

COUNCIL OF THE EUROPEAN COMMUNITIES

COUNCIL OF THE EUROPEAN UNION
GENERAL SECRETARIAT

PRESS RELEASE

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1723rd Council meeting

- INTERNAL MARKET -

Brussels, 16 December 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

Minister for Foreign Trade and
European AffairsDenmark:

Mr Jan TROEJBORG

Mr Christopher BO BRAMSEN

Minister for Industry
State Secretary for IndustryGermany:

Mr Johann EEKHOFF

State Secretary, Federal Ministry of
Economic AffairsGreece:

Mr Yiannos PAPANTONIOU

Mr Alexandros BALTAS

Deputy Minister for Economic Affairs
State Secretary for TradeSpain:

Mr Carlos BASTARRECHE

Deputy Permanent Representative

France:

Mr Alain LAMASSOURE

Minister with special responsibility for
European AffairsIreland:

Mr John F. COGAN

Deputy Permanent Representative

Italy:

Mr Rocco Antonio CANGELOSI

Deputy Permanent Representative

Luxembourg:

Mr Georges WOHLFART

State Secretary for Foreign Affairs
and Foreign TradeNetherlands:

Mr Piet DANKERT

State Secretary for Foreign Affairs

Portugal:

Mr Vitor MARTINS

Mr Alves MONTEIRO

State Secretary for European
Integration
State Secretary for IndustryUnited Kingdom:

Mr Neil HAMILTON

Minister of State, Department of
Trade and Industry

- + -

Commission:

Mr Martin BANGEMANN

Mrs Christiane SCRIVENER

Mr Raniero VANNI d'ARCHIRAFI

Member
Member
Member

COMPLETION OF THE INTERNAL MARKET

On the basis of a Commission report, submitted pursuant to Article 109e of the Treaty, the Council assessed the progress made towards implementation of the internal market. In the same connection, it took note of another Commission communication reporting on the transfer of Community legislation into national law.

STRATEGIC PROGRAMME ON THE INTERNAL MARKET – COUNCIL CONCLUSIONS

"The Council,

Referring to the undertakings given in its Resolution of 7 December 1992 on making the single market work,

Welcomes the Commission's strategic programme for the internal market, to the broad lines of which it gives a favourable response;

Takes note of the conclusions of the European Council meeting in Brussels on 10 and 11 December 1993 regarding full use of the single market and the development of trans-European networks and emphasizes the need for a co-ordinated approach to their implementation;

Further takes note of the call issued by that European Council meeting to the Council and the Commission to continue their work in the light of the relevant European Council guidelines and of the Commission's strategic programme;

Therefore awaits with great interest the drawing-up and submission by the Commission of the communications and proposals outlined in the strategic programme as regards the measures to be laid down in order to ensure dynamic implementation and management of the internal market;

Undertakes to examine those communications and proposals as a matter of priority in order to arrive at swift decisions."

COUNTERFEIT AND PIRATED GOODS

Pending the European Parliament's Opinion, the Council held a further exchange of views on the proposal for a Regulation prohibiting the release for free circulation, export or transit of counterfeit or pirated goods.

The discussions were based on a draft Regulation drawn up by the Presidency following the latest discussions on the subject, and a statement by Commissioner SCRIVENER.

It should be noted that the main thrust of the Commission proposal is to strengthen the procedure introduced under Regulation No 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.).

Following its exchange of views, the Council confirmed that it viewed positively the line taken in the draft Regulation annexed to the Presidency's note and undertook to take a definitive decision on the Regulation at an early date, if possible for the meeting on 10 March 1994.

FOOD ADDITIVES

The Council registered political agreement on the common position on the Directive on food additives other than colours and sweeteners. The proposal is based on Article 100a of the Treaty (co-decision procedure) and forms part of a composite Directive on specific food additives, to be drawn up by stages on the basis of framework Directive 89/107/EEC on additives.

In the context of the composite Directive, on 11 November 1993 the Council adopted common positions on the proposals for Directives on sweeteners and colours; it also adopted a common position on the amendment of the framework Directive.

The composite Directive lays down a positive list of food additives and conditions for their use,

in particular the foodstuffs in which they are permitted and the maximum doses.

The common position on "other additives" is the final component of the composite Directive. It will remove a major regulatory obstacle to the free movement of foodstuffs within the Community and, given the assessment already made by the Scientific Committee for Food, it will mean increased safety for consumers.

DANGEROUS SUBSTANCES

The Council agreed in principle to the common position on the Directive amending for the fourteenth 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.

The amendment is designed to restrict the use of nickel in jewellery and personal items coming into direct contact with the skin, as some people are nickel-sensitive and present allergic reactions. The Annex to the Directive contains an illustrative list of personal items that regularly come into contact with the skin.

FREEDOM OF MANAGEMENT AND INVESTMENT OF FUNDS HELD BY INSTITUTIONS FOR RETIREMENT PROVISION

The Council again discussed the proposal for a Directive on the freedom of management and investment of funds held by institutions for retirement provision.

The basic purpose of the proposal is to apply the principle of free movement of capital to funds held by institutions for retirement provision, by providing for:

- freedom of cross-border financial management;
- freedom of cross-border investment.

The "third freedom" – freedom of cross-border membership of institutions for retirement provision– is not covered by the proposal.

The discussion produced confirmation of the progress made and a majority view in favour of measures designed to back up the freedom of institutions for retirement provision to choose a manager or custodian of assets in another Member State.

There will need to be further negotiations on matching rules, the Netherlands request for exclusion of the ABP Fund (civil servants' pension fund), and the final date for transposition of the Directive.

COMPULSORY WINDING UP OF DIRECT INSURANCE UNDERTAKINGS

The Council held an initial policy debate on the amended proposal for a Directive on the co-ordination of laws, regulations and administrative provisions relating to the compulsory winding up of direct insurance undertakings. The debate was intended to look more closely at certain questions of principle, in particular the preferential ranking of insurance creditors.

The main objectives of the proposal are:

- the completion of Community legislation on insurance, by extending it to cover situations in which authorization is withdrawn;
- the protection of insurance creditors by guaranteeing them preferential treatment as compared with other creditors, in particular by means of a register of assets covering technical reserves;
- the equivalent treatment of insurance creditors in all Member States.

At present, practice regarding the winding up of insurance undertakings varies widely from one Member State to another, the only common ground being preferential treatment for payment of the costs of winding up.

The debate in Council produced a majority view in favour of the principle that insurance creditors should enjoy a preferential claim in respect of the assets covering the technical reserves as a basis for further discussion; however, more detailed examination will be needed to take account:

- of the other systems of protection provided for insurance creditors, such as guarantee funds, and
- the need to align the provisions on insurance creditors appropriately with the levels of protection afforded to other preferential creditors, in particular employees.

The Permanent Representatives Committee was instructed accordingly.

STATUTE OF THE EUROPEAN COMPANY

Working on the basis of a note from the Belgian Presidency, the Council took note of progress on the proposals for a Regulation and a Directive on the statute for a European company (SE).

The Greek Presidency announced its intention of continuing discussions in order to seek appropriate ways of solving the problems holding up adoption of these two instruments, in particular the problem of worker participation.

STATUTE FOR A EUROPEAN CO-OPERATIVE SOCIETY

The Council took note of the progress of discussions on

- the amended proposal for a Regulation on the Statute for a European co-operative society;
- the amended proposal for a Directive supplementing the Statute with regard to the involvement of employees of the SCE;

The Commission submitted these proposals jointly with proposals on a European Association and a European mutual society. When the proposals were submitted in March 1992, most delegations gave them a generally favourable reception. Preparatory discussions have so far concentrated on the proposal on the SCE.

The Council took note of the progress accomplished and agreed that discussions would be actively pursued under the Greek Presidency.

TELEMATIC NETWORKS – Comedi

The Council reached agreement of principle on the proposal for a Decision on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Comedi: Commerce Electronic Data Interchange), including a guideline on the choice of Article 235 as the legal basis. Formal adoption will take place at a forthcoming meeting, once the texts have been finalized and the European Parliament re-consulted.

The purpose of the Decision is to continue and consolidate the developments begun with the Caddia programme (Co-operation in Automation of Data and Documentation for Imports/Exports and Agriculture) in order to ensure, in the context of the opening of the Internal Market, rapid implementation of Council Regulation (EEC) No 3330/91 on the statistics relating to the trading of goods between Member States (Intrastat) by increased use of automatic processing and electronic transmission of information.

The Decision concerns, amongst other things, a set of measures to facilitate the migration of regional, national and Community systems towards interoperable systems at European level as a first stage for the collection of returns on the trading of goods between Member States from businesses, the validation and pre-processing of such returns and the dissemination of the statistics derived therefrom.

This set of measures is to run for a period of five years, with an interim review after two years and an amount deemed necessary of ECU 20 million for 1994 and 1995.

PRECIOUS METALS

The Council took note of an oral presentation by the Commission of the proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to articles of precious metal.

The purpose of the proposal is to lay down a legislative framework to ensure the necessary and adequate level of consumer protection and to ensure fair trading.

The Council agreed that discussions on this proposal would be carried forward with dispatch, to permit adoption of a common position as soon as possible.

RECREATIONAL CRAFT

The Council adopted by a qualified majority (France having voted against and the United Kingdom having abstained) its common position on the Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft. Explanations of the French vote and the United Kingdom's abstention are given in the Annex.

This is a "new approach" Directive aiming to eliminate barriers to trade created by divergent legislation existing in certain Member States in the recreational craft sector, and to prevent other Member States from introducing disparate legislation.

The Directive applies to recreational craft of any type, regardless of the means of propulsion, from 2,5 to 24 m hull length. It also applies to partly completed boats and components referred to in Annex II to the Directive.

The Directive sets the essential safety, health, environmental protection and consumer protection requirements which recreational craft have to meet.

Member States may not prohibit, restrict or impede the placing on the market and putting into service in their territory of recreational craft covered by the Directive and bearing the CE marking, which indicates their conformity with all the provisions of the Directive, including conformity procedures.

BIOTECHNOLOGICAL INVENTIONS

The Council reached political agreement on its common position on the Directive on the legal protection of biotechnological inventions.

This Directive already featured in the White Paper on completion of the Internal Market; it is designed to harmonize the conditions for issuing patents for biotechnological inventions and certain other related provisions, for example the scope of the protection conferred by such patents, in view of the so-called farmer's privilege, or the possibility of granting compulsory licences on such patents.

The conditions for issuing patents include strict criteria for the patentability of procedures and methods which interfere with the physical integrity of man or animals; the effects of harmonization will be felt most as regards national patents, issued by national patent offices; it will be less noticeable with European patents, which will continue to be issued by the European Patent Office using similar criteria set by the Munich Convention. However, even with European patents, the effects of harmonization will be felt at the post-issue stage, if the patents are contested in proceedings for infringement or revocation before the national courts.

According to the common position, Member States are to put the Directive into national law by the end of 1996 at the latest.

RECREATIONAL CRAFT

EXPLANATION OF THE UNITED KINGDOM'S VOTE

The United Kingdom delegation abstained on the vote on the common position because the coverage of second-hand boats built before the entry into force of the Directive and imported from third countries is unnecessary and contrary to the interests of private boat owners.

EXPLANATION OF THE VOTE BY FRANCE

The French delegation is unable to endorse the common position on the proposal for a Directive on recreational craft because it does not guarantee high safety levels in this sensitive area where so many accidents occur. Furthermore, in its Resolution of 18 June 1992, the Council advocated the widest possible use of European standards. The arrangements for boat conformity in the common position are in direct contradiction with that objective.

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MISCELLANEOUS DECISIONS

Renewal of the Convention with UNRWA for 1993 to 1995

The Council adopted a Decision on the signing and conclusion of the new Convention between the Community and the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) for the period 1993 to 1995. Signing will take place in Brussels on 17 December 1993.

The 8th Convention since 1972 will make a major contribution to UNRWA's education, health and supplementary feeding programmes – in Lebanon, Syria, Jordan and the occupied territories – of ECU 30 million for 1993, ECU 31 million for 1994 and ECU 32 million for 1995.

Customs Union

The Council unanimously adopted Regulations

- opening and providing for the administration of Community tariff quotas for 1994
 - = bound under GATT for certain agricultural and industrial products
 - = for certain fruits and fruit juices
- temporarily suspending totally or partially the autonomous duties of the Common Customs Tariff for certain fishery products for 1994.

The Council also adopted a Decision concerning the conclusion of the Customs Conventions on the temporary importation

- of private road vehicles (New York, 1954) and the acceptance of the United Nations' Resolution of 2 July 1993 on the applicability of carnets de passage en douane and CPD carnets to private road vehicles
- of commercial road vehicles (Geneva, 1956) and the acceptance of the United Nations' Resolution on the applicability of carnets de passage en douane and CPD carnets to commercial road vehicles.

Aid to shipbuilding

The Council adopted an amendment to Directive 90/684 on aid to shipbuilding which has the effect of extending its validity until 31 December 1994.

This extension and Directive 90/684 are without prejudice to the amendments necessitated by international agreements concluded by the Community.

In this connection, the Community is continuing its efforts in the Organization for Economic Co-operation and Development (OECD) to secure a multilateral agreement between the World's major shipbuilding nations to put a rapid end to all public support measures, whether

direct or indirect, for shipbuilding, ship conversion or repair, and other obstacles to the re-establishment of normal conditions of competition in the sector.

RESOLUTION ON YOUNG DRIVERS

"THE COUNCIL OF THE EUROPEAN UNION, AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL

Having regard to the Resolution of the European Parliament of 12 March 1993 on a Community programme for action on road safety ⁽¹⁾, which recognizes the need for a new, improved campaign of assistance for young inexperienced drivers and calls on the Commission to devote special attention to them;

Whereas in its communication for an action programme on road safety the Commission states that it will examine, on the basis of experience acquired by the Member States, the specific problems encountered by young drivers in traffic;

Whereas in this connection the Commission particularly emphasized the part which can be played by information and awareness campaigns and publicity as means of educating road users, within the framework of national road safety policies;

Whereas in the conclusions which it adopted at its meeting on 29 and 30 November 1993 on the said communication the Council drew attention to the need to focus in particular on the causes of the most serious accidents and on the categories of users most frequently involved in road accidents or victims of them;

Whereas young drivers of cars and two-wheel vehicles, as a result of their inexperience, constitute a particularly vulnerable group of road users,

AGREE that 1995 will be considered as the Year of the Young Driver;

CALL on the Commission to co-ordinate this initiative with the Member States within an appropriate framework, so that concrete and effective measures are taken to ensure that this initiative has the greatest possible impact on the public concerned."

⁽¹⁾ OJ C 115, 26.4.1993, p. 260.

Ref: BIO/93/318

DATE DOCUMENT : 93/12/15

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INTERNAL MARKET COUNCIL ON THURSDAY, 16TH DECEMBER 1993

The third Internal Market Council under the Belgian presidency will commence at 10.00 am on Thursday, 16 December in Brussels. The points on the Commission agenda followed by Commissioner VANNI d'ARCHIRAFI are the following:

1. Transposition of Community White Paper legislation - convergence report on Art. 109e(2b) - oral presentation

The oral presentation at the Internal Market Council of the convergence report serves only for information purposes concerning the Internal Market part without any discussion of the report. Since the transposition matter is closely linked, the presentation will also contain a brief reference to that topic. Due to the absence of significant changes since the presentation at the last Council, there will be just a short recapitulation of the present situation.

2. Strategic Programme - political debate

The presentation of the document by Commissioner Raniero VANNI d'ARCHIRAFI will be followed by a political debate on the objectives and possible lines of action contained in the Programme. The outcome of the discussion should be to draw conclusions how to proceed further to ensure effective implementation of the Strategic programme.

A press conference by Commissioner VANNI d'ARCHIRAFI on the Strategic programme is scheduled for today, 15 December at 3 pm.

3. Pension funds

The proposal will be discussed for the second time, after a first debate at the IM Council of June. The Presidency seeks to reach a common position. Parliament has given its opinion at first reading. Last Coreper showed that this dossier contains major problems, particularly concerning the matter of a control mechanism in accordance with the principle of home state control, the temporary derogation for a certain Dutch pension fund (ABP) and the currency matching requirement. Particularly, the UK expressed strong reservations. The chances of achieving a common position are very small. A (qualified) majority of Member States seeks to introduce a single 80% currency matching requirement, which the Commission cannot accept, because it would infringe on the capital movements freedom.

4. Compulsory winding up of insurance companies (proposal of directive presented in December 1987) - orientation debate

Since there exist differences on the general lines of the proposals concerning inter alia the ranking of creditors, mutual recognition of

national legislation, priority of shareholders and relation to the winding up convention, the debate at the Council should indicate, in

which direction the dossiers should be further pursued.

5. European Company Statute - state of play

The presidency intends to prepare a note on the present state of the dossier to facilitate and encourage the work under the Greek presidency. The note will be focused on the problems concerning the participation of workers (divergent positions of D, UK, Irl). Particularly D questioned the necessity to pursue the proposal further.

6. Social economy - state of play

The presidency will prepare a report which will represent the general reactions and the progress made in the Council working groups regarding the statute for a European cooperative.

7. Biotechnological inventions - common position

The presidency indicated that sufficient progress has been made. The Council working group is pursuing the work in the coming days. The adoption of a common position at the Council seems to be likely.

8. Lutte contre les contrefaçons

Le Conseil dispose de tous les éléments pour décider demain d'un accord politique sur le texte de la proposition de règlement de lutte contre les contrefaçons et marchandises pirates adopte par la Commission, a l'initiative de Madame Scrivener, le 13 juillet 1993.

Madame Scrivener avait en effet demande un traitement d'urgence de cette question car 'contrefaçons et marchandises pirates sont des menaces graves pour l'industrie européenne et il convient de combattre énergiquement ces informations frauduleuses. En outre, de telles pratiques posent également des problèmes quant à la sécurité même des produits et elles portent préjudice à l'intérêt des consommateurs qui sont susceptibles d'être trompés'.

RAPPEL

La proposition vise à renforcer le règlement de 1986 en prévoyant quatre améliorations majeures :

- Il s'agit tout d'abord d'accélérer les procédures en confiant directement aux autorités douanières le droit, à titre conservatoire, de saisir les marchandises soupçonnées de contrefaçon à la demande des industriels concernés.

Cela se traduira dans certains États membres par l'adoption offerte aux opérateurs économiques de saisir directement l'autorité douanière ou d'engager une procédure judiciaire. Les systèmes existants se trouvent donc complétés.

- Deuxième amélioration proposée : l'élargissement du champ d'application du mécanisme de protection au-delà des contrefaçons 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.

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Ref: BIO/93/318/1

DATE DOCUMENT : 93/12/16

INTERNAL MARKET COUNCIL OF 16 DECEMBER 1993 : CUSTOMS UNION

Lutte contre les contrefaçons

Les Ministres ont approuvé les grandes lignes de la proposition de règlement (voir note BIO 318 du 15 décembre) adoptée par la Commission le 13 juillet dernier à l'initiative de Madame Scrivener.

Le Conseil a donné mandat au Coreper de finaliser les questions techniques qui restent à régler et s'est engagé à l'adopter au plus tard lors du premier Conseil Marché intérieur de 1994, début mars. D'ici là, le Parlement européen aura le loisir de donner son avis sur le texte, éventuellement lors de la session du mois de février.

Madame Scrivener a souligné 'la rapidité des travaux qui ont montré un large consensus sur tous les points du règlement, en particulier l'objectif d'accélération des procédures et l'élargissement du champ d'application du mécanisme de protection à différents types de marchandises aux outils mêmes voire aux emballages et pas seulement aux contrefaçons au sens strict. C'est une bonne chose quand on connaît l'attente des opérateurs économiques et l'importance qu'il y a de disposer, au plus tôt, des instruments juridiques permettant de combattre énergiquement des importations frauduleuses dans le cadre d'une concurrence loyale et équilibrée'.

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Ref: BIO/93/318/2

DATE DOCUMENT : 93/12/17

INTERNAL MARKET COUNCIL OF 16 DECEMBER 1993

1. Programme Strategique sur le marche interieur

Le Commissaire Vanni d'Archirafi a presente le Programme Strategique aux ministres en soulignant le lien etroit qui lie le Programme au Livre Blanc sur croissance, competitivite et emploi: les conclusions du Conseil Europeen de decembre ont aussi mis en relief l'interdependance des deux demarches. En expliquant l'origine du PS (Rapport Sutherland), le Commissaire a rappele l'objectif de l'operation: fournir un cadre global, une 'road map' aux actions futures, legislatives ou pas, necessaires a assurer tant le bon fonctionnement du marche interieur, que son developpement.

Le PS est le fruit d'une vaste operation de consultation: ont ete recus plus de 250 avis d'organisations economiques et sociales, sans compter ceux des institutions. Parmi les premieres mesures qui seront lancees, 4 exemples:

- le developpement de la cooperation administrative entre Etats membres,
- la definition de procedures d'urgence pour empecher que des obstacles aux echanges ne surviennent,
- la consolidation administrative de la legislation (simplification),
- une evaluation de l'application de la reconnaissance mutuelle des regles nationales (art100B).

La Commission demande au Conseil de s'exprimer sur la methodologie de la demarche du PS, qui vise a fixer des priorites dans l'action, et de s'engager dans l'adoption rapide des 16 mesures du Livre Blanc qui encore manquent.

Le debat au Conseil a montre un tres large consensus des Ministres sur l'approche globale et dynamique du PS et une appreciation tres positive de la qualite du travail.

Les aspects soulignes plus particulierement ont ete les suivants:

A. La necessite de garantir l'application homogene du droit communautaire et d'instaurer un systeme d'alerte. Une reflexion particuliere s'impose pour arriver a des propositions operationnelles, notamment en ce qui concerne l'acces a la justice et

l'imposition de sanctions. Une attention particuliere est a reserver a la cooperation douaniere, et une suggestion visant la creation d'une ecole communautaire de perfectionnement en matiere douaniere a ete avancee (F).

B. L'urgence de progres sensibles en matiere de libre circulation des personnes. A la lumiere des problemes que rencontre la Convention de

Schengen, il y a priorite d'une action communautaire.

C. L'importance d'ameliorer la perception du marche unique comme facteur de croissance et de competitivite par des actions d'information, formation, de soutien aux PME et de developpement des reseaux d'infrastructures. Dans ce cadre est a souligner l'aspect relatif a la cohesion economique et sociale de la Communaute.

D. L'harmonisation a tout prix doit etre evitee: il ne s'agit pas de developper la legislation.

En conclusion il a ete convenu de proceder chaque annee a la verification des progres accomplis sur la base d'un rapport elabore par la Commission. Le Conseil s'est engage a examiner avec priorite les communications et les propositions que la Commission soumettra en vue d'assurer une mise en oeuvre et une gestion dynamique du marche interieur.

2. Fonds collectes par les institutions de retraite

La proposition de directive presentee en octobre 1991 vise essentiellement l'application de la libre circulation des capitaux aux fonds collectes par les institutions de retraite en prevoyant notamment:

- la liberte transfrontaliere de gestion financiere,
- la liberte transfrontaliere de placement

La liberte transfrontaliere d'adhesion aux institutions de retraite ne fait pas l'objet de la presente proposition.

La question cle concerne les regles de congruence (currency matching). Neuf delegation ont exprime leur preference pour un taux unique de 80%, tandis que UK, Irl et NL s'oppose en principe a ce que la directive contienne toute regle de congruence. La Commission s'est opposee a une regle de 80% car elle constituerait une restriction injustifiee a la liberte de mouvement des capitaux, qui est un objectif fixe par le Traite.

L'accord n'a donc pas pu etre atteint, et la Presidence grecque organisera la poursuite des travaux.

3. Protection juridique des inventions biotechnologiques.

Le Conseil a adopte la directive a la majorite qualifiee (co-decision). Le debat avait porte essentiellement sur les aspects ethiques que pose ce domaine (manipulations genetiques). Un groupe de travail reuni parallelement a la session du Conseil a trouve une solution par la redaction de certains considerants.

Le Commissaire Vanni d'Archirafi dans son intervention a rappele que la directive mentionne dans le dispositif des barrieres infranchissables par rapport aux notions d'ordre publique ou de bonnes moeurs. Cette approche prudentielle a ete totalement confirmee par l'avis du Groupe de Conseillers pour l'ethique de la biotechnologie de la Commission.

Par ailleurs il a souligne que le droit des brevets ne peut controler la recherche elle-meme, et que donc les problemes ethiques doivent etre resolus en amont. A l'issue du vote, le Commissaire s'est felicite du resultat qui permettra de garantir la libre circulation des marchandises et d'eviter les abus de position dominante tout en protegeant l'innovation et la propriete intellectuelle.

5. Liquidation obligatoire des entreprises d'assurance directe.

Le debat sur cette proposition de directive a permis de clarifier certaines positions, mais des orientations precises n'ont pas ete trouvees. Le probleme concerne la priorite a accorder en cas de faillite a l'indemnisation des assures. La situation dans les Etats membres sont tres differentes (certains ayant un systeme de Fonds de garantie), et les regles sont differentes aussi parmi les domaines specifiques. Certains EM (D) considerent que ce probleme devrait etre traite dans la Convention faillite et non par une directive specifique.

Le Commissaire Vanni d'Archirafi a souligne que c'est sur les primes payees par les assures que les compagnies d'assurances ont constitue les actifs et que la proposition essaie quand meme de prendre en consideration les interets des autres creanciers, en particulier des travailleurs. L'examen sur ce texte sera poursuivi au niveau du Coreper.

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Ref: BIO/93/318/3

DATE DOCUMENT : 93/12/17

INTERNAL MARKET COUNCIL OF 16 DECEMBER 1993

Dans le kdomaine industriel, le Conseil s'est mis d'accord sur 4 positions communes, M. Bangemann obtenannt des majorites qualifiees par des moyens de presentation pas toujours orthodoxes.

Bateaux de plaisance

D'entree de jeu, M. Bangemann a renverse les roles traditionnelles, en critiquant la proposition de directive qu'il a qualifiee comme superflue, compliquee et bureaucratique. Tout changement du texte la rendrait concore moins lisible.

Ce sont les Etats membqres qui ont alors insiste sur la necessite d'une directive et sur le caractere flexible de leurs reserves. Pendant presque deux heures, ils ont cherche des formules de compromis, sans pourtant trouver l'unaninite qui est necessaire pour modifier une proposition de la Commission.

Le Conseil a fini par voter sur le texte initial de la proposition qui a recueilli la majorite qualifiee, la France (qui souhaite des regles plus detaillees) votant contre, et le Royaume-Uni (qui souhaite exclure les bateaux usages originaires de pays tiers) s'abstenant. Il s'agit d'une position commune qui sera transmise au Parlemen pour deuxieme lecture.

La directive fixera les exigences essentielles de securite, de sante, de protection de l'environnement et des consommateurs, auxquelles doivent satisfaire les bateaux de plaisance dont la longueur est coprise entre 2,5 et 24 metres.

Reseaux transeuropeens de statistiques

Le Conseil telecommunications du 7 decembre avait deja accepte de prevoir 30 mio d'ecus (3 ans a 10 mio) pour le projet COMEDI (Commerce Electronic Data Interchange). Le Conseil marche interieur, tout en confirmant cette orientation et reconnaissant l'importance des reseaux, a limite le projet, dans une premiere phase, a deux ans et donc 20 mio. Il a choisi l'article 235 CE comme base juridique, ce kqui

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