out in [16014/08](#).

International science and technology cooperation - Council conclusions

As an integral part of the external dimension of Vision 2020 for the European Research Area, the Council adopted conclusions on a European partnership for international scientific and technological cooperation.

Those conclusions are set out in [16017/08](#).

European research infrastructure

The Council held an exchange of views on a draft Regulation on a Community legal framework for a European Research Infrastructure (ERI). It decided to return to the draft during the next Presidency.

The draft Regulation aims to create a legal framework to facilitate the establishment and shared use by a number of Member States and associated countries of facilities for research of European interest. Its purpose is to provide a uniform procedure in place of the current system, which is based on individual decisions for each research infrastructure. It is a part of the realisation of the common European Research Area.

At its meeting on 30 May 2008 the Council referred to the need to develop research infrastructures at European level based, *inter alia*, on effective coordination and an appropriate legal framework.

The Commission presented the proposal for a Regulation on 25 July 2008 ([12259/08](#)).

At the working lunch, Ministers discussed the major research infrastructures and, more particularly, the implementation of the European Strategy Forum for Research Infrastructures (ESFRI) list, regarding which they acknowledged the added value contributed by the relevant Working Party.

Marine and maritime research - Council conclusions

The Council adopted the conclusions set out in [16019/08](#) as an outcome of discussions on the Commission communication entitled "A European Strategy for Marine and Maritime Research" ([12699/08](#)), which sets out measures intended to put in place an integrated approach to marine and maritime research, and which is one of the main factors in favour of the development of the European Research Area.

Researchers' careers and mobility

Research ministers reviewed the political measures most likely to promote the careers and mobility of researchers in Europe.

On this subject, the Council noted the progress of work undertaken following the adoption of the conclusions of 26 September 2008 on "A European partnership for researchers: better careers and more mobility" ([12854/08](#)).

Ministers for research of Portugal and Luxembourg, Mr Gago and Mr Biltgen, presented an interim report on the analysis being carried out to identify priority initiatives for swift and concrete implementation of the common objectives of the European partnership and on the investigation into what might be covered by European researcher status.

In addition, the Council noted the results of the conference on "Young researchers in Europe" held in Rennes, France, on 20 and 21 November 2008.

On the basis of the Commission communication of 23 May 2008 ([10059/08](#)), the Council decided to emphasise, among other aspects, the need to accelerate progress and to amplify the initiatives designed to strengthen the attractiveness of the European higher education area and of research and of scientific careers, as well as to strive to strengthen the links between the fields concerned by coordinating the Lisbon Strategy with the Bologna Process around the doctorate and the modernisation of higher education.

In that context the March 2008 European Council, which launched the new cycle of the renewed Lisbon strategy for growth and jobs (2008-2010), asked Member States and the EU as a whole to remove barriers to the free movement of knowledge, notably by making the labour market for European researchers more open and competitive, providing better career structures, transparency and family-friendliness.

Global Monitoring for Environment and Security (GMES) space programme - Council conclusions

The Council adopted the conclusions on the implementation of the Global Monitoring for Environment and Security (GMES) programme set out in [16267/08](#).

Other business

- Proposal for a Directive on the award of public contracts in the fields of defence and security and proposal for a Directive on the terms and conditions of transfers of defence-related products within the Community

The Presidency reported on the state of discussions and on the fact that the bodies of the European Parliament and of the Council had stepped up their joint efforts on both dossiers with a view to reaching an agreement on first reading in accordance with the codecision procedure.

- Draft recast of cosmetics legislation

The Presidency reported on the progress of discussions on this draft Regulation, which is intended to harmonise safety procedures and reinforce the responsibilities of economic actors and market surveillance.

- Draft revised Directive on toy safety

The Presidency reported on the progress achieved on the draft Directive to improve the safety of toys, with the aim of reaching agreement at first reading with the Parliament as soon as possible.

- Review of the Community *acquis* in the area of consumer rights

The Commission gave a presentation on the draft Directive on consumer rights ([14183/08](#)), on strengthening the implementation of consumer rights by administrative cooperation and on the Green Paper on consumer class actions adopted on 27 November 2008.

- "Better lawmaking" initiative

Request by the Netherlands delegation ([16370/08](#)).

- "Raw materials" initiative

Commission presentation of its communication " The raw materials initiative - Meeting our critical needs for growth and jobs in Europe" submitted to the Council on 5 November ([16053/08](#)).

- Creation of on-line companies

Briefing by the Estonian and Portuguese delegations ([15660/08](#)).

- Conference on clusters in Budapest, 26 and 27 January 2009

Information from the Hungarian delegation.

- Jobs in the tourism sector

Request by the Greek delegation.

- Priorities for the next Presidency of the EU

The Czech delegation provided an overview of the priorities in the field of competitiveness for the next Presidency, which will begin on 1 January 2009.

- Developments in the ITER nuclear fusion project

After hearing a progress report on the ITER reactor project, the Council encouraged the Commission to continue working with the other partners (China, India, Japan, Republic of Korea, Russia and the United States) to balance the project's scientific ambitions with cost control.

- SET Plan (European Strategic Energy Technology Plan)

The Council heard a Commission interim report on the SET Plan in the context of the European Research Area in the energy field.

- European Institute of Innovation and Technology (EIT)

The Chairman of the Governing Board of the EIT presented a snapshot of progress achieved since the EIT's establishment on 15 September 2008, as well as its prospects and a schedule of future work.

OTHER ITEMS APPROVED

RESEARCH

Skills in the nuclear field - Council conclusions

The Council adopted the conclusions set out in the document ([15406/08](#)).

FISHERIES

Tuna - Indian Ocean

The Council adopted a Regulation amending Regulation (EC) No 40/2008 as regards management measures adopted in the Indian Ocean Tuna Commission ([15701/08](#)).

The new Regulation establishes the number of Community vessels fishing for tropical tuna, swordfish and albacore and the corresponding capacity in gross tonnage and the breakdown by Member State concerned.

Regulation No 40/2008¹ fixes for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.

TRADE POLICY

Anti-dumping - Citric acid from China

The Council adopted a Regulation imposing a definitive anti-dumping duty and collecting definitely the provisional duties imposed on imports of citric acid originating in China ([15329/08](#)).

¹ OJ L 19, 23.1.2008, p.1.

EXTERNAL RELATIONS

EU Special Representative to the African Union

The Council adopted a Joint Action extending the mandate of the European Union Special Representative (EUSR) to the African Union by 14 months, i.e. until 28 February 2010 ([15372/08](#)).

On 6 December 2007 the Council adopted Joint Action 2007/805/CFSP (OJ 323, 8.12.2007, p. 45) appointing Mr Koen VERVAEKE as EUSR to the African Union.

The AU has in recent years become a strategic continental actor and a key international partner for the EU. The European Council in December 2006 identified enhancing the EU presence with the AU in Addis Ababa as a concrete measure in the framework of strengthening the EU's strategic partnership with Africa.

The mandate of the EUSR is based on the EU's comprehensive policy objectives in support of African efforts to build a peaceful, democratic and prosperous future as set out in the joint EU-Africa Strategy.

TRANSPORT

Safety on the Community's railways

The Council adopted a Directive on safety on the Community's railways by approving the European Parliament's amendments at second reading¹ ([3668/08](#), [3668/08 COR 1](#), [3668/08 COR 3](#)).

This Directive amending existing Directive 2004/49/EC forms part of a series of Commission proposals comprising a draft Directive on interoperability² and a draft Regulation establishing a European Railway Agency (*see below*). The aim of these proposals is to improve the cross-acceptance of railway vehicles in the EU and, hence, the operation of the internal market. The Commission adopted these proposals in December 2006.

¹ *See 11499/08.*

² The Directive on the interoperability of the rail system within the Community was adopted on 14 May 2008 (*see Press Release 8850/08, p. 35*).

Cross-acceptance will be improved through a more systematic application of the principle of mutual recognition to national authorisation procedures and harmonisation of certain provisions. This will help improve the conditions for the competitiveness of railways in Europe.

The Directive defines the different roles and responsibilities of the players concerned by rail transport (railway companies, infrastructure managers, holders of vehicles and entities in charge of vehicle maintenance), in particular as regards the maintenance of railway vehicles.

The Directive puts in place a system of maintenance certification. The certificates issued will be valid throughout the Community and will guarantee that the certified entity fulfils the maintenance requirements for any vehicle for which it is responsible.

Moreover, in view of the fact that Cyprus and Malta have no rail systems, the Directive provides for a derogation from the transposition and implementation of this Directive as long as no rail system has been put in place on their territory.

Member States will have two years after the entry into force of the Directive (the day following that of its publication in the Official Journal of the EU) to comply with these provisions.

European Railway Agency

The Council adopted a Regulation amending the Regulation establishing a European Railway Agency by approving the European Parliament's amendments at second reading¹ ([3669/3/08 REV 3, 3669/08 COR 1](#)).

The main aim of the Regulation is to adapt the legislative framework of the European Railway Agency to the new tasks arising from the amendments made to the Directive on railway safety (see above) and the Directive on interoperability of the rail system.

A new important task of the Agency will be to classify in a single reference document all the technical and safety rules applicable in each Member State. It will thus be possible to list gradually the national rules which must be regarded as equivalent and hence cannot be invoked to justify additional checks. The Agency will thus help to increase the cross-acceptance of authorisations for railway vehicles between Member States.

¹ See 11500/08.

The Council made some amendments to the Commission proposal to ensure better use of the Agency's technical expertise. For fuller information, see Press Release [15891/07](#), p. 47.
