

PRESS RELEASE

Subject :

2289th Council meeting

– INTERNAL MARKET, CONSUMER AFFAIRS AND TOURISM –

Brussels, 28 September 2000

Presidents:

Mr Pierre MOSCOVICI

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

Ms Marilyse LEBRANCHU

State Secretary to the Minister for Economic Affairs,
Finance and Industry, with responsibility for SMEs, Trade,
Craft Trades and Consumer Affairs

of the French Republic

CONTENTS

PARTICIPANTS

ITEMS DISCUSSED

SERVICES OF GENERAL INTEREST – Open debate [*](#)

CARDIFF ECONOMIC REFORM PROCESS – Working method [*](#)

PROTECTION OF PERSONAL DATA BY THE INSTITUTIONS AND BODIES OF THE COMMUNITY [*](#)

COMMUNITY PATENT [*](#)

SAFETY OF TOYS [*](#)

GREEN PAPER ON THE ENVIRONMENTAL ISSUES OF PVC [*](#)

HYGIENE RULES [*](#)

CONSUMERS AND THE EURO [*](#)

OTHER BUSINESS

- Regulation of markets – note from the Portuguese delegation [*](#)

ITEMS APPROVED WITHOUT DISCUSSION

INTERNAL MARKET

- Copyright and related rights in the information society [*](#)
- Directive on the safety of buses [*](#)

AGRICULTURE

- Establishment of maximum residue limits for veterinary medicinal products in foodstuffs of animal origin [*](#)

ENVIRONMENT

- Ozone layer [*](#)

For further information, tel.: 02-285.60.83 or 02-285.68.08

PARTICIPANTS

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

Belgium :

Ms Magda AELVOET	Minister for Consumer Protection, Public Health and the Environment
Mr Pierre CHEVALIER	State Secretary for Foreign Trade, attached to the Minister for Foreign Affairs

Denmark :

Ms Pia GJELLERUP	Minister for Trade and Industry
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Germany :

Mr Hansjörg GEIGER	State Secretary, Federal Ministry of Justice
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Greece :

Mr Christos PACHTAS	State Secretary for Economic Affairs
Ms Milena APOSTOLAKI	State Secretary for Development

Spain :

Mr Miguel Angel NAVARRO	Deputy Permanent Representative
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France :

Mr Pierre MOSCOVICI	Minister attached to the Minister for Foreign Affairs, with responsibility for European Affairs
Ms Marilyse LEBRANCHU	State Secretary to the Minister for Economic Affairs, Finance and Industry, with responsibility for SMEs, Trade, Craft Trades and Consumer Affairs

Ireland :

Mr James BRENNAN Deputy Permanent Representative

Italy :

Mr Gianni MATTIOLI Minister for Community Policies

Mr Stefano PASSIGLI State Secretary for Industry, Trade, Craft Trades and Foreign Trade

Luxembourg :

Mr Henri GRETHEN Minister for Economic Affairs

Netherlands :

Mr Gerrit YBEMA State Secretary for Economic Affairs

Mr Dick BENSCHOP State Secretary for Foreign Affairs

Austria :

Ms Mares ROSSMANN State Secretary, Federal Ministry of Economic Affairs and Labour

Portugal :

Mr Acácio BARREIROS State Secretary for Consumer Protection

Finland :

Mr Kimmo SASI Minister for Foreign Trade and European Affairs

Sweden :

Mr LeifPAGROTSKY Minister at the Ministry of Foreign Affairs, with responsibility for Trade

Mr Sven-Eric SÖDER State Secretary at the Ministry for Economic Affairs, with responsibility for Nordic Cooperation

United-Kingdom :

Ms Helen LIDDELL Minister of State at the Department of Trade and Industry, Minister for Energy and Competitiveness in Europe

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Commission :

Mr Frits BOLKESTEIN Member

Mr David BYRNE Member

Mr Erkki LIKANEN Member

SERVICES OF GENERAL INTEREST – Open debate

The Council held an open debate on services of general interest, which the public could follow on closed-circuit television in the Council building. The debate centred on the Commission's presentation of its communication updating its 1996 communication.

Services of general interest are traditionally defined as services essential for the everyday life of consumers and citizens, such as distribution of water and electricity, transport, and postal and telecommunications services. As society undergoes change, the group of services classified as being of general interest needs to be adjusted. Rapidly evolving markets and technologies give rise to concern among citizens about the future of these services as well as to renewed need for explanations from operators about the application of treaty rules to such services, in particular internal market and competition rules.

Following the request made by the European Council in Lisbon and reiterated in Feira, the Commission has now provided explanations going further than its first communication on services of general interest, dating back to 1996. The first point made is that the responsibility for defining and organising services of general interest lies primarily with the public authorities in the Member States. In certain cases, the market alone can not guarantee the desired levels of performance. Thus the need to define specific tasks of general interest.

The Commission explains the criteria for applying the treaty rules, chiefly for the benefit of operators and the public authorities they are subject to. Only economic activities involving trade between the Member States are concerned. A

large number of social or purely local activities are therefore excluded from the scope of application of these rules.

Moreover, the Commission points out that it is undertaking a pro-active policy in favour of services of general interest. The liberalisation of some major sectors, notably those whose networked structure means they are Community-wide (telecommunications, postal services, energy and transport), is a gradual process, based on evaluations of the consequences and on wide-scale consultation of all the parties concerned. In each case, depending on the individual characteristics of the sector, the opening-up of the market, coupled with universal service obligations, will guarantee and improve the services available to consumers.

To focus the Council's proceedings, the Presidency had proposed that the Ministers reply to three questions relating to:

- reconciling Community law with the freedom of the public authorities in the Member States to choose how to define, organise and finance public services; specifically, the desirability of defining more clearly in certain areas the criteria for applying internal market and competition rules, so that these rules and the way they are applied make full allowance for the services of general interest recognised in Article 16 of the Treaty;
- ensuring regular assessment at European level of the definition and performance of public service tasks, across the board and in individual sectors, peer review procedures and consultation of the using public, and
- following up this initial discussion, possibly by giving concrete shape to Article 16 of the Treaty by some means other than sectoral legislation.

Following the debate, the President welcomed the comprehensiveness and quality of the Commission's contribution and the statements made by the Ministers, who at this stage were giving their initial reactions to the Commission communication.

The Presidency concluded that the debate had shown that:

- services of general interest were very important both for the competitiveness of European industry and for the daily lives of citizens/consumers and there was a need for effective interaction between Articles 16 and 86 of the Treaty, which were complementary;
- several delegations raised specific questions such as: the distinction between the role of services of public interest and the operators providing such services, which could be based on criteria other than profitability alone; the liberalisation of such services did not necessarily mean their privatisation; the choice between public and private services would remain the domain of the Member States, given guaranteed transparency of services;
- some delegations emphasised the need for a body to monitor these services; accordingly, the citizen/consumer would have to be represented in the internal market forum;
- it was important to define the concept of services of general interest; in accordance with the principle of subsidiarity, it was for the Member States to define the concept, with the Commission ensuring that such concepts did not adversely affect the functioning of the internal market; it might be worth considering a concept at Community level;
- the idea of regular assessment of such services was well-received and could, for instance, be carried out on the basis of good practice and benchmarking.

As regards the follow-up to the debate, the Presidency asked the delegations, on account of the comprehensiveness of their statements, to submit their written contributions so that the discussion could be continued at the Internal Market, Consumer Affairs and Tourism Council meeting on 30 November 2000, which might help prepare for the Nice European Council meeting in December.

CARDIFF ECONOMIC REFORM PROCESS – Working method

The Council noted the Presidency's report on the guidelines for the working method for the 2000-2001 exercise as regards the internal market aspects of the Cardiff process. It supported the proposed working method and asked the Permanent Representatives Committee to draw up a contribution on the internal market aspects of the broad economic policy guidelines (BEPGs) by the end of January 2001.

The working method for the Cardiff process within the Council for the 2000-2001 exercise involves coordinating the activities of the Economic Policy Committee (EPC) and the Working Party on the Internal Market (Horizontal Questions), which will examine the national reports and the Commission report on economic reform.

The Working Party on the Internal Market will undertake an in-depth analysis of the topic "economic reforms and the benefits for citizens/consumers" as well as a more general examination of progress and the main areas to be developed to improve the functioning of the internal market.

The Working Party's activities will culminate in the drafting of an initial contribution towards preparing the BEPGs at the end of January 2001 as well as in the adoption of conclusions of the Internal Market, Consumer Affairs and Tourism Council on 12 March 2001. Those conclusions will also play a part in the discussions of the European Council in Stockholm in March 2001 and in the Commission's updating of its strategy for the internal market.

The Cardiff economic reform process has completed two full annual cycles, with the Internal Market Council's work culminating in the adoption of Council conclusions on 25 February 1999 and 16 March 2000.

The strategy defined by Heads of State or Government in Lisbon on 23 and 24 March 2000 renews and renders more specific the objectives of economic reform, as well as defining clear priorities for action in the internal market. It was also decided at Lisbon that an annual spring European Council meeting on economic and social issues should be held. Under the Swedish Presidency, this will take place in Stockholm on 23 and 24 March 2001.

Successive European Council meetings have re-emphasised and enhanced the role of the annual broad economic policy guidelines as the central tool for ensuring that appropriate economic reforms can promote real improvements in economic growth potential, employment and social cohesion.

In November 1999 the Commission adopted its strategy for the internal market, setting out its priorities for the internal market. In May 2000, the Commission produced its first (annual) review of its strategy, updating target actions and the implementation timetable and taking account of both the Lisbon strategy and the Internal Market Council's conclusions in the context of the Cardiff process.

PROTECTION OF PERSONAL DATA BY THE INSTITUTIONS AND BODIES OF THE COMMUNITY

The Council took note of the significant progress made on the proposal for a Regulation on the protection of individuals with regard to processing of personal data by the institutions and bodies of the European Community and on the free movement of such data, and on the state of negotiations initiated with the European Parliament in an effort to reach agreement at first reading as soon as possible.

The Council instructed the Permanent Representatives Committee to quickly resume work on this dossier so that the Internal Market, Consumer Affairs and Tourism Council could reach agreement on the Regulation on 30 November 2000.

This proposal is designed to attain the twin objectives of ensuring that Community legal acts on the protection of individuals with regard to the processing of personal data and the free movement of such data apply to Community institutions and bodies and setting up an independent supervisory body to monitor the application of the relevant rules.

COMMUNITY PATENT

The Council took note of Commissioner BOLKESTEIN's presentation of the proposal for a Council Regulation on the Community patent and of Member States' initial reactions to the main aspects of it. The Council instructed the Permanent Representatives Committee to continue work on this extremely important subject.

The aim of the proposed Regulation is to establish a Community patent system valid throughout the European Union at an affordable price and providing every guarantee of legal certainty. Community patents, which would be issued by the European Patent Office in Munich, would exist alongside national and European patents so that inventors could choose the type of patent protection best suited to their needs.

With regard to disputes relating to counterfeiting and the validity of Community patents, the Commission suggests introducing a new centralised Community court. Other disputes, such as those concerning contractual licensing or the right to a patent, will be referred to the national courts.

Given that the 1973 Convention on the Grant of European Patents, known as the "Munich Convention", is currently

under revision, the Commission pointed out the need for this revision of the intergovernmental convention to make the amendments necessary for the introduction of the Community patent.

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SAFETY OF TOYS

The Council took note of a progress report presented by the Presidency on a proposal for a Directive amending for the 22nd time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (phthalates) and amending Directive 88/378/EEC on the approximation of laws of the Member States concerning the safety of toys.

During the exchange of views on the progress of this dossier, several Member States expressed their support for a ban on all phthalates while others felt that such a ban was out of the question, given that the Scientific Committee (CSTEE) had adopted a position only on the six phthalates included in the Commission proposal.

The Council asked the Permanent Representatives Committee to continue examining this proposal.

At the meeting in May 2000, in view of continued differences between delegations, the Council invited the Permanent Representatives Committee to continue work on this dossier with a view to enabling the Council to reach agreement, in the light of the forthcoming Opinion of the European Parliament, on this proposal.

Since 1997 several Member States, considering that the phthalates used in toys and childcare articles made of flexible PVC could present a risk to small children when these toys are put into the mouth, have banned all toys containing phthalates.

The Member States concerned have informed the Commission of the measures taken in this respect. Decision 1999/815/EC bans until 8 December 2000 the use of six phthalates in toys intended to be put into the mouth.

The Commission proposal of November 1999 aims at a permanent ban on these six phthalates in toys intended to be put into the mouth. However, the measures proposed go further than those in Decision 1999/815/EC as they also contain labelling requirements for toys which can be put into the mouth (but are not intended for that purpose).

The proposal has been examined on several occasions. However, the discussion has produced no solution as it encountered the following two problems:

- the number of phthalates subject to restrictions and the scope of these restrictions;
- the wording of the warning required on the label of toys which could be put into the mouth.

GREEN PAPER ON THE ENVIRONMENTAL ISSUES OF PVC

The Council heard a presentation by Commissioner LIKANEN of the Green Paper on the environmental issues of PVC (polyvinylchloride), which assesses the impact of PVC on the environment and on human health.

The Green Paper identifies a number of such issues, primarily linked to the use of certain additives and to the management of PVC waste, and also identifies possible solutions to these issues.

HYGIENE RULES

The Council heard a presentation by Commissioner BYRNE of Commission proposals on hygiene rules (following the White Paper). The proposals include five legislative texts, four of which involve the co-decision procedure with the European Parliament, i.e.:

- 1) a text of a general nature;
- 2) a specific text for each product;
- 3) a text on veterinary checks within the EU and at its borders;
- 4) a text concerning animal health measures with an impact on public health;
- 5) a text repealing 17 current Directives.

The Council also took note of the general comments made by some Member States.

In conclusion, the Council noted that the Permanent Representatives Committee would actively continue its work on this subject.

CONSUMERS AND THE EURO

Ministers held an exchange of views on the progress of preparations for the introduction of the euro for consumers in their respective countries.

They commented that considerable effort had been made to ensure a smooth introduction of the euro and identified the aspects which deserved special attention, such as promotion campaigns, advice to small and medium-sized enterprises and making the most vulnerable consumers aware.

OTHER BUSINESS

– Regulation of markets – note from the Portuguese delegation

The Council took note of the Portuguese delegation's information on the conference which the Portuguese Presidency of the European Union, which preceded the current French Presidency, hosted on 8 and 9 July 2000 in the Azores on globalisation, regulation and self-regulation and consumer interests.

ITEMS APPROVED WITHOUT DISCUSSION

(Decisions for which statements for the Council minutes have been made available to the public are indicated by asterisks; the statements in question may be obtained from the Press Office.)

INTERNAL MARKET

Copyright and related rights in the information society

With an abstention by the Luxembourg delegation, the Council unanimously adopted its common position with a view to the adoption of the Directive on the harmonisation of some aspects of copyright and related rights in the information society. The common position will be forwarded to the European Parliament for its second reading, in accordance with Treaty provisions for the co-decision procedure.

The draft Directive seeks to provide a harmonised and appropriate legal framework in the internal market for copyright and related rights in the information society. In particular, it seeks to harmonise the rights of reproduction, communication, making available to the public and distribution of works. Its adoption is also a precondition for the Community and its Member States acceding to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), concluded in December 1996.

The Directive is based on the principle of striking the right balance between the interests of rightholders (holders of copyright and related rights), on the one hand, and the interests of other parties (Internet service providers, consumers, equipment manufacturers, libraries, publishers and other beneficiaries of exceptions to rights in the Member States), on the other, taking into account in particular the possibilities offered by new technologies. It calls upon Member States to provide for authors exclusive rights concerning reproduction as well as communication and distribution to the public of their works.

The Directive, however, contains a list of optional exceptions to these rights. They may apply in special cases that do not conflict with a normal exploitation of their work or other subject matter and do not unreasonably prejudice the legitimate interests of the rightholder. These exceptions or limitations may apply inter alia to reproduction for private use and for non-commercial ends, use for the purpose of illustration for teaching and scientific research, use for the benefit of people with a disability, specific acts of reproduction made by publicly accessible libraries, recordings of broadcasts made by social institutions, etc. In principle, rightholders are entitled to fair compensation in some of these cases.

Rightholders are entitled to protect their works effectively by technological measures against any violation. However, where rightholders have not taken voluntary measures to give the beneficiaries of certain exceptions access to their protected work, Member States will have to take appropriate measures to enable users to benefit from the exceptions concerned.

Directive on the safety of buses

The Council adopted its common position with a view to the adoption of the Directive relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, and amending Directives 70/156/EEC and 97/27/EC. The common position will be forwarded to the European Parliament for its second reading, in accordance with Treaty provisions for the co-decision procedure.

The objective of this Directive is to set harmonised provisions for the type-approval of vehicles for passenger transport (buses and coaches). It covers essential aspects of bus safety, such as stability, roll-over behaviour, number of service and emergency exits, and accessibility for the disabled. Initially, the Directive will be optional and will exist alongside national type-approval systems until Framework Directive 92/53/EEC becomes mandatory for buses and coaches.

AGRICULTURE

Establishment of maximum residue limits for veterinary medicinal products in foodstuffs of animal origin *

On 13 July 2000 the Commission submitted to the Council the proposal for a Council Regulation amending Annex II of Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin. For want of a qualified majority within the Standing Committee for Veterinary Medicinal Products on 4 February 2000, the Commission itself had been unable to adopt this Regulation, which provides for the inclusion of recombinant bovine somatotropins (rBST) in Annex II to Regulation (EEC) No 2377/90.

The Council confirmed the delegations' unanimous opposition to the Commission proposal, which means that, in accordance with Article 8 of Regulation (EEC) No 2377/90, the proposed measures cannot be adopted.

ENVIRONMENT

Ozone layer

In accordance with the possibility given to it under the co-decision procedure (Article 251(2) of the EC Treaty), the Council adopted on first reading two Regulations amending the Regulation adopted on 29 June 2000 (press release 9412/00 Presse 211) on substances that deplete the ozone layer, which implements the Montreal Protocol:

- a Regulation amending the base year for the allocation of hydrochlorofluorocarbons (HCFCs);
- a Regulation on metered dose inhalers and medical drug pumps.

These amendments are intended to correct two points in the basic Regulation.

The first amendment concerns the base year for allocating quotas of hydrochlorofluorocarbons for producers and importers of HCFCs. The base year provided for in the initial Regulation – 1996 – has been replaced by 1999 so that the allocation of import quotas is based on the most recent and representative figures available, in this case 1999, and so as not to result in a breach of the principles of non-discrimination and legitimate expectations, given that the market in HCFCs has changed since 1996. The Council agreed to the text as passed by the European Parliament on 21 September 2000.

The second amendment corrects the initial Regulation in order to enable the export to developing countries of health products whose use is permitted in the EU. This relates to metered dose inhalers and medical drug pumps for implantation in the human body for medical reasons. As the European Parliament had not passed any amendments to the Commission proposal on 7 September 2000, the Council adopted the text as it stood in the proposal.

The proposed amendments do not conflict with the European Community's obligations under the Montreal Protocol.

Since the basic Regulation of 29 June 2000 will be applicable as of 1 October 2000 and in order to avoid legal inconsistencies, the three Regulations will be published simultaneously in the Official Journal on 29 September 2000.