



Brussels, 26 May 2009

BACKGROUND¹

COMPETITIVENESS COUNCIL

Brussels, Thursday 28 and Friday 29 May 2009

*The Council meeting will take place on 28 and 29 May in the Justus Lipsius building in Brussels. It will be chaired by **Mr Vladimír Tošovský**, Minister of Industry and Trade and **Ms Miroslava Kopicová**, Minister of Education, Youth and Sports, of the Czech Republic.*

*Thursday morning, starting at 10.00, the Council will hold a policy debate with a view to adopting conclusions on an integrated approach to a competitive and **sustainable industrial policy** in the EU.*

*Afterwards, the Council will conduct a policy debate on the implementation of the **Small Business Act** for Europe.*

*It is also expected to adopt conclusions on the **Better Regulation** initiative.*

*An assessment **of the current economic situation and relevant national recovery measures** will be addressed at the working lunch.*

*The afternoon session will be devoted to the examination of the **project for creating a Community patent and a unified patent litigation system**.*

*On Friday at 9.00 will take place the 6th "**Space Council**" meeting (a joint meeting of the EU Ministers with responsibility for space and the European Space Agency), which is expected to deal with the contribution of the space industry to the economic recovery and the implementation of the GMES (Global monitoring for environment and security) programme.*

*On Friday, as from 12.00, research ministers will hold a debate with a view to reaching a political agreement on a draft regulation for the establishment of a legal framework for **European research infrastructures**.*

*A number of conclusions will be submitted for adoption concerning the development of the **European Research Area**, the **regional dimension of European research infrastructures** and the **evaluation methods** for increasing effectiveness of the research framework programmes.*

The Presidency will give press conferences at the end of each session:

- on Thursday at +/- 17.15 and

- on Friday after the "Space Council" at +/- 11.15, and after the research items at +/- 16.30.

Press conferences and public events can be followed by video streaming:

<http://video.consilium.europa.eu/>

¹ This note has been drawn up under the responsibility of the press office.

INTERNAL MARKET AND INDUSTRY (28 May)

Industrial policy: a competitive and sustainable integrated approach

The Council will be invited to adopt a set of conclusions aimed at contributing to shape an integrated approach for a competitive and sustainable industrial policy in the EU ([9605/09](#)).

The adoption of conclusions will be preceded by a policy debate on the current economic situation and perspectives for improving the competitiveness of all industrial sectors by developing appropriate policies in the context of the European Economic Recovery Plan.

The conclusions, to be agreed by consensus, will contain horizontal measures targeting all industrial sectors and particular measures for specific sectors (chemicals, cars and electric and electrotechnic industry) following recently concluded work on these sectors by various High Level Groups. At the same time, the conclusions will acknowledge that focused and coordinated measures may be extended to cover other sectors of the economy facing the consequences of the economic crisis.

The horizontal policy items to be addressed by the conclusions will include: deepening the Internal Market, better regulation agenda with a specific focus on thorough impact assessments, R&D and innovation, reducing dependency of the European industry on non-energy raw materials and specific situation of the small and medium sized enterprises (SMEs), as well as other measures building upon the roadmap of the EU action plan on sustainable production and consumption and sustainable industrial policy ([12026/08](#)).

The draft Council conclusions put forward by the Presidency on an integrated approach to the EU's industrial policy lay down on recent Commission initiatives, namely:

- the European economic recovery plan ([16097/08](#));
- the European competitiveness report 2008 ([16978/08](#));
- the communication on a "Temporary Community framework for state aid measures to support access to finance in the current financial and economic crisis"²;
- the communication for "Responding to the crisis in the European automotive industry" ([7004/09](#)); and
- the communication entitled "Driving European recovery", submitted to the 2009 Spring European Council ([7084/09](#)).

² Official Journal C 16 of 22.1.2009, p. 1.

Small Business Act

The Council will hold a policy debate on the progress in the implementation of the Small Business Act for Europe (SBA).

In order to structure the debate, the Presidency has elaborated a questionnaire ([9645/09](#)) and ministers will be invited to express views on the following questions:

- 1. A lot of measures have been launched under the Small Business Act (SBA). In particular, the SBA Action Plan both in Member States and at EU level and their implementation is key now. What are the particular measures your country is concentrating on?*
- 2. Implementation of which measures within the three priority areas should be strengthened at EU level in the light of the current economic situation?*

The outcome of the debate will provide guidance for continuing the implementation of the different initiatives configuring the SBA package.

The Presidency will also submit, as an information point, a progress report ([9658/09](#)) on the ongoing process for the creation of a European private company statute, which is one of the key elements of the SBA. This future Community instrument seeks to enhance the competitiveness of SMEs by facilitating their operations in the single market by providing for a flexible corporate law regime across the EU and reducing the compliance costs of setting-up and operating SMEs.

Last December, the Council adopted a set of conclusions on the SBA stressing the fundamental role of SMEs in contributing to economic growth and job creation in Europe and the need to fully exploit the potential of SMEs in terms of productivity and innovation ([16788/08](#)).

The Council also designed an action plan ("Translating intentions into actions"), for the implementation of the SBA within three priority areas: improving SME access to finance, a regulatory environment supportive of SMEs' needs and enhancing market access for SMEs.

The Commission communication entitled "Think Small First - A Small Business Act for Europe" was adopted in June 2008 and sets out ten principles and 92 associated measures, together with five legislative proposals that are already adopted or under examination ([11262/08](#)).

Additional information on the SBA can be found under:
http://ec.europa.eu/enterprise/entrepreneurship/sba_en.htm

Better regulation

The Council is expected to adopt conclusions with a view to further promoting the Better Regulation strategy within the European Union ([9663/09](#)).

The draft conclusions contain and recall a number of commitments aimed at developing Better Regulation principles, bearing in mind, among others, the joint efforts to be accomplished in respect of the target of 25 % reduction of administrative burdens.

The conclusions will state that these principles must remain at the forefront of the EU's response to challenges posed by the current economic and financial situation.

They will also stress the important role played by Better Regulation in the context of the Lisbon process through well-designed, high quality regulation which contributes to its goals of sustainable growth and jobs while increasing the benefits for citizens, businesses and public authorities, reinforcing the respect and the effectiveness of the rules and minimizing the economic costs and thereby contributing to strengthening the competitiveness of European businesses.

The three main pillars of the Better Regulation initiative are:

- the inter-institutional impact assessment system which is the tool for preparation of balanced and well targeted new regulation and in which all three institutions have their proper commitments to be fulfilled;
- the administrative burdens reduction, based on the commitment to achieve a 25% reduction target of administrative burden arising from EU legislation by 2012 ; and
- the ongoing programme on simplification of the regulatory environment.

Last March, the Council took note of a progress report on the Better Regulation agenda ([6402/09](#)). The report was elaborated by the Presidency taking due account of the Commission's Third Strategic Review on Better Regulation adopted on 28 January ([6010/09](#)).

Intellectual property: Enhancing the patent system in Europe

The Council will take note of a Presidency report on ongoing negotiations aimed at establishing a Community patent and a unified patent litigation system ([9549/09](#)).

Following the mandate given by the Council on 1 December 2008 ([16577/08](#), page 12), and building on work of previous presidencies, the Czech Presidency has continued the examination of the draft regulation for a Community patent and of the draft agreement for creating a unified patent litigation system.

With regard to the Community patent, discussions in the Council preparatory bodies have concentrated, in the first half of 2009, on possible cooperation arrangements between patent offices in Europe based on enhanced partnerships, as well as on economic benefits of a Community patent on the basis of an expert study highlighting the potential to foster innovation stemming from a future Community patent, in particular for SMEs and universities. The discussion on annual renewal fees and the distribution key applicable to any resulting revenue was also held on the basis of this study.

As regards the unified patent litigation system, discussions have focused on a draft agreement and a draft statute of the future court. EU delegations made progress on a better understanding of the functioning of the envisaged court system. Important areas that have been addressed and further developed are mainly: the composition of the panels of judges, the implementation and operation of the agreement, the role of the European Court of Justice (ECJ) in the interpretation of Community law and transitional arrangements. The economic aspects were discussed on the basis of an expert study highlighting the saving costs for businesses of a unified patent litigation system and recommending to proceed with efforts with a view to its establishment.

Moreover, the Council will seek to reach an agreement on the principle of requesting an opinion by the ECJ on whether the envisaged agreement, to be concluded between the Community, its member states and other contracting parties to the European Patent Convention³, is compatible with the EC Treaty. Based on this agreement the Council will work on a document of such a request to the ECJ.

Important for the consultation of the ECJ on the compatibility with the EC Treaty was according to the opinion of Council Legal Service the recommendation to authorise the Commission to open negotiations for adoption of an Agreement creating a Unified Patent Litigation System. This recommendation (mandate) was submitted by the Commission to the Council in March.

Progress reports were presented to the Council in November 2007 ([15162/07](#)), May 2008 ([9473/08](#)) and December 2008 ([16006/08](#)).

³ <http://www.epo.org/patents/law/legal-texts/html/epc/1973/e/ma1.html>

European space policy: 6th "Space Council"

The meeting of the 6th "Space Council" between the European Union ministers responsible for space policy and the European Space Agency (ESA) will take place on Friday 29 May at 9.00, in the margins of the Competitiveness Council.

The planned agenda contains three main interlinked elements for examination:

- the progressive integration of the space sector in European policies to take advantage of its potential for applying innovative models and for generating economic growth through technology in products and services;
- developments in the implementation of the GMES (Global monitoring for environment and security⁴) programme; and
- the contribution of space to innovation and competitiveness in the context of the European economic recovery plan.

The Space Council is expected to provide with political orientations on these issues.

In December 2008, the European Council agreed on a recovery plan for the European economy and called for the launching of a European plan for innovation, which should also include space technology and services derived from it, as one of the main technologies of the future ([17271/08](#)).

Following European experts discussions in preparation of the 6th Space Council, three space technology areas appear as having a high innovative potential: space science and exploration; the process for developing critical technologies required for the autonomous deployment of activities and infrastructures in the space; and space infrastructures and applications for achieving the EU's objectives in the fields of security and defence.

As regards space-based services, the European flagship projects Galileo and GMES, identified as first priorities for the implementation of the European Space programme, will create significant opportunities for the development of new, highly innovative downstream services and markets, as anticipated by the 5th Space Council (held on 26 September 2008, in Brussels) in its resolution "Taking forward the European Space Policy" ([13569/08](#)). To this end, the Commission is expected to present a draft regulations for the GMES initial operations programme.

The legal basis for the "Space Council" is a framework agreement between the European Community and the ESA that came into force in May 2004. The agreement offers a common basis for the progressive and joint development of a coherent European space policy. It establishes that regular joint and concomitant meetings will be held between the Council of the EU and the Council of the ESA at ministerial level, known as the "Space Council", to coordinate and facilitate cooperative activities.

The "Space Council" is only able to adopt informal orientations which are approved by consensus before being formally adopted by the two organisations, in accordance with their own legal rules.

⁴ <http://www.gmes.info/>

RESEARCH (29 May)

Community Legal Framework for European Research Infrastructure Consortium (ERIC)

The aim is to reach a political agreement on a draft regulation for establishing a legal framework applicable to European research infrastructures.

The regulation aims to provide a Community legal framework designed to facilitate the joint establishment and operation of research facilities of European interest between several member states, associated countries and inter-governmental organisations. The aim is to have a uniform procedure instead of the current system based on individual decisions for each research infrastructure. The regulation forms part of the implementation of the European Research Area.

The European Parliament delivered its opinion on 19 February 2009.

The Commission submitted the proposal for a regulation on 25 July 2008 ([12259/08](#)), having as legal basis articles 171 and 172 of the EC treaty.

Evaluation and Impact Assessment of European research programmes

The Council will hold an exchange of views with the purpose to adopt conclusions on the evaluation and impact assessment methods of the EU's research framework programmes.

On the basis of a questionnaire proposed by the Presidency ([9992/09](#)), EU ministers will be invited to formulate suggestions on practical steps to be taken in order to improve the efficiency of research evaluations methods, including tools and approaches to be developed jointly between member states, as well as to elaborate on current and future practices at national level in relation to the European Research Area.

Following the debate, the Council is expected to adopt conclusions addressing a number of recommendations to the Commission and the member states on the importance of evaluation of results and impact assessments for reinforcing the research investments effectiveness.

These recommendations will take into account the outcome of the "Eufordia Forum"⁵ on research and development impact assessment, which took place in Prague on 24 and 25 February 2009.

The Council adopted conclusions in May 2008 on a report by the European Court of Auditors entitled: "Evaluating the EU research and technological development framework programmes: could the Commission's approach be improved?" ([9096/08](#)).

⁵ <http://www.eufordia2009.eu/>

Under the Seventh research framework programme for 2007-2013, the Commission has the obligation to continually and systematically monitor its implementation, together with the specific programmes, and regularly report and disseminate the results of this monitoring.

Future of the European Research Area

The Council will be invited to adopt conclusions on the first steps towards the realisation of the European research area (the so-called "Ljubljana process").

Building on the work carried out during the Czech presidency and by previous presidencies, and taking account of the conclusions adopted by the Council in December 2008 on the definition of a "2020 Vision for the European Research Area (ERA)" ([16767/08](#)), the Council will address a number of recommendations to the Commission and the member states in order to pave the way for the completion of the ERA.

The conclusions will include a presidency status report on the implementation of the ERA Vision 2020 highlighting the progress achieved in the most advanced areas and will invite future EU presidencies to establish and regularly update a roadmap for its implementation.

A "key issues paper" on competitiveness and innovation endorsed by the Spring European Council, encouraged member states and the Commission to take the necessary steps in order to ensure effective governance of ERA and fulfil its vision for 2020.

The Ljubljana process, which aims at a full realisation of ERA, is a central element of the implementation of the Lisbon agenda in order to achieve more and better coordinated investments in knowledge leading to improved European competitiveness.

The five current ERA initiatives (research infrastructures, joint programming, researchers' partnership, international science and technology cooperation and knowledge-sharing) should be further developed in governance and implementation.

The launch of the "Ljubljana Process - towards full realisation of ERA" started in May 2008 with the determination to develop a long-term vision of European research by strengthening governance of the ERA ([9076/08](#)). The process is based in particular on the Lisbon agenda's objectives and the promotion of free movement of knowledge.

This process should alleviate the current fragmentation of research in Europe and promote coordination in academic and industrial spheres.

The Ljubljana process was directly inspired by the "Green Paper on the ERA: new perspectives", presented by the Commission on 4 April 2007, which proposed a vision of the ERA based on six dimensions, namely: realising a single labour market for researchers; developing world-class research infrastructures; strengthening research institutions; sharing knowledge; optimising research programmes and priorities; and international cooperation.

The regional dimension of the European Research Area

The Council will adopt conclusions on research infrastructures and the regional dimension of the European Research Area (ERA).

The conclusions will emphasise the needs to maintain the support for research and innovation and to accelerate national investments in the pan-European research infrastructures within the context of the current economic crisis, as set out in the European economic recovery plan endorsed by the European Council last December. The purpose is to ensure short- and long-term benefits for European competitiveness and to stimulate further development of the ERA.

They will take into account the outcome of the conference on "Research infrastructures and the regional dimension of the ERA" held in Prague on 24 and 25 March, which highlighted the importance of excellent research infrastructures in promoting the development of the knowledge triangle and fostering the socio-economic conditions of European regions.

Among other things, the conclusions will invite the member states and the Commission to further promote the use of existing financial tools, in particular the structural funds and European Investment Bank instruments for the construction, upgrading or maintenance of research infrastructures.

The Council also adopted conclusion on this issue in May 2008 ([10220/08](#)).
