

PRESS RELEASE

9624/93 (Presse 180)

1701st Council meeting

- INTERNAL MARKET -

Brussels, 11 November 1993

President: **Mr Robert URBAIN,**

Minister for Foreign Trade
and European Affairs
of the Kingdom of Belgium

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

Belgium:

Mr Robert URBAIN
Mr André BOURGEOIS

Minister for Foreign Trade and European Affairs
Minister for Agriculture and Small and Medium-sized Businesses

Denmark:

Mr Jan TROEJBORG
Mr Christopher BO BRAMSEN

Minister for Industry
State Secretary for Industry

Germany:

Mr Jochen GRÜNHAGE

Deputy Permanent Representative

Greece:

Mr Yiannos PAPANTONIOU
Mr Alexandros BALTAS

Deputy Minister for Economic Affairs
State Secretary for Trade

Spain:

Mr Carlos WESTENDORP

State Secretary for Relations with the European Communities

France:

Mr Pierre SELLAL

Deputy Permanent Representative

Ireland:

Mr Seamus BRENNAN

Minister for Commerce and Technology

Italy:

Mrs Rosella ARTIOLI

State Secretary for Industry

Luxembourg:

Mr Georges WOHLFART

State Secretary for Foreign Affairs and Foreign Trade

Netherlands:

Mr Piet DANKERT

State Secretary for Foreign Affairs

Portugal:

Mr Vitor MARTINS
Mr Alves MONTEIRO

State Secretary for European Integration
State Secretary for Industry

United Kingdom:

Lord STRATHCLYDE

Parliamentary Under-Secretary of State for
Consumer Affairs and Small Firms

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Commission:

Mr Martin BANGEMANN
Mrs Christiane SCRIVENER
Mr Raniero VANNI d'ARCHIRAFI

Member
Member
Member

STRENGTHENING THE COMPETITIVENESS OF ENTERPRISES, IN PARTICULAR OF SMALL AND MEDIUM-SIZED ENTERPRISES AND CRAFT ENTERPRISES, AND DEVELOPING EMPLOYMENT IN THE COMMUNITY

The Council held a public discussion on strengthening the competitiveness of small and medium-sized enterprises and craft enterprises and developing employment in the Community, and adopted the Resolution set out below:

"THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Council Resolution of 27 May 1991 on the action programme for small and medium-sized enterprises including craft industry enterprises ⁽¹⁾,

Having regard to the Council Resolution of 17 June 1992 on Community action to support enterprises, in particular small and medium-sized enterprises including craft industry enterprises ⁽²⁾,

Having regard to the Council Resolution of 3 December 1992 on administrative simplification for enterprises, especially small and medium-sized enterprises ⁽³⁾,

Having regard to the Commission communication of 23 January 1992 entitled "Towards a European market in subcontracting",

Having regard to the own-initiative report from the Economic and Social Committee of 28 April 1993 ⁽⁴⁾,

Having regard to Council Decision 93/379/EEC of 14 June 1993 on a multiannual programme of Community measures to intensify the priority areas and to ensure the continuity and consolidation of policy for enterprise, in particular small and medium-sized enterprises, in the Community ⁽⁵⁾,

(1) OJ C 146, 5. 6.1992, p. 3.

(2) OJ C 178, 15. 7.1992, p. 8.

(3) OJ C 331, 16.12.1992, p. 3.

(4) OJ C 161, 14. 6.1993, pp. 6 et seq.

(5) OJ L 161, 2. 7.1993, p. 68.

Having regard to the conclusions of the Edinburgh European Council of 11 and 12 December 1992 setting out the principles of "a plan of action by the Member States and the Community to promote growth and to combat unemployment" and emphasizing the importance of small and medium-sized enterprises for creating jobs and stimulating growth,

Having regard to the conclusions of the Copenhagen European Council of 21 and 22 June 1993, which amplify the principles set out in Edinburgh for promoting growth and combating unemployment and propose short-term measures aimed at small and medium-sized enterprises,

Having regard to the Council's conclusions of 13 September 1993 which acknowledge the desirability of stimulating SME investment by means of a simple, non-discriminatory mechanism which can be implemented rapidly and note the Commission's intention of examining the viability of a Community initiative programme (CIP) as a matter of urgency,

Having regard to the conclusions of the Brussels European Council of 29 October 1993 calling upon the ECOFIN Council to ensure that an interest-rate subsidy mechanism for SMEs in accordance with the guidelines adopted by the Copenhagen European Council is set up within the limits fixed in the 1994 budget,

Having regard to the Commission communications, on which there are to be further discussions in the Council:

- Commission report on the definitions of SMEs used in the context of Community activities ⁽⁶⁾;
- Commission communication of 1 June 1992 on SME participation in public procurement in the Community ⁽⁷⁾;
- Commission communication of 2 June 1993 on the strategic programme for the management of the Internal Market entitled "Reinforcing the effectiveness of the Internal Market" ⁽⁸⁾;
- Commission communication of 7 October 1993 entitled "Small and medium-sized enterprises and Community activity in research and technological development" ⁽⁹⁾;

(6) SEC(92) 351 final of 29 April 1992.

(7) SEC(92) 722 final of 1 June 1992.

(8) COM(93) 256 final of 2 June 1993.

(9) COM(93) 356 final of 30 September 1993.

- Commission communication of 10 November 1993 on the funding problems of SMEs ⁽¹⁰⁾;
- Commission communication on the first report of the European Monitoring Centre for SMEs of 5 November 1993 ⁽¹¹⁾ (Commission's comments on the first annual report for 1993);

Recognizing the importance of co-ordinating measures to restore lasting growth and to strengthen the competitiveness of European industry and create jobs,

Recognizing that small and medium-sized enterprises are one of the essential components in relaunching growth and creating jobs and that it is therefore appropriate to encourage their development, with the objective of economic and social cohesion in the Community,

Recognizing that it is desirable to implement measures such as will swiftly eliminate the obstacles still hampering the full participation of small and medium-sized enterprises in the Internal Market,

Recognizing the importance of encouraging the development of SMEs at the appropriate decision-making level while taking account in particular of specific national features,

Emphasizing that existing Community initiatives concerning a policy for small and medium-sized enterprises should be reinforced and extended and that the conclusions of the Copenhagen European Council relating to these should be speedily followed-up,

Emphasizing that small and medium-sized enterprises should be encouraged to participate more in all Community programmes from which they may benefit,

Stressing the need not to increase the administrative burdens already borne by SMEs,¹

1. **STRESSES** the importance of a global and horizontal approach to the policy developed on behalf of small and medium-sized enterprises, in order to be able, together with the various circles taking part in the Community decision-making process, to find ways of enhancing the value of Community action,
2. **CONSIDERS** therefore that closer partnership between all the parties involved in the development of small and medium-sized enterprises - at Community, national and

(10) COM(93) 528 final.

(11) COM(93) 527 final.

regional level - could be more in keeping with the aim of convergence,

3. **WELCOMES** the fact that the Presidency has drawn up a Memorandum entitled "SMEs: driving force of European growth", the recommendations in which have yet to be analysed,

4. **INVITES THE COMMISSION:**

(a) to promote

- in the context of the multiannual SME programme and other existing programmes, an environment which favours the creation of enterprises,

- on the basis of an analysis of existing policies which support the creation and development of new enterprises, an exchange of experience in the Community, particularly in the following areas:

- vocational training and in particular the initial and continuing training of heads of enterprises and their managerial staff, particularly in management;
- the needs of creators of innovative enterprises in general and innovative technological enterprises in particular, especially as regards technical assistance;
- the relations of SMEs with financial institutions and, inter alia, a closer relationship between creators of enterprises and suppliers of capital;
- promotion of spin-off techniques for enterprises from existing enterprises;

(b) to speed up, in the context of the multiannual SME programme, the timely, targeted distribution of relevant information on business opportunities and co-operation possibilities on the subcontracting markets, in particular with the aid of initiatives such as:

- promotion, within the framework of existing European networks accessible to SMEs, of linking and compatibility between databanks and subcontracting exchanges, several of which are already involved in transnational co-operation, in order to extend the European scope of their activities;

- encouraging trials of meetings which are organized by main contractors for the purpose of contacting subcontractors in the context of new-style inter-industry partnerships;

(c) improving the access of SMEs to quality and certification techniques within the framework of the existing Community programmes, in particular the multiannual SME programme;

(d) to encourage, in the context of the Community growth initiative, and in accordance

with their respective statutes, support for investment in the SMEs by the European Investment Fund and the EIB, particularly by means of the on-going development of its programme of global loans and in particular by:

- taking care that EIF assistance really does benefit the SMEs concerned and, in the case of the smallest SMEs, ensuring that there is access to guarantee mechanisms;
 - inviting the European Investment Bank to consider the possible advantages of diversifying financial intermediaries;
- (e) to organize, in accordance with the SME programme:
- more systematic consultation of organizations representing SMEs and craft enterprises at European level on all Community projects likely to have an impact on enterprises, starting at the planning stage;
 - a new methodology for assessing the cost and benefits of the Community proposals on the basis of a regularly updated impact statement, in particular from the angle of administrative simplification, in order to produce an environment favourable to the creation and development of enterprises;
- [(f) to promote, in a strengthened SME partnership in the Community, consultations with the organizations representing SMEs and craft enterprise at Community level, including within the framework of the procedures provided for by the Agreement on Social Policy;
- (g) to increase, in particular, as part of the strategic programme on the Internal Market, SME participation in public procurement in this field, inter alia by means of:
- action to eliminate existing barriers to SMEs and, where necessary, by further Community measures to that end;
 - stepping up co-operation between enterprises and providing more information to SMEs, for example through pilot schemes devised within existing Community networks;
- (h) to strengthen, in the fourth R & TD framework programme currently being adopted, effective SME participation, in particular by:
- greater consistency between the various Community measures on the one hand and between Community and Member State measures on the other;

- broader dissemination and exploitation of research results by calling upon existing specialized Community networks and national and regional bodies;
 - the improvement, strengthening and extending to other programmes of specific measures to stimulate research and technological development by or for SMEs, particularly in the light of experience with CRAFT measures and feasibility premiums;
 - simplification of procedures and conditions for participating in calls for tenders and improvements in the time taken to process files;
 - encouraging co-operation between SMEs and between large enterprises and SMEs;
- (i) to examine and analyse the approach adopted in third countries towards the development of SMEs;

5. INVITES THE MEMBER STATES TO:

- (a) take care that both public and private financial intermediaries, specialized in financing SMEs are in a position to call on the EIF for the granting of guarantees to SMEs;
- (b) take care that a stable and favourable financial climate exists for SMEs so that they can achieve the balanced financial structure they need to anticipate more accurately the various economic cycles;
- (c) remove any barriers to co-operation between enterprises on the subcontracting markets by taking steps to ensure respect for the rights and obligations of the parties, for example, through codes of practice;
- (d) encourage SMEs to participate in public works, public supply and public service contracts, inter alia by promoting the temporary grouping of small-scale tenderers;
- (e) facilitate the realization of SME development potential, in particular regarding new jobs, by simplifying the administrative and regulatory procedures which concern them;
- (f) promote high-level vocational training opportunities, giving priority to heads of enterprises, young entrepreneurs and managerial staff;
- (g) ensure that the organizations representing SMEs and craft enterprises are regularly asked in social and economic consultative fora to give opinions on legislative and regulatory measures and, where appropriate, on action which affects them, in accordance with the practices in force in each Member State;

6. REQUESTS THE COMMISSION AND THE MEMBER STATES TO:

strengthen, within the framework of enlarged partnerships, the effectiveness, consistency and visibility of measures to assist SMEs while taking also into account the strategic dimension of the size of the enterprises;

In this context and in the light of the conclusions of the Brussels European Council of 29 October 1993:

REQUESTS THE COMMISSION TO:

examine at the earliest possible opportunity concrete proposals for the achievement of an integrated programme for SMEs and craft enterprises by means of a CIP (Community Initiative Programme),

7. UNDERTAKES TO:

hold regularly, in the light of the way the multiannual SME programme is functioning and SME and craft enterprise needs are developing, an overall debate on the competitiveness of enterprises and on their situation in the Internal Market."

EQUIPMENT AND PROTECTIVE SYSTEMS INTENDED FOR USE IN POTENTIALLY EXPLOSIVE ATMOSPHERES (ATEX DIRECTIVE)

The Council unanimously adopted the common position on the Directive on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres.

This is a "new approach" Directive which applies to equipment and protective systems intended for use in potentially explosive atmospheres and to safety devices which are outside potentially explosive atmospheres but have an influence on equipment installed in such atmospheres.

Its purpose is to cover risks both from electrical and non-electrical sources and to replace the old optional Directives 76/117/EEC and 79/196/EEC (surface equipment) and 82/13/EEC (mining equipment), as well as their successive amending Directives 84/47/EEC, 88/517/EEC, 90/487/EEC, 88/35/EEC and 91/269/EEC, which relate only to the electrical field.

The equipment covered by the Directive is divided into two groups. Group I includes equipment intended for use in underground parts of mines as well as those parts of surface installations endangered, or liable to be endangered, by firedamp and/or combustible dust. Group II includes equipment intended for use in other areas which are endangered or liable to be so by potentially explosive atmospheres.

The equipment, protective systems and devices to which the Directive applies must meet the essential health and safety requirements set out in Annex II to the Directive. Those requirements are subdivided into general requirements and supplementary requirements, and the latter are intended to take account of existing or potential hazards.

The Directive also lays down procedures for assessing conformity with the essential requirements. Those procedures are devised in the light of the level of inherent risk in equipment and/or against which systems must protect the immediate environment. The

affixing of the CE marking will mean that the product complies with all the basic requirements and assessment procedures laid down by the relevant Community law.

COMPLETION OF THE INTERNAL MARKET

The Council took note of a new oral presentation by the Commission relating to the situation as regards the transposition of Community texts into national law.

The Commission appealed to Member States to speed up the national transposition process, especially in the fields of public contracts, intellectual property and company law.

COUNTERFEIT AND PIRATED GOODS

The Council took note of the presentation by Commissioner SCRIVENER of the proposal for a Regulation prohibiting the release for free circulation, export or transit of counterfeit or pirated goods. The Council also noted the importance which the Commission attached to the issue.

It should be noted that the main thrust of the proposal is to strengthen the procedure introduced under Regulation 3842/86 in the effort to combat the "scourge of counterfeit goods and to extend its scope (currently confined to trade mark protection) to the protection of other intellectual property rights (copyright, designs, etc.).

The Council agreed that work on the proposal would be intensive and thorough so that the Regulation could be adopted as soon as possible.

PROCEDURE FOR THE PROVISION OF INFORMATION IN THE FIELD OF TECHNICAL STANDARDS AND REGULATIONS

The Council unanimously adopted the common position on the amendment of Directive 83/189/EEC laying down a procedure for providing information in the field of technical standards and regulations. The amendment is directed towards amplifying certain aspects of the scope and clarifying the obligations imposed on Member States by the Directive.

It should be noted that Directive 83/189/EEC imposes a dual obligation on Member States proposing to adopt national technical regulations relating to industrial, agricultural, pharmaceutical and cosmetic products:

- to communicate to the Commission and the other Member States the texts of such regulations at the draft stage (notification procedure);
- to abstain from adopting them for a given period whose duration depends on the specific cases indicated in the Directive (standstill or status quo rule).

The amendment in question is aimed at increasing transparency with regard to national measures in the field of technical regulations with a view to completion of the internal market.

More particularly, it aims to extend the scope of Directive 83/189/EEC by redefining the concept of the "technical rule" so as to include de facto technical regulations. The latter are, inter alia:

- national provisions which refer to technical specifications or to professional codes or other requirements compliance with which confers a presumption of conformity with the said provisions;
- voluntary agreements with which public authorities are associated;
- technical specifications linked to fiscal measures affecting consumption of a product.

On these issues, it should be stressed that:

- comments by the Commission or the Member States may not relate to fiscal aspects, but only to any effects which impede the proposed measure;
- such measures would be subject only to the notification procedure, without a standstill period.

Other amendments are based on experience acquired in the course of implementing Directive 83/189/EEC. Thus, as a general rule, the standstill period, during which Member States are prohibited from adopting a national regulation in a field in which the Council is endeavouring to draw up a harmonized measure, may be increased to a maximum of eighteen months.

Implementation of the Directive is planned for 1 July 1995.

LABELLING OF FOOTWEAR MATERIALS

The Council adopted by a qualified majority, with the German delegation voting against and the Netherlands delegation abstaining, the common position on the Directive on the approximation of the provisions of the Member States relating to the labelling of the materials used in the main components of footwear for sale to the final consumer. An explanation of the German delegation's vote, which was endorsed by the Netherlands delegation, is given in Annex I.

The aims of the proposal are to ensure free movement of footwear within the Community and to provide the consumer with reliable information by means of a system for labelling the materials used in the main components of footwear.

The labelling envisaged includes information on the composition of footwear in accordance with the detailed arrangements laid down in the Directive.

Under the labelling system adopted, the manufacturer may use, at his discretion, either

pictograms or written indications, the terms for which are set out in Annex I to the Directive. Labelling must not be such as to mislead the consumer.

FOODSTUFFS - ADDITIVES AND SWEETENERS

After examining a request from the Danish delegation concerning the addition of certain sweeteners to certain types of white cheese, the Council formally adopted the three common positions (on which it had given its political agreement at its meeting on 27 September 1993 (see press release 8700/93 (Presse 151)) on the Directives:

- on colours for use in foodstuffs (by a qualified majority, with the Netherlands and Luxembourg voting against and Germany and Denmark abstaining);
- amending Directive 89/107/EEC on the approximation of the laws of the Member States concerning food additives authorized for use in foodstuffs intended for human consumption (unanimously);
- on sweeteners for use in foodstuffs (unanimously).

COMMUNITY TRADE MARK

After a very thorough discussion on the establishment of the Community Trade Mark Office, with particular reference to its linguistic arrangements in the light of relevant decisions taken by the Heads of State and Government meeting within the European Council on 29 October 1993, it was decided to suspend the Council meeting. The Presidency announced that it intended to hold bilateral talks with a number of delegations and the Commission before continuing the Council's deliberations on the issue.

OTHER BUSINESS

The Council took note of a report by the Presidency on the social economy further to the 4th European Conference on the topic held in Brussels from 8 to 10 November 1993.

The Presidency announced that the proposals relating to the Statutes for a European co-operative society, a European association and a European mutual society would be placed on the agenda for the next Internal Market Council meeting, scheduled for 16 December 1993.

**Statement by the Federal Republic of Germany
concerning its vote on the Directive on the labelling of footwear**

The Federal Republic of Germany rejects the Directive on the labelling of footwear on the basis of the principle of subsidiarity.

We understand the position of those Member States which support the proposal for the purpose of eliminating barriers to trade and improving consumer protection. In the final analysis, however, those two arguments do not have sufficient force with a view to limiting Community rules to what is economically necessary and imperative, as required by the principle of subsidiarity.

The Netherlands delegation consequently abstained.

MISCELLANEOUS DECISIONSImports of maize gluten foodstuffs

The Council adopted the Regulation amending Regulation No 2420/92 temporarily suspending until 30 June 1994 Common Customs Tariff duties on certain mixtures of residues of the maize starch industry and of residues from the extraction of maize germ oil obtained by wet milling.

PREPARATION INTERNAL MARKET OF 11 NOVEMBER 1993 : FIGHT AGAINST COUNTERFEITING

Mme Scrivener presentera aux Ministres sa proposition de reglement du Conseil, adoptee a son initiative par la Commission le 13 juillet dernier (note P 31), visant a renforcer le dispositif communautaire de lutte contre la contrefacon en provenance de pays tiers. Mme Scrivener souhaite que ce reglement puisse etre adopte de toute urgence, avant la fin de cette annee car il repond a un besoin pressant de l'industrie et des administrations des douanes.

Le mecanisme douanier mis en place depuis quatre ans dans l'ensemble de la Communaute permet au titulaire d'une marque de fabrique ou de commerce de 'bloquer' momentanement l'importation dans la Communaute de marchandises de contrefacon, cad de marchandises utilisant de maniere illicite une marque enregistree dans un Etat membre de la Communaute, et ainsi d'engager les actions judiciaires appropriees.

La proposition actuelle vise a simplifier les mecanismes de mise en oeuvre de ce dispositif en confiant directement aux autorites douanieres, et non pas seulement a l'autorite judiciaire, la competence de statuer sur la recevabilite de la demande presentee par le detenteur du droit, sans etre amenees bien sur a se prononcer sur le fond. Elle en elargit par ailleurs le champ d'application a un plus grand nombre de droits de propriete intellectuelle, et notamment aux dessins et modeles.

Cette nouvelle mesure doit consolider ainsi le dispositif communautaire d'ensemble mis en oeuvre depuis 1992 et destine a assurer l'efficacite des controles aux frontieres exterieures de la Communaute : adoption d'un code des douanes unique pour toute la Communaute et renforcement de la lutte contre les fraudes douanieres avec notamment la mise en place du systeme informatique S.I.D., le developpement de la cooperation douaniere entre les douze (programme MATTHAEUS) et la mise en oeuvre de programmes sectoriels, tels que le programme TAFI dans le domaine textile.

CONSEIL MARCHE INTERIEUR DU 11 NOVEMBRE 1993

- Contrefacons : Presentation de la nouvelle proposition de reglement

Mme Scrivener a attire l'attention des Ministres sur l'importance et l'urgence de l'adoption de la proposition de reglement presentee en juillet dernier par la Commission pour renforcer le dispositif communautaire de lutte contre la contrefacon en provenance des pays tiers. Ce texte a ete tres bien accueilli par le Conseil, certaines obligations ont souligne l'attente de l'industrie et la gravite de la situation de l'emploi dans certains secteurs touches par ce phenomene.

Mme Scrivener a insiste sur le fait que 'contrefacons et marchandises

pirates sont des menaces graves pour l'industrie europeenne et il convient de combattre energiquement ces informations frauduleuses. En outre, de telles pratiques posent egalement des problemes quant a la securite meme des produits et elles portent prejudice a l'interet des consommateurs qui sont susceptibles d'etre trompes'.

La proposition vise a renforcer le reglement de 1986 en prevoyant quatre ameliorations majeures :

- Il s'agit tout d'abord d'accelerer les procedures en confiant directement aux autorites douanieres le droit, a titre conservatoire, de saisir les marchandises soupconnees de contrefacon a la demande des industriels concernes.

Cela se traduira dans certains Etats membres par l'adoption offerte aux operateurs economiques de saisir directement l'autorite douaniere ou d'engager une procedure judiciaire. Les systemes existants se trouvent donc completes.

- Deuxieme amelioration proposee: l'elargissement du champ d'application du mecanisme de protection au-dela des contrefacons qui sont des infractions au droit des marques. Les marchandises pirates qui circulent en infraction avec les droits d'auteur ou droits voisins seront aussi visees. Seront proteges egalement les modeles et dessins ainsi que les logos, emballages, moules et autres signes distinctifs des marques.
- Troisieme amelioration, le recours au mecanisme propose non seulement a l'occasion d'une mise en libre pratique mais egalement a l'occasion des operations de transit et des exportations.
- Enfin, il est propose de prevoir de la part des Etats membres des sanctions suffisamment lourdes et dissuasives pour decourager les importations de marchandises contrefaites ou de marchandises pirates.

Du point de vue procedural, Mme Scrivener a demande au Conseil d'engager le Parlement a se prononcer d'urgence. La Presidence belge a egalement souligne la diligence avec laquelle les travaux devront etre menes et l'avis unanime du Conseil sur l'importance de l'adoption de ces mesures.

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